

Child-Protection Systems – Summary

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ABSTRACT

In this comparative chapter we identify the best practices at the European and international level regarding child protection systems and conduct an in-depth and transparent analysis of these would provide an opportunity for countries to improve their child protection system. Such a multidimensional approach can lead to the removal of inefficient practices and the creation of an integrated, functional system. The child protection system shall be based on preventive, corrective and other protection measures adopted by the competent state authorities in terms of social welfare services and material support for the child and his/her family. Protection measures are taken by the competent administrative or judicial authorities in cases where state intervention is required owing to deficiencies in the exercise of parental responsibility or in order to take a decision on the care of a child without parental custody. The entire system of child protection shall rest on the idea of appropriate application of what is in the child's best interests. This principle is applied when choosing the type of support and assistance for the child and his or her parents or caregivers, regarding all decisions concerning alternative care, as well as for determining the most suitable measures for the child leaving alternative care.

KEYWORDS

child protection system, alternative care, best practices, country specific issues, integrated system

1. Introduction

Child protection can be ensured only if the subjectivity of the child is recognised by law. The child's subjectivity lies at the heart of the child's right. The notion of the child's legal subjectivity should be perceived as any qualification for legally relevant behaviour in the sense of being the recipient or administrator or the point of attachment of rights or obligations.¹ The capacity to act in proceedings aimed at granting rights or imposing obligations must be determined by the prerequisites of subjectivity deriving from substantive law. The child's subjectivity is the child's entitlement, which implies protecting its autonomy. Another definition of this concept would be to

1 Filipek, 1995, p. 223.

refer to being someone or having an identity that allows one to be distinguished from others. Adopting this approach, the legislator has assigned the child the status of a subject who exists, functions in society and remains in relation to it, and anyone who takes action towards the child is obliged to recognise that the child is an autonomous subject who is entitled to protection under the norms of the basic law.²

The child, as an autonomous subject, has rights granted by the law, which include the right to protection from arbitrary or unlawful interference in his or her life. This implies that decisions taken in relation to the child by entities applying legal norms cannot overlook the child's right to object.³ The fundamental and natural, and at the same time primary, right of a child is the right to be brought up in a family. Further, if it is necessary for the child to be brought up outside his or her family, it is the right of the child to be cared for and brought up within family foster care forms, if this is consistent with the child's welfare. Furnishing the child with the above right also means that the child placed in foster care has the right to return to his or her biological family. Ensuring that it is possible for the child to return to his or her family is one of the child's natural rights, and this implies that the authorities tasked with this are obliged to undertake actions that will enable the child to return to his or her family. The catalogue of rights includes the rights connected with the upbringing process. Within this group of rights, the focus is to be first on the right to a stable environment for the child's upbringing. In other words, changes to the environment of the child's upbringing should be made only in situations that warrant it, namely, when the natural family or the established form of foster care fails to manage the child's upbringing problems or is no longer able to perform such a function. In addition to the presented rights, the child has the right to protection against degrading treatment and punishment. This right is of a universal nature and applies to all.⁴

However, protection is provided not only to a child without parental care, but also to a child who is at risk of losing parental care, as well as to other vulnerable categories of children whose development is jeopardised due to various psychological, health, moral or financial issues concerning themselves, their caregivers, or relationships within the family or the wider social circle⁵ Therefore, social protection of the child involves not only the provision of alternative care services, but primarily, and above all, ensuring that families and parents 'have access to adequate forms of assistance and support in their caregiving role'.⁶ These measures and assistance services are provided both by family acts and the social welfare law, aimed at preventing the breakup of the family, eliminating or reducing deficiencies in the exercise of parental

2 Nitecki, 2022, pp. 696–697.

3 Tryniszewska, 2012, p. 27.

4 Based on: Kornel, 2025, pp. 71–100.

5 In this context, see, for example, the Serbian Social Welfare Act, Art. 41, Para. 2. Based on the Serbian report.

6 The United Nations, Resolution adopted by the General Assembly on 18 December 2009, 64/142 Guidelines for the Alternative Care of Children (hereinafter: UN Guidelines), para. 3. Based on: Vlašković, 2025, pp. 227–259.

responsibility, strengthening parental capacities and enabling the appropriate exercise and protection of the child’s rights. Family law measures shall be fully child-oriented, including preventive and corrective measures over the exercise of parental responsibility. Social protection and welfare services, as well as measures of material support provided by the Social Welfare Act, shall be more diverse and family-oriented, aiming to make an impact on the very causes that led to the endangerment or violation of the rights of the child.

As pointed out in legal theory, the obligations of the States Parties to guarantee the best interests of the child represent the central idea of the Convention on the Rights of the Child (CRC).⁷ Ensuring the child’s best interests is one of the general principles of the CRC, based on which the scope of all rights of the child is interpreted and determined.⁸ In accordance with the Family Act, ‘everyone is obliged to be guided by the best interests of the child in all activities concerning the child’.⁹

Identifying the best practices at the European and international level and conducting an in-depth and transparent analysis of these would provide an opportunity for countries to improve their child protection system. Such a multidimensional approach, which can lead to the removal of inefficient practices and the creation of an integrated, functional system, must be achieved by adoption of some policies and a few useful programmes; increasing the quality of child-centred services and their protection; identification of risk categories; creation of services to prevent children from being separated from their families in order to avoid institutionalisation; deinstitutionalisation of children and provision of care in the community; establishment of social, medical, educational, rehabilitation and psychological counselling services; creation of unitary work methodologies; allocation of sufficient financial resources; and involvement of community and non-governmental organisations.¹⁰

The entire system of child protection shall rest on the idea of appropriate application of what is in the child’s best interests. Therefore, this principle is applied when choosing the type of support and assistance for the child and his/her parents or caregivers, regarding all decisions concerning alternative care, as well as for determining the most suitable measures for the child leaving alternative care. The child protection system includes some by-laws in which the content of what is in the best interests of the child is more closely determined by specifying certain elements or by providing guidelines for its interpretation based on the adopted international standards in this area. Thus, a Rulebook on Foster Care shall provide the elements and guidelines for determining the content and its interpretation for the best interests of the child regarding the form of alternative care. For example, these elements and guidelines,

7 Based on: Vlašković, 2025, pp. 227–259.

8 See: the CRC, Art. 3, Para. 1 and the UN Committee on the Rights of the Child, General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (Arts. 4, 42 and 44, Para. 6), 27. November 2003, para. 12; hereinafter: CRC/GC/2003/5, based on: Vlašković, 2025, pp. 227–259.

9 Art. 6 para. 1 of Family Act, based on: Vlašković, 2025, pp. 227–259.

10 Based on: Mihăilă, 2025, pp. 159–225.

among others, include giving preference to kinship foster families if the child's relatives meet the legal requirements for foster parents, choosing foster parents primarily from the child's original environment, ensuring non-separation of siblings, limiting the number of children in the same foster family (maximum of three children or two of them in the case of children with disabilities), preserving the identity of the child and reviewing the eligibility of the foster parents on a regular basis.¹¹

The child protection system shall be based on preventive, corrective and other protection measures adopted by the competent state authorities in terms of social welfare services and material support for the child and his/her family. Protection measures are taken by the competent administrative or judicial authorities in cases where state intervention is required owing to deficiencies in the exercise of parental responsibility or in order to take a decision on the care of a child without parental custody. These measures mainly involve the decisions of the state authorities in the domain of family law protection. Social welfare services and material support include assistance and various forms of social support for a child and his/her family in order to preserve or improve family relations and create opportunities for independent living, social inclusion and development of the child to the extent possible, as well as for ensuring his/her safety.

According to the UN Convention on the Rights of Persons with Disabilities (hereinafter: CRPD), 'persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments, which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others'.¹² Making a sharp turn in the understanding of the concept of disability, the CRPD abandons the medical model of disability, replacing it entirely with the social approach according to which persons with disabilities do not need isolation and separation from the family environment for the purpose of treatment, but support and assistance in order to integrate them into society, overcoming the social barriers with the support of their family and local community services.¹³ The CRPD¹⁴ recognises in Art. 19 'the equal right of all persons with disabilities to live in the community, with equal opportunities as others'. It also reinforces 'the need to promote and protect the human rights of all persons with disabilities, including those who need more support'. According to the provisions of the CRPD, the right to independent living and community integration must be ensured for all persons with disabilities, regardless of their level of intellectual capacity, autonomous functioning or support requirements.

Regarding children with disabilities, Art. 23 para. 5 of the UN Convention, states that the 'States Parties shall make every effort to provide alternative care within the extended family and, failing that, within the community in a family setting'.

11 See: Art. 11 of Rulebook on Foster Care, based on: Vlašković, 2025, pp. 227–259.

12 Art. 1 para. 2 of CRPD.

13 See: Vlašković, 2021, p. 573.

14 Convention on the Rights of Persons with Disabilities, 13 December 2006, Art. 23 para. 5, ratified by Romania through Law No. 221/2010, Official Gazette No. 792 of 26 November 2010.

Non-family care (e.g. residential care) ‘should be limited to cases where such a setting is specifically appropriate, necessary and constructive for and in the best interests of the individual child concerned’.¹⁵

Art. 17 of the European Social Charter¹⁶ stipulates the following: the states ‘shall take all appropriate and necessary measures designed to ensure protection and special assistance from the state for children and young people temporarily or permanently deprived of the support of their families’. Children who belong to vulnerable categories, such as children with disabilities, should not be placed in children’s centres, but in alternative forms of non-institutional and family-type care systems. (The European Committee for Social Rights deems it a violation of Art. 17 of the European Social Charter if they are placed in children’s centres.)¹⁷

According to the Council Recommendation (EU) 2021/1004 of 14 June 2021¹⁸ establishing a European Child Guarantee, member states must identify children in difficulty, and within this group of children consider developing integrated national measures for the specific forms of disadvantage they face, such as homeless children or children facing severe homelessness; children with disabilities; children with mental health problems; children from a migration context or who have a minority ethnic origin, especially those from Roma; children in alternative care, especially those who are institutionalised; and children in vulnerable family situations.

The Committee on the Rights of the Child, in its General Comment No. 13 (2011)¹⁹ on the right of the child to freedom from all forms of violence, stresses the importance of an integrated and rights-based child protection and support system.

One of the most important measures for the protection of the child is the prompt appointment of a guardian, when necessary, as set out in General Comment No 6 (2005) of the Committee on the Rights of the Child.²⁰ The choice of placement is compatible with Art. 8 of the Convention only when it is in accordance with the law, pursues a legitimate aim, is in the best interests of the child and is considered a necessary measure in a democratic society.

‘Placement of a child should be the exception and should have as its primary objectives the best interests of the child and the child’s successful social integration or reintegration as soon as possible; placement should guarantee full exercise of the child’s fundamental rights.’²¹

15 United Nations, General Assembly, 2011, para. 21.

16 Council of Europe, 1996, Art. 17 para. 1 point c).

17 *European Committee of Social Rights, European Roma Rights Centre (ERRC) and Mental Disability Advocacy Centre (MDAC) v. Czech Republic*, Complaint No. 157/2017, 17 June 2020 [Online]. Available at: <https://hudoc.esc.coe.int> (Accessed: 27 October 2023).

18 OJEU L 223/14 22 June 2021.

19 UN, Committee on the Rights of the Child, 2011.

20 UN, Committee on the Rights of the Child, 2005.

21 Committee of Ministers, 2005.

The above is the statement from Recommendation Rec(2005)5 of the Committee of Ministers to member states of the Council of Europe on the rights of children living in residential institutions.

Art. 12.1 of the Convention on the Rights of the Child (CRC), ‘States Parties shall guarantee the child capable of discernment the right to freely express his/her opinion on any issue that concerns him/her, the child’s opinions to be taken into account considering his/her age and degree of maturity’, regards both the child’s capacity as a legal subject and the legal and social status of the child, who has full autonomy, like that of adults. The child has the right to be heard and informed in relation to all administrative or judicial proceedings in which he/she participates.

Similarly, Art. 24 of the Charter of Fundamental Rights of the European Union stipulates the following:

‘Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.’

According to Art. 6 of the European Convention on Human Rights, compliance with specific requirements must be ensured when the minor is a party to a criminal trial. In any procedure, the age and degree of maturity of the child will be considered, with the guarantee that the minor understands the implications of each procedure concerning him/her. Hearings must be held behind closed doors, publicity must be limited and access to a lawyer for the minor must be ensured.

The ‘Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice’²² stipulate that a child-friendly judicial system is characterised by a number of fundamental principles: participation, the best interests of the child, dignity, protection against discrimination and the rule of law.

Regarding the child’s participation, the following must be respected: access to justice, consultation, listening to the child, valuing the child’s opinion, considering the child’s maturity and possible communication challenges. The best interests of the child are paramount and the best interests of all children involved in the same proceeding or case should be assessed and weighed separately in order to reconcile the possible conflicting interests of the children. In order to ensure the dignity of the child, he/she must be treated with care, sensitivity, fairness and respect through all procedures, without being subjected to torture or any other cruel, inhuman or degrading treatment and punishment. The child must be protected against discrimination by ensuring the rights of the child for not being discriminated based on sex, race, colour or ethnic origin, age, language, religion, political or other beliefs, national or social origin, socioeconomic context, status of the parent or parents, association with a national minority, property, birth, sexual orientation, sexual identity or any other

22 Council of Europe, 2011.

status. The principle of the rule of law aims to ensure procedural guarantees, such as the principles of legality and proportionality, presumption of innocence, right to a fair trial, right to legal advice, right of access to justice and the right to appeal. Based on the above, the country reports are structured as shown:

1. What is the core aim of the national child protection system?
2. What are the guiding principles of the national child protection system? (e.g. realisation of children's rights, non-discrimination, best interests of the child, cooperation, separation of services and measures of authority, etc.)
3. Who and in what percentage is responsible for the maintenance of the child protection system? (state, municipality)
4. Who is a child at risk? (Disadvantaged and cumulatively disadvantaged situation)
 - a. Child at risk, as a result of a family in need
 - b. Child at risk as a result of abuse
 - c. risk from financial factors
 - d. risk from moral factors
 - e. risk from health factors
 - f. risk from the factors of upbringing (e.g. parental neglect)
5. What is the definition of “necessary intervention”?
6. Structure of the child protection system
7. Monetary and in-kind benefits (e.g. regular child protection discount; child feeding; advance payment of child support; home building support)
8. Basic child welfare services within the framework of personal care (e.g. child welfare services; daycare for children; temporary care of children; children's opportunity-enhancing services)
9. Special child welfare services within the framework of personal care (e.g. care provided at home; aftercare care; regional child protection specialist service)
10. Authority measures
 - a. taking under protection
 - b. welcoming by a family that is named by the blood parent
 - c. temporary placement
 - d. placing under foster care
 - e. ordering under supervision
 - f. aftercare
 - g. order of preventive
11. Guardianship of those under child protection care
12. What is the institutional background?
 - a. institutions providing services
 - b. institutions operating as authorities
13. What is the procedural background?
 - a. client
 - b. initiation procedure

- c. representation
 - d. deadlines
 - e. social study
 - f. hearing
 - g. appointment of an expert
 - h. decision of guardianship authority
 - i. remedies
 - l. enforcement
14. Participation of children in the child protection system (role of the representative of children's rights if any).

2. What Is the Core Aim of the National Child Protection System?

In Croatia, protection of children is guaranteed by the Constitution of the Republic of Croatia (hereinafter: Constitution). Thus, according to Art. 62 of the Constitution, 'The state shall protect maternity, children and youth, and shall create social, cultural, educational, material and other conditions promoting the exercise of the right to a decent life'. Special protection is guaranteed to particularly vulnerable groups of children; therefore, according to Art. 63 of the Constitution, 'Physically and mentally disabled and socially neglected children shall be entitled to special care, education and welfare. The state shall devote special care to orphans and minors neglected by their parents'. When it comes to children without (adequate) parental care, the institute of guardianship, regulated by the Family Act²³, is intended for their protection and care. The goal of guardianship is to replace parental care in circumstances when the child is without parents or legal or factual reasons prevent them from taking care of the child²⁴. In cases when child's rights in the family are endangered or violated, several different preventive or repressive measures can be imposed to protect the rights and welfare of the child. The measures imposed must correspond to the degree of endangerment of the child's rights established in each individual case. In other words, one of the fundamental principles that must be respected when determining child protection measures is the principle of proportionality, meaning the state authorities are required to intervene by proportionate means, as provided by law²⁵, only in exceptional cases where parents or other family members endanger the welfare of the child by their actions or omissions. By acting in accordance with the above principle, the state assures that interference in the sphere of family life will be reasonable, proportionate and necessary for the protection of the welfare of the child.²⁶

23 Official Gazette, No. 103/15, 98/19, 47/20, 49/23. – hereinafter: FA

24 Art. 219, para. 1, Arts. 224-225, Arts. 227-228 and Art. 230 of FA

25 Ibid., Art. 7, Art 128 and Art. 485, para. 3

26 Šimović, Margaletić and Preložnjak, 2025, pp. 29–70.

The child protection system in the Czech Republic is assessed as a risk-oriented system, which implies that the threshold for intervention in a family to protect children against harm is high. On paper, ensuring a stable home and meeting children's basic needs for safe and continuous attachment to their caregivers is a key goal of the system. In practice, achieving this goal requires further efforts. As an illustration, some studies indicate that the Czech Republic is considered among the least child-friendly of the OECD countries, with a history of discriminating against groups of children. Individual protection of children's rights and of children themselves has been the focus of attention only recently, and arguably mostly on a linguistic level, not so much in practice. Literature demarcates three main waves of transformation of child protection in the Czech Republic: combating residential (institutional) care and attempting to replace it with substitute family care in the 2000s; focusing on the empowerment of biological families after 2008; and conducting campaigns against domestic violence, including maltreatment of children.²⁷

In Hungary, Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship (Gyvt.) (Act IX of 2002 and Act IV of 2003, as amended) defines child protection as follows. Child protection is an activity aimed at promoting the upbringing of children in the family, preventing and eliminating their vulnerability and providing substitute protection for children leaving parental care or other care. The following subdivision of child protection – based on its purpose – is derived from the legal definition. General child protection refers to supporting the upbringing of children in the family and preventing them from becoming vulnerable. This preventive action is mainly carried out within the network of educational, health and social institutions (sometimes with the involvement of NGOs) and is based on a complex cooperation between the various sectors. Special child protection guarantees special protection for orphans, abandoned children and children at risk (who may be delinquent). The full care of children who have been abandoned, or who are in priority, is provided by the so-called institutional child protection. Specialised territorial child protection services, children's and residential care homes, professional foster parents, family and aftercare services and reformatories play a key role in according this kind of care.²⁸

In Poland, the current legal regulations on family support entail working with the biological family of the child to facilitate the child's return to the family. When this fails to produce a positive result, measures for the adoption of the child are undertaken. When the child does not get the requisite care in the natural family or through adoption, a foster environment must be entrusted with the custody of the child. The sequence of the presented operations seems rational because the legislator seeks to normalise the legal situation of the child so that it derives a sense of stability and

27 Kornel, 2025, pp. 71–100.

28 Jakab and Benyusz, 2025, pp. 101–126.

security. The above considerations demonstrate that the legislator has introduced a priority, which amounts to all measures aimed at returning the child to the family.²⁹

In Romania, the child protection system is aimed at protecting the child from violence, abuse, neglect or exploitation. This goal can be achieved only by developing appropriate legal regulations, adopting policies and establishing the necessary services to ensure the education, health and wellbeing of the child. Special protection of the child involves a set of measures, benefits and services intended for the care and development of the child deprived temporarily or permanently of the protection of his parents or of those in whose care the child cannot be left in order to safeguard the child's interest. Following the UN guidelines on alternative care for children, which recommend that removing a child from family care should be the last resort and, whenever possible, only a temporary measure and as short as possible, Romania has adopted a series of legal regulations to ensure effective protection of the child.³⁰

In Serbia, considering that the family is 'the natural environment for the growth, well-being and protection of children', one of the key proclaimed goals of the national child protection system is to preserve and improve family relationships. Therefore, various measures of personal and material support for the family are legally recognised and provided through normative frameworks to enable the child to remain in parental care and not be separated from the parents as far as possible. Thus, efforts are made to prevent disturbing the child's emotional attachment to his/her parents or caregivers. In this context, competent state authorities will decide on alternative care only if the implemented family support measures and services have not enabled adequate protection of the child's rights. Unfortunately, in certain cases, as decreed by the law, alternative care becomes necessary, for example, in situations where parents are no longer alive or when they are unknown or lack parental responsibility.³¹

In Slovakia, Art. 41, para. 1 of the Constitution of the Slovak Republic, emphasises the importance of child rights protection. It declares the need for special protection of children and adolescents. Concurrently, in para. 4 of Art. 41, the legislator specifically states that the care and upbringing of children is a right of the parents to which children are entitled. However, it also adds that this parental right can be limited, and minors may be separated from them by a court decision based on the law. The court may do so regardless of the parents' will, even if they disagree with such a decision. It is essential to highlight here that the Constitution of the Slovak Republic allows for the separation of children from their parents against their will based only on a court decision.

The Constitution of the Slovak Republic also establishes that parents taking care of children have the right to state assistance. This provision expressly points to the importance of fulfilling the social function of the state, which is interested in

29 Nitecki, 2025, pp. 127–158.

30 Mihăilă, 2025, pp. 159–225.

31 Vlašković, 2025, pp. 227–259

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.³²

In Slovenia, the rights and interests of children are primarily the responsibility of their parents. The Family Code enshrines the principle of best interests of the child. It follows from this that parents have been vested with the main and equal responsibility for the care, upbringing and development of their child, in the best interests of the child, and they are assisted by the state in the implementation of their responsibility.³³

3. What Are the Guiding Principles of the National Child Protection System?

In Croatia, the guiding principles of the national child protection system are the best interest of the child, child participation and non-discrimination; the primary right of parents to take care of the child and the duty of the state to provide them with assistance; the principle of proportionate and mildest intervention into family life; principle of guardianship protection; principle of urgency in resolving family law matters related to the child, duty of notification and cooperation with the goal of child protection; and duty of cooperation between authorities and persons in matters of guardianship.³⁴

In the Czech Republic, the guiding principles are the best interest of the child, family protection, respect for children's right to participation, non-discrimination, free accessibility, accessibility to all children, positive obligation of the state to safeguard children from physical or psychological violence and other risk, prevention, special protection of children without family care, biological family rehabilitation and preference. Cultural sensitivity refers to the choice of actions aimed at continuity in the child's upbringing and respecting his or her ethnic, religious, cultural and linguistic background. Voluntary participation of other persons in the socio-legal protection of children refers to natural or legal persons' voluntary participation in social protection activities defined by law, subject to authorisation. Certain activities with significant impact are reserved for state authorities or delegated public administration bodies.³⁵

In Hungary, the guiding principles are to serve the best interests of the child, the principle of family autonomy and remaining in the family, principle of appropriateness, principle of least coercion, voluntariness, non-discrimination and non-abuse of benefits, guaranteeing the right to self-identity, protection of the child's personal and property interests, preparing for reintegration into the family environment, special

32 Koromhász, 2025, pp. 261–294.

33 Burkelc Juras and Burkelc, 2025, pp. 295–329.

34 Šimović, Margaletić and Preložnjak, 2025, pp. 29–70.

35 Kornel, 2025, pp. 71–100.

care adapted to needs and priority of foster care. Permanency planning refers to child protection intervention to resolve the fate of a child in care as early and permanently as possible.³⁶

In Romania, priority for respecting and promoting the best interests of the child, equal opportunities and non-discrimination; respecting the child's dignity, ensuring individualised and personalised care for each child, ensuring protection against abuse, neglect, exploitation and any form of violence against the child; listening to the child's opinion and valuing it, considering the age and degree of maturity of the child, ensuring stability and continuity in care, upbringing and education of the child and considering the child's ethnic, religious, cultural and linguistic origin when undertaking protective measures.³⁷

In Serbia, the guiding principles of child protection system, based on respecting the CRC, other international treaties on human rights, the UN Guidelines and other relevant international documents involve the following: the best interests of the child, prohibition of discrimination, right of the child to have his/her views duly considered based on the child's age and maturity, respect for the integrity and dignity of the child and his/her family members, provision of services in the least restrictive environment, provision of timely and comprehensive protection and accessibility and individualisation of social protection.³⁸

In Slovakia, the guiding principles followed are a stable family environment, protection of parenthood by society, and provision of necessary care for parenthood, particularly through providing support and assistance in exercising parental rights and responsibilities. The institute 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. The legislator provides only an illustrative list of circumstances that must be considered and assessed when deciding on matters concerning a minor so that the final decision is in the best interests of the minor.³⁹

In Slovenia, the Family Code enshrines the principle of best interest of the child. It follows from this principle that parents have the main and equal responsibility for the care, upbringing and development of their child and that the best interests of the child are their main concern. They are assisted by the state in the implementation of their responsibility.⁴⁰

36 Jakab and Benyusz, 2025, pp. 101–126.

37 Mihăilă, 2025, pp. 159–225.

38 Vlašković, 2025, pp. 227–259.

39 Koromház, 2025, pp. 261–294.

40 Burkelc Juras and Burkelc, 2025, pp. 295–329.

4. Who and in What Percentage Is Responsible for the Maintenance of the Child Protection System? How Is the System Financed?

In Croatia, no precise scientific research has been conducted to confirm the percentage or share of state funds in the financing of the child protection system, but it is roughly estimated to be around 65%, while the rest is from the funds of cities, counties and municipalities, which comes to around 35%.⁴¹

In the Czech Republic, social-legal protection is provided by social-legal protection bodies (regional authorities, municipal authorities, the Ministry of Labour and Social Affairs, the Office for International Protection of Children and the Labour Office) (SLPB). The competencies are divided among these authorities; yet, the primary workload (and the highest number of employees) is with the municipal authorities. Data from 2018 show that the state covers approximately 73% to 100% of the cost of the municipal social-legal protection authorities (non-governmental funding is based on an estimate).

In Hungary, the state and the municipal governments are responsible for the maintenance of child protection systems. Child protection is provided by a system of institutions encompassing the whole country, the two main bodies being the Child Protection Service and the Guardianship Authority.⁴²

In Poland, the substantive tasks within the field of family support and foster care are assigned to individual local government units.⁴³

In Romania, various organisations and institutions finance the social services for the protection and promotion of children's rights: the central state budget, local budget, contributions of beneficiaries according to legal provisions and other sources, such as donations, sponsorships, refundable and non-refundable external funds; the National Authority for the Protection of Children's Rights and Adoption, National Authority for the Protection of the Rights of Persons with Disabilities and Commissions for the protection of the child; the General Directorates of Social Assistance and Child Protection and Public Social Assistance Services; consultative community structures, departments of social assistance with the Child Protection Service and the Guardianship Authority; private organisations; the Ombudsman, Ministry of Labour and Social Solidarity and the Ministry of Family – Youth and Equal Opportunities.⁴⁴

In Serbia, social protection of the child is organised at the national, regional or local level, which implies the obligation of the state, regional or local authorities to ensure providing appropriate social welfare services. Most of these services may be provided by private licensed organisations or can be entrusted to them by the Republic of Serbia, an autonomous province or local self-government, by signing a contract

41 Šimović, Margaletić and Preložnjak, 2025, pp. 29–70.

42 Jakab and Benyusz, 2025, pp. 101–126.

43 Nitecki, 2025, pp. 127–158.

44 Mihăilă, 2025, pp. 159–225.

with the best licensed service provider that responds to the announced public tender. Serbia excels in the domain of providing social welfare services, but not in the field of providing material support, which, with the exception of providing one-time assistance, is the responsibility of the central government. When it comes to the expenses for the accommodation of children in the social protection system for 2021, the state bears 64.9% of the share in the expenses of family accommodation (kinship care and foster care) and 35.1% of the share in the expenses of residential accommodation.⁴⁵

In Slovakia, social and legal protection of children and social guardianship are ensured by implementing measures of social and legal protection of children and social guardianship 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 various activities to support the suitable use of children's free time, or various programmes and training to support the fulfilment of parental rights and obligations.⁴⁶

5. Who Is a “Child at Risk”?

In Croatia, a child at risk is any child whose rights, welfare and development are endangered or whose rights and welfare have been violated. A child at risk can also be a child who has certain developmental difficulties, i.e. a child who has some form of disability.⁴⁷

In the Czech Republic, the legislation does not provide a comprehensive definition of a child at risk, a matter that has drawn criticism from legal and care professionals. Children at risk for receiving socio-legal protection could be categorised, at least, into four groups.⁴⁸

In Hungary, the special protection of the state and the local authority is based on whether a threat exists to the physical, mental, emotional or moral development of the child, regardless of whether it is material, environmental, behavioural or health-related.

In Poland, the legislation does not outline the premises that may cause danger to the child and that may justify taking actions to restrict the role of natural parents and possibly place the child in the foster care system. The Family and Guardianship Code includes a provision according to which, if the welfare of the child is at risk, the guardianship court will issue appropriate orders.⁴⁹

In Romania, the child protection system mainly addresses the following categories: children from poor communities; at risk of separation from their parents;

45 Vlašković, 2025, pp. 227–259.

46 Koromház, 2025, pp. 261–294.

47 Šimović, Margaletić and Preložnjak, 2025, pp. 29–70.

48 Kornel, 2025, pp. 71–100.

49 Nitecki, 2025, pp. 127–158.

separated from their parents, including those whose parents are away or working abroad; who are abandoned in health facilities; and who are abused, neglected or exploited, including those trafficked, labour-exploited and sexually exploited.

Any situation, measure or inaction that affects the physical, mental, spiritual, moral or social development of the child, in the family or in the community, for a determined period of time is considered a risk situation.⁵⁰

Serbian rules on social welfare define a child at risk as a child ‘whose health, safety and development are jeopardised due to the family situation and other life circumstances, or it is certain that he/she cannot reach optimal level of development without the support of the social protection system’. The Social Welfare Act, Art. 41, para. 2 (1-10) provides a list of conditions when a child can be considered at risk.⁵¹

In Slovakia, the institutions of Social and Legal Protection of Children and Social Guardianship are to provide assistance to the child in urgent situations, especially if the child’s life, health, or favourable psychological, physical, and social development is endangered⁵²

In Slovenia, the condition for interfering with parental responsibility by imposing one of the measures for protecting the child’s best interests is finding that the child is at risk. According to Art. 157(2) of the Family Code, a child is considered to be endangered

‘when they suffer or are very likely to suffer damage, or where the damage or the likelihood of damage is the consequence of action or lack of action of parents or the consequence of the child’s psychosocial problems that manifest themselves as behavioural, learning and other difficulties in growing up.’

The harm may include damage to the child’s physical or mental health and development or harm to the child’s property.⁵³

6. “Children With Disabilities” in the Child Protection System

The Constitution of Croatia deems that physically and mentally disabled and socially neglected children shall be entitled to special care, education and welfare⁵⁴.

The increased material needs because of the child’s disability will be considered when determining the amount for child maintenance during court proceedings. In the social welfare system, as per the Social Welfare Act (hereinafter: SWA), special allowances and social services are provided for this vulnerable category of children. Children with disabilities can also be beneficiaries of other compensations and

50 Mihailă, 2025, pp. 159–225.

51 Vlašković, 2025, pp. 227–259.

52 Koromház, 2025, pp. 261–294.

53 Burkelc Juras and Burkelc, 2025, pp. 295–329.

54 Art. 64, para. 3 of the Constitution of Croatia.

social services in the social welfare system (e.g. residence – Art. 104, organised housing – Art. 106, accommodation – Art. 109 SWA); however, these are for what we consider particularly important for this group of children. Within the national education system, Early Childhood Education and Care Act (hereinafter: ECECA) and the Elementary and Secondary Schools Education Act (hereinafter: ESSEA) regulate the status and benefits of children with disabilities (e.g. teaching assistant, professional communication mediator), thus specifying certain mechanisms for the protection of their right to upbringing and education as prescribed by Art. 94 of the FA in connection with Art. 64, para. 3 of the Constitution. Several different national legal sources (e.g. Health Protection Act, Mandatory Health Insurance Act, Maternity and Parental Subventions Act) regulate the status and certain benefits of children with disabilities and their parents as primary caregivers within the national health care system, thus specifying the mechanisms for the protection of the right to health, development, care and protection of the aforementioned category of children, as prescribed by Art. 93 of the FA in connection with Art. 64, para. 3 of the Constitution.⁵⁵

In the Czech Republic, social services for families caring for a child with a disability (sec. 32 and seq. SSA) include, among others, early care, nursing care, personal assistance, relief service (field and outpatient) and social activation services. Recent research on early care accessibility indicates potential challenges in the accessibility of the service, with variations depending on the region and the type of disability. A child with a disability should be entitled to support measures in education, which include a teaching assistant in school or kindergarten and counselling assistance. Further, adjustments have to be made by the organisation in terms of content, evaluation, forms and methods of education; conditions for admission to education and for leaving education; compensatory aids, special textbooks and special teaching aids; expected learning outcomes within limits set by the framework education programmes and accredited education programmes; individual education plans; use of an additional pedagogical worker; and provision of education or school services in premises that are structurally or technically adapted to the child's special needs.⁵⁶

Care allowance is provided monthly to individuals unable to manage basic life needs without assistance (sec. 7-30 SSA). Mobility allowance (sec. 6-8 Act on providing benefits to persons with disabilities) is provided to any person older than a year who holds a so-called disability card and needs transportation to school, cultural and social activities, medical appointments, etc. on a regular basis.

Special assistance allowance (sec. 9-12 Act on providing benefits to persons with disabilities) is a comprehensive benefit that enables persons with disabilities to obtain funds for the purchase of various types of compensatory aids.⁵⁷

In Poland and Hungary, a complex legal situation prevails for children with disabilities. This complexity stems from the fact that disabled children are covered

55 Šimović, Margaletić and Preložnjak, 2025, pp. 29–70.

56 Kornel, 2025, pp. 71–100.

57 Ibid..

by regulations that cover all children and, in addition, the legislator has introduced norms that regulate the legal situation of disabled children or grant additional rights to persons caring for such children in a different way. It should be noted that the additional benefits provided for disabled children or their guardians do not guarantee that the needs of these children will be met.⁵⁸

In Romania, the child protection system is beset by problems related to children with disabilities; these children are not provided for uniformly throughout the country, nor do they obtain the necessary resources, technical means or personnel resources that they should for their rights to be respected (public social assistance services lack staff and specialised training). Promoting and respecting the rights of children with disabilities, continuing the deinstitutionalisation of children with disabilities and providing an easy transition through the protection system from institutional care to care and integration in the community, remain essential. It is absolutely necessary to ensure a minimum income in the form of financial benefits for children with disabilities, together with access to health, education and protection services.⁵⁹

In Serbia, a child with disability and his/her parents or caregivers are provided increased material support, financial assistance and appropriate social welfare services. The rights to material support and financial assistance are recognised and regulated by the Social Welfare Act and the Act on Financial Assistance for Families with Children. Thus, a child with disability has the right to increased allowance for the help and care of another person, which is usually the child's parent. A child with disability is provided a range of welfare services including primarily day services in the community, accommodation services and support services for independent living.⁶⁰

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 disability are regulated by Act No. 447/2008 Coll. on Monetary Contributions to Compensate for Severe Disability. The Act regulates the following: repeated disbursement of contributions to compensate for the social consequences of the person's disability, such as monetary contribution for personal assistance, monetary contribution for transport, monetary contribution for increased expenses and monetary contribution for care.⁶¹

In Slovenia, under the new regime, for children with disabilities it is no longer possible to extend parental rights in the protection system, as could be done in the previous system. Children with disabilities are placed under adult custody in the same way as the rest of the adult population when they reach the age of 18. Art. 6

58 Jakab and Benyusz, 2025, pp. 101–126; Nitecki, 2025, pp. 127–158.

59 Mihăilă, 2025, pp. 159–225.

60 Vlašković, 2025, pp. 227–259.

61 Koromhász, 2025, pp. 261–294.

para. 2 of the Non-Contentious Civil Procedure Act imposes on courts the obligation to *ex officio*, of its own motion, take all measures necessary to protect the rights and legal interests of children and persons who, due to intellectual disability or mental health problems or other circumstances, are incapable of taking care of their own rights and interests.⁶²

7. What Is the Definition of Necessary Intervention?

In Croatia, intervention is a response to an essential social need and is proportional to a certain legitimate aim – the protection of the rights and welfare of the child. Proportionality refers to imposing a measure that is appropriate to the degree of threat to the child's rights, as derived from the assessment of the competent body.⁶³

In the Czech Republic, the SLPB must intervene in situations that endanger the child's proper upbringing and favourable development (sec. 9a (1) SLPA, i.e. Act No. 359/1999 Coll., on the social-legal protection of children). The intervention measures must be such that they build on each other and influence each other. In the execution and implementation of these measures, priority shall be given to those that ensure the proper upbringing and favourable development of the child in his or her family environment and, if this were not possible, in a foster family environment; this shall be done by using methods of social work and procedures corresponding to current scientific knowledge (sec. 9a (2) SLPA).⁶⁴

In Hungary, when drafting the legislation, the legislator bore in mind that a child protection system based on special intervention by the authorities should always be preceded by a child welfare system based on voluntary benefits. One of the important principles of the *Gyvt.* is the principle of least coercion (voluntariness), considering that using the benefits provided for by the legislation is generally voluntary. A child's parent or other legal representative can claim a benefit only in cases specified by law. Official intervention in family life is allowed only if it is unavoidable and in the best interests of the child.⁶⁵

Poland does not provide a specific definition of necessary intervention; Art. 109 para. 1 of the Family and Guardianship Code stipulates that appropriate actions are to be taken if a child's welfare is at risk, and this notion is the only specific definition of necessary intervention.⁶⁶

In Romania, state intervention is considered necessary when children are at risk or are victims of any form of violence within or outside the family. They are offered information, social, psychological, family and legal counselling and monitoring

62 Burkelc Juras and Burkelc, 2025, pp. 295–329.

63 Šimović, Margaletić and Preložnjak, 2025, pp. 29–70.

64 Kornel, 2025, pp. 71–100.

65 Jakab and Benyusz, 2025, pp. 101–126.

66 Nitecki, 2025, pp. 127–158.

services. All suspicions or situations of child abuse and/or neglect must be reported to the General Directorate of Social Assistance and Child Protection.⁶⁷

In Serbia, necessary interventions are, broadly, protective measures taken by competent state authorities for a child at risk in order to protect his/her right to life, survival and development. Thus, if family support measures do not or cannot provide the desired outcomes, the competent welfare authorities are obliged to intervene, take protective measures involving separation of the child from the family, provide the least restrictive accommodation and alternative care, undertake guardianship measures and place the child under guardianship.⁶⁸

In Slovenia, the state has conferred the power to protect the best interests of the child on the court and social work centres, which must take the necessary actions and measures required for the protection and upbringing of the child as well as for the protection of the child's property and other rights.⁶⁹

8. Structure of the Child Protection System

The Croatian legislator uses several different instruments to form an inherent monetary child protection framework as part of the child protection system to provide for monetary and in-kind benefits. Thus, the Value Added Tax Act (hereinafter: VAT Act) prescribes tax benefits for certain groups of products and services primarily intended to meet the needs of children and their families. Another instrument used by the Croatian legislator is the government subsidy housing loan programme prescribed by the Act on Subsidising Housing Loans. The child maintenance system is also used as an instrument of the monetary child protection framework. Regarding basic child welfare services within the framework of personal care, local and regional self-government units organise, implement and co-finance preschool education programmes within their territorial areas. Compulsory education in the Republic of Croatia is free of charge, as prescribed by the Constitution. In 2023, the Government of the Republic of Croatia decided to finance a programme from the state budget offering one free meal for all children in elementary schools for ensuring access to quality nutrition, which is essential for the optimal development of children. When parents lack sufficient parental competencies to protect children from inappropriate actions of third persons or they themselves endanger the upbringing, development and welfare of the child, competent state authorities need to intervene. Procedures and measures undertaken by the state authorities are in the form of assistance to children, parents and the family⁷⁰. Croatian legal order is above all based on the Constitutional obligation of the state to provide special protection to the family⁷¹, and in doing so, it offers a wide

67 Mihailă, 2025, pp. 159–225.

68 Vlašković, 2025, pp. 227–259.

69 Burkelc Juras and Burkelc, 2025, pp. 29–329.

70 Art. 18, para. 2 in accordance with Art. 9 CRC, Art. 6 and Art 129, paras. 3–5 of FA.

71 Art. 61, para. 1.

range of preventive measures and programmes, focusing mainly on the social welfare framework and family law framework. In Croatian legal order, special attention is given to the integration of the spirit and letter of relevant provisions of the CRC⁷² into the provisions of the FA regulating the institution of the separation of the child from the family⁷³. Therefore, the separation of a child from the family is considered a judicial or administrative measure based on which the child is separated from the family and placed with another person who meets the requirements stipulated for a guardian, with a foster family, with a social welfare institution or with another individual or legal entity that performs social services within the social welfare system.^{74,75}

The Czech Republic has a complex structure for monetary benefits, which can be distinguished into the following groups: a) the state social support system benefits are child benefit, parental allowance, housing allowance, substitute maintenance, subsistence allowance, material distress benefits, foster care benefits, recurrent maintenance allowance, care allowance⁷⁶, for individuals unable to manage basic life needs without assistance, mobility allowance and special assistance allowance; b) pension system benefits include orphan's pension; and c) tax system benefits refer to dependent child tax credit.

Child welfare services within the framework of personal care are social activation services for families with children, low threshold facilities for children and minors, respite care, accompanying organisations, and daily residential care centre. In terms of authority measures, the substantive law thus allows the placing of children by court order into another environment in the following order of preference: care of guardian (péče poručníka)⁷⁷, care of another person (typically a relative)⁷⁸, foster care and pre-foster care⁷⁹.

Within institutional care⁸⁰, the child can be placed in child centres (nursery homes, educational institutions (diagnostic institutions), children's homes, children's home with a school), homes for people with special needs and facilities for children requiring immediate assistance. A court may also issue interim measure orders. The law regulates the following options: general interim measure order⁸¹ and special interim measure orders regarding minor children.⁸²

Parents, in general, can entrust the care and protection of the child, the exercise of his or her upbringing, or certain aspects thereof, or the supervision of the child to another person; the agreement of the parents with that person need not affect the

72 Art. 9, para. 1, Art. 20 and Art. 25.

73 Art. 129 of FA.

74 Šimović, Margaletić and Preložnjak, 2025, pp. 29–70.

75 Art. 129, para. 2 of FA.

76 Arts. 7–30 of SSA.

77 Arts. 928–942 of CC.

78 Ibid., Arts. 953–957.

79 Ibid., Arts. 958–970.

80 Ibid., Arts. 971–975.

81 Sec. 74 et seq. of CPC.

82 Sec. 452 et seq. of SCPA; Kornel, 2025.

duration or extent of parental responsibility⁸³. Parents may also⁸⁴ entrust a child to the care of a facility for children requiring immediate assistance, especially in situations where the child's favourable development is threatened, the child has educational problems that the parents cannot cope with or they are temporarily unable to provide care for the child themselves.⁸⁵

In Hungary, benefits in cash and kind include regular child protection benefit, child feeding, advance payment of child support and home building support. Basic child welfare services within the framework of personal care are child welfare services, day care for children, temporary care of children and children's opportunity-enhancing services. Specialised child protection services under the personal care framework are care provided at home and aftercare. Measures taken by public authorities for child protection involve identifying a disadvantaged or severely disadvantaged situation for a child, taking the child into protection, family reunification, temporary placement, fostering, ordering educational supervision, ordering aftercare and ordering preventive detention. The system of child protection includes care of juveniles who have been remanded by the court to a correctional institution or those who have been arrested. Juvenile correctional education is governed by a separate law.⁸⁶

Poland has a proper form of effective public law, namely, the institution of foster care. Guardians of children in the Polish legal system receive benefits from two sources. The first is a benefit provided on the grounds of their function as a foster family or a person running a family orphanage, i.e. a benefit that supports these persons in performing their function. The second source refers to cash benefits granted on general terms to all children, irrespective of whether they are growing up in a natural family or are in foster care. Separate regulations apply only to those running a family-type foster home. Such persons receive funds for the maintenance of the living premises in a multi-family building or a single-family house in which the family-type foster home is run, to an amount corresponding to the costs incurred by the family-type foster home for rent, rental fees, cost of electricity and heat, fuel, water, gas, solid and liquid waste collection, a passenger elevator, a collective aerial, television and radio subscriptions, telecommunication services and related operating costs.⁸⁷

In Romania, according to the legislation in force regarding basic and special services for the welfare of children in personal care, children have the right to social assistance and social insurance. Law No. 272/2004 on the protection and promotion of children's rights establishes not only the types of services intended to prevent the separation of the child from the parents, but also the types of special protection services for the child who has been temporarily or permanently separated from the parents. These include day services, family services and residential services.

83 Art.881 of CC.

84 Art. 42 of ASLP.

85 Kornel, 2025, pp. 71-100.

86 Jakab and Benyusz, 2025, pp. 101-126.

87 Nitecki, 2025, pp. 127-158.

The legislation in force has 11 social protection schemes governing family/children's social benefits: state child allowance; social protection for children in difficulty; social grants and other entitlements; kindergartens and nurseries; assistance and social protection provided by non-profit organisations; social protection in the form of pensions and other social security entitlements; free and reduced transport; health insurance; family support allowance; maternity protection in the workplace; and foster parents' accommodation allowance.⁸⁸

Art. 12 of the Social Assistance Law No. 292/2011, establishes the following benefits for child and family support for the birth, education and maintenance of children: child allowances; allowances for children temporarily or permanently deprived of parental care; child-raising allowances; and facilities in accordance with the law. Where the child cannot be cared for by parents (parental authority), the best interests of the child necessitate the right to alternative care. Art. 106, para. 1 of the Civil Code, under the marginal heading of Protective Measures, states that 'the minor's care shall be provided by the parents, by the establishment of guardianship, by placement or, where appropriate, by other special protective measures provided for by law'.⁸⁹

In Serbia, the child social protection system includes material and financial support and various social welfare services. Material support and financial assistance intended for children and their families can reflect the social or population policy, as well as the rights that parents enjoy in the domain of labour relations. Social welfare services are divided into the following groups: assessment and planning services, day services in the community, support services for independent living, counselling and therapy services, socio-educational services, as well as services of accommodation.⁹⁰

The Slovak legal order distinguishes three forms of alternative care for a child that are temporary measures substituting the personal care of parents for their minor child: entrusting a minor child to the personal care of another physical person other than the parent – also known as substitute personal care – foster care and institutional care. A court can decide to entrust a minor child to the substitute personal care of someone other than the parent, according to Section 45 of the Family Act, only if it is in the interest of the child. 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 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 the 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 fundamentally without preferring any specific child for any reason. The Family Act does not specifically address emergency 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

88 Mihăilă, 2025, pp. 159–225.

89 Ibid.

90 Vlašković, 2025, pp. 227–259.

court is based on the provisions of the Civil Litigious Procedure, which must and necessarily be applied whenever the legal regulation of the Civil Non-Litigious Procedure is not comprehensive. Slovakia supports alternative care for minors not only through legal norms that set the conditions for alternative care but also through economic incentives. These are ensured through a system of various contributions available to both minors and 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. For the purposes of the Contributions Act, alternative care includes a) substitute personal care, b) foster care, c) 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), d) pre-adoptive care by prospective adoptive parents and e) 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.

Act No. 571/2009 Coll. on Parental Contributions and amendments to certain acts regulates the conditions for granting another state social benefit through which the Slovak Republic contributes to ensuring proper care for a child. Furthermore, a special state contribution in the form of a social benefit is regulated by Act No. 600/2003 Coll. on Child Allowance and amendments to Act No. 461/2003 Coll. on Social Insurance.⁹¹

In Slovenia, the Family Code has introduced a uniform system of measures to protect the best interests of the child, including emergency removal of the child, although this is in fact an action carried out by experts at the social works centre. This measure is intended to protect the child quickly when there is a serious and acute degree of danger to the child (of a higher level than the danger that is a precondition for most other measures), which requires the immediate physical removal of the child from the (family) environment and placement with another person, in a crisis centre, foster care or an institution, even before the court has ruled on the application for an interim injunction. The Family Code sets out measures of a more permanent nature in exhaustive terms. This means that only the measures prescribed by law can be issued. The least restrictive measure is the restriction of parental responsibility, followed by the decision on medical examination and treatment, restriction or deprivation of the right of contact, removal of the child from the parents and placement of the child in an institution. Finally, the most severe measure is the withdrawal of parental responsibility. Art. 238.c of the Enforcement and Security Act requires the court, considering all the circumstances of the case in such a way as to ensure that the best interests of the child are safeguarded, to decide that the enforcement of a decision on the custody of a child shall be effected by imposing a fine on the person to whom the enforcement order relates, or by removing the child and handing him or her over to the person entrusted with the child's custody or guardianship. Therefore, pursuant to Art. 238.e,

91 Koromház, 2025, pp. 261-294.

the court will enforce the court decision in cases where indirect enforcement by imposing fines would not be successful, or, in particularly justified cases, immediately. The court will order the placement of a child in an institution if it finds that the child has psychosocial difficulties, manifesting as behavioural, emotional, learning or other problems, and if it finds that these difficulties endanger the child himself or other children in the family, and that only by placing the child in an institution can the child's best interests or the best interests of the other children in the family be sufficiently safeguarded. Forms of substitute care are adoption, granting parental responsibility, guardianship and foster care.⁹²

9. Guardianship, Aftercare and Institutional Background

In Croatia according to Art. 132, paras. 1-2 of the FA, every citizen is tasked with the legal duty to report a potential violation of the child's personal and property rights to the Croatian Institute for Social Work (hereinafter: CISW), whose duty it is then to investigate the case and take measures to protect the rights of the child. Guardianship tasks regarding children are carried out by the CISW, a guardian, a special guardian from the Center for Special Guardianship, as well as a temporary representative outside the system appointed by a decision of a court or authority before which proceedings are conducted and who also has the authority of a special guardian⁹³. Besides the above-mentioned individual guardianship for the child, FA distinguishes guardianship for special cases. Although it is common in theory and legislation to associate the institution of individual guardianship with special guardianship, it is necessary to emphasise that the content of protection is fundamentally different⁹⁴. CISW is an institution that, on behalf of the state and society, applies professional social work procedures and provides special care for children whose development and upbringing is endangered. CISW workers directly provide social services such as first social service, counselling service and family-mediation service. Thus, CISW is also an institution providing services⁹⁵. Through the CISW's assistance, the family can receive high-quality and timely professional support and, in cooperation with experts and parents, ensure sufficiently good conditions for the child to grow. Certain forms of care for children are also provided in foster families and in institutions for children, such as institutions for children with developmental disabilities, care institutions for the upbringing and re-education of children and children's homes. The state provides a social housing service for children who cannot be cared for in his or her own home, which can be institutional care in a social care home or with other service providers, or non-institutional care in a foster family.⁹⁶

92 Burkelc Juras and Burkelc, 2025, pp. 295–329.

93 Art. 222 of FA.

94 Ibid., Arts. 240–246.

95 Art. 71 in connection with Art. 74, para. 2 of SWA.

96 Art. 74, para. 4 of SWA; Šimović, Margaletić and Preložnjak, 2025.

In the Czech Republic, Czech law differentiates two institutions that traditionally characterise the meaning of guardianship. Guardianship of children under protection is generally regulated by CC⁹⁷ with some specific rules included in the SLPA (e.g. sec. 17). Regarding procedural rules, CPC⁹⁸ and SCPA outline the regulations. The first institution (*poručenství*) is invoked when no parent holds or exercises full parental responsibility for the child⁹⁹. This typically arises in scenarios where both parents are deceased, or their parental responsibility has been terminated by a court order. In such cases, a court-appointed guardian (*poručník*) exercises parental responsibility rights and duties entirely instead of the parents. The second option (*opatrovnictví*) is used to resolve specific situations as provided by law. Specifically, a court shall appoint such a guardian (*opatrovník*) to a minor when there is a risk of conflict of interests between a child and a person exercising parental responsibility; the legal representative does not sufficiently protect the child's interests; or the child's interests require it¹⁰⁰. Moreover, guardian *ad litem* is appointed to the child in almost all civil proceedings if a minor is a party. In some cases of institutional care, a social curator (social worker) is assigned to monitor the child's rights in institutional care. The main job of this social worker is to work with the child, the child's family and other entities involved in case cooperation, be in direct contact with the child, monitor the influences on the child, identify the causes and seek measures to reduce the adverse influences. Moreover, the director of the institutional care facility is obliged (sec. 24 ICEA) to inform the competent municipal authority at least six months before the child's discharge from the institution and enable the child to meet with a social worker – social curator. After the end of institutional care, young adults may stay in an institution based on a contract between the institution and the young adult, but no longer than until the age of 26¹⁰¹. Moreover, social service so-called halfway houses are also accessible to young adults who are transitioning from institutional care. These are temporary residence services for individuals up to 26 years and encompass accommodation (in principle for up to 12 months), facilitation of social connections, therapeutic activities and support in advocating for rights and interests. The services here are charged. Another possibility for temporarily providing housing to young adults is an asylum house.¹⁰²

In Hungary, the Civil Code refers to the guardianship of persons under child protection guardianship as 'child protection guardianship'. The scope of child protection under child protection guardianship in the new Civil Code was meant to be the same as it was previously; but the institution of child protection guardianship changed and a unified foster placement has replaced temporary and permanent foster placement. In the Gyvt. according to Art. 84, the guardianship authority shall appoint a child

97 Arts. 465-471 and 943-952.

98 Art. 29.

99 Art. 928 of CC.

100 *Ibid.*, Art. 943.

101 Art. 2 Para. 6, Art. 24 para. 4 of ICEA.

102 Kornel, 2025, pp. 71-100.

protection guardian for the child, irrespective of the child's place of care, on the basis of a proposal by the regional child protection service. As a general rule, neither the head (or an employee) of the children's home and foster care network nor the foster parent of the child may perform the duties of a guardian; however, the Gyvt. allows the guardianship authority to appoint a foster parent as a guardian in addition to the child protection guardian to perform certain guardianship duties specified in the Act. However, the care of the child will not be provided by the child protection guardian, but by a child protection foster parent. Due to these changes, child protection guardianship is even more strongly characterised by the predominance of public law elements over private law elements. The child protection guardian monitors and promotes the child's physical, intellectual, emotional and moral development and education, and supervises the child's full care. The child protection guardian shall have the right to meet the child in person, without the presence of the head of the child protection service or of a member of staff, including the foster parent, at a time of his or her choosing. Child protection and guardianship administration are closely related concepts, with child protection care overlapping the two, which is also part of the child protection system under the Gyvt. The Gyvt. – as mentioned above – clearly separates the activities of public authorities from those of service providers. Child protection (service provision) is the responsibility of the municipal (capital district) and county governments. The notary or the guardianship office may take official measures in the field of guardianship administration. The minister is responsible for sectoral management and professional supervision.¹⁰³

In Romania, where the child cannot be cared for by parents (parental authority), the child has the right to alternative care to serve its best interest. Art. 106, para. 1 of the Civil Code, under the marginal heading of "Protective Measures", states that 'the minor's care shall be provided by the parents, by the establishment of guardianship, by placement or, where appropriate, by other special protective measures provided for by law'.¹⁰⁴

In Serbia, the function of guardianship authority is performed by the centre for social work as an administrative body founded by the local self-government unit. A full and permanent guardian is appointed for a child without parental care in order to ensure his/her comprehensive legal protection until the end of the need for guardianship (reaching majority, adoption of a child, return of the child to the biological family). Furthermore, the decision regarding a child's placement under guardianship simultaneously contains the care plan for the child and the decision on the accommodation of the minor ward. The Social Welfare Act provides for the aftercare of the child, which involves the creation of a plan for leaving social protection and becoming independent, as well as the provision of support services for independent living, including supported housing. First, the plan for leaving social protection and becoming independent is made for all children in alternative care (kinship care, foster

103 Jakab and Benyusz, 2025, pp. 101–126.

104 Mihăilă, 2025, pp. 159–225.

care, residential care) by the time the child attains the age of 14. Support services for independent living are provided to children and young persons between the ages of 15 and 26, who, upon termination of family-like accommodation (kinship or foster care) or after leaving residential accommodation, are unable or unwilling to return to their biological family, nor are they able to start independent life. Among these services, the supported housing service stands out in particular. The child protection system encompasses a network of institutions and licensed providers of social welfare services that cooperate with educational and health institutions, the police, judicial authorities, local self-governments, as well as other legal entities and citizens. The Social Welfare Act recognises various institutions that carry out the activities of social protection of children, including the centre for social work, centre for family accommodation and adoption, and institutions for education of children and young people who have been sentenced to certain educational measures. Further, the protection of the rights and interests of the child is decided in court proceedings governed by the Family Act. The head of the service assigns the case to a specific expert of the social work centre who is assigned as the manager of the case. The case manager, together with the supervisor, decides on starting work on the case. The main pillars of the child and family protection system are the centres for social work, as organisations established by local self-governments, but exercising the most diverse and numerous public powers in the field of child protection entrusted to them by the state.¹⁰⁵

In Slovakia, 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 various activities to support the suitable use of children's free time, or various programmes and trainings aimed at supporting the fulfilment of parental rights and obligations. The Central Office of Labour, Social Affairs, and Family leads, controls and methodically directs the execution of state administration in the field of social and legal protection of children and social guardianship. It also implements counselling-psychological services, ensuring the execution of measures according to this law in terms of facilities, and 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. Further, it controls and methodically directs the centre, which implements the measures based on granted accreditation. Other 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

105 Vlašković, 2025, pp. 227–259.

or a higher territorial unit, they do not carry out residential measures of the court or outpatient educational measures. If established by a physical or legal person, the centres can implement measures only according to the accreditation granted to the persons who established them.¹⁰⁶

In Slovenia, the Family Code regulates three types of guardianship: guardianship for children, guardianship for adults and guardianship for special cases. The procedure for placing a child under guardianship is initiated *ex officio* or following the proposal of an eligible petitioner. The social work centre is a participant in the proceedings even when it is not the one that proposed the commencement of the proceedings (legal participant).¹⁰⁷

10. Participation of Children in the Child Protection System

In Croatia, children are considered legal subjects (not *de facto* objects) who should actively participate and make autonomous decisions in all judicial and administrative proceedings in which their rights and interests are decided, thus exercising the rights prescribed by global and regional international legal sources – Art. 12 of the CRC, Art. 3 of the European Convention on the Exercise of Children’s Rights (hereinafter: ECECR), Art. 8 of the ECHR, Art. 24 of the Charter of Fundamental Rights of the European Union (hereinafter: Charter). The child’s right to be informed and to be able to express his/her opinion has a pivotal position within the participation rights and is prescribed by both substantive and procedural provisions of the FA. The substantive provision of Art. 86, para. 1 of the FA prescribes how this right of the child should be realised in everyday life, referring to family, school, health, diet, sports, religious, cultural and upbringing issues. This provision also prescribes the primary obligation of the parents to respect the child’s right to be heard and help him/her realise this right in practice. Therefore, parents have an obligation to talk to their children and try to reach an agreement while exercising their right to parental care, always considering the age and maturity of the child.¹⁰⁸

The substantive provision of Art. 86, para. 2 of the FA prescribes how this right of the child should be realised in all judicial and administrative proceedings in which his/her rights or interests are decided, emphasising the child’s right to be informed and obtain advice, before eventually deciding to exercise the right to express his/her opinion. This provision is the legal basis of all considerations regarding participation of children in judicial and administrative proceedings, implying that it is the duty of society, represented by judicial and administrative bodies, to protect children’s right to be ‘visible’. The logic underlying this standpoint is that if the child’s opinion

106 Koromház, 2025, pp. 261–294.

107 Burkelc Juras and Burkelc, 2025, pp. 295–329.

108 Art. 91, para. 3 in connection with Art. 86, para. 1 of FA; Margaletić, Preložnjak and Šimović, 2025.

is not established because he/she was not given the opportunity to express his/her considerations, thoughts, wishes etc. then the child cannot be protected as it will be impossible to determine what is in the child's best interest and how to protect it! Therefore, proper exercise of the child's right to be informed and heard is somewhat of a precondition for the correct assessment and protection of the best interest of the child within the domestic judicial and administrative child protection system. This is particularly reflected in the provision of Art. 130, para. 1. of the FA, which provides the child the right to participate and express his/her opinion in all procedures of assessment and determination of the need to impose preventive or repressive measures to protect his/her personal or proprietary rights and welfare.¹⁰⁹

The procedural provision of Art. 360, para. 1 of the FA confirms that the right to be heard is solely a right and never the obligation of the child; however, at the same time, it imposes an obligation to inform the child that he/she can decide not to participate at any point in the proceeding. If the child decides to participate, the court is obligated to enable him/her to express his/her opinion in an appropriate place and in the presence of a professional if it considers this necessary for obtaining the authentic opinion of the child. In connection with this, the competent court is not obligated to obtain a child's opinion in cases where there are particularly important reasons that need to be explained in the decision (e.g. if the child is exposed to a conflict of loyalty or a high amount of stress or manipulation by parents, household members or third persons).¹¹⁰

In the Czech Republic, the effective participatory rights of children are, on a textual level, strongly embedded in Czech national law¹¹¹ and are structured across the following four levels; they vary depending on the matter and circumstances of the individual child: right to information; right to express their views; right to be given their views due weight; right to decide (give consent, veto right).¹¹²

First, parents must enable their children to participate in decision-making, and the general rule¹¹³ dictates that the child must be provided information, allowed to express his/her views and these views must be given due consideration. Similarly, according to Art. 946 of CC, before the guardian proceeds on behalf of the child to the legal act he has been appointed to perform, he shall ascertain the opinion of the parent or guardian, if applicable, and the opinion of the child and, if appropriate, the opinion of other persons.¹¹⁴

On the substantive law level, the general rule regarding children's participation in a judicial proceeding is stipulated in sec. 867 CC: 'before making a decision affecting the child's interests, the court shall provide the child with the necessary information

109 Šimović, Margaletić and Preložnjak, 2025, pp. 29–70.

110 Ibid.

111 Hoblíková and Kropáčková, 2019, pp. 951–954; or Kísová, n.d.

112 Kornel, 2025, pp. 71–100.

113 Art. 875 para. 2 of CC.

114 Kornel, 2025, pp. 71–100.

to enable him or her to form his or her own opinion and to communicate it' (para 1), and,

'if, in the court's opinion, the child is unable to receive the information, or is unable to form his or her opinion, or is unable to communicate that opinion, the court shall inform and hear the person who is able to protect the interests of the child, provided that the person is one whose interests do not conflict with the interests of the child; a child over the age of twelve shall be presumed to be able to receive the information, form his or her own opinion and communicate that opinion. The opinion of the child shall be given due weight by the court (para 2).'¹¹⁵

In Hungary, according to Art. 2 (a) of Government Decree 149/1997 (IX. 10.) on guardianship authorities and child protection and guardianship procedures, a child who has the capacity to judge is a minor who, in accordance with his or her age and intellectual and emotional development, is able to understand the essential content of the facts and decisions affecting him or her and to understand the expected consequences. The rules governing the hearing of such a child are described in the previous section.¹¹⁶

Pursuant to Art. 2 para. 1 of 15/1998 (IV. 30.) NM Decree on the professional duties and conditions of operation of child welfare and child protection institutions and persons providing personal care, personal care shall be provided in a manner that respects the rights of children and parents and ensures their enforcement. Pursuant to para. 2, in order to ensure the widest possible exercise of children's rights, providers of child welfare and child protection services (the service providers) shall ensure that children have access to the name and telephone number of the children's representative and the place and time of his or her appointments. Para. 3 states that service providers shall ensure that the children's rights representative a) has a suitable room within the premises of the institution, which is easily accessible and suitable for children to have a private conversation during their visit; b) is aware of the possibility of being informed on the spot and is able to consult the documents; c) to be informed in advance regarding the date of the meeting of the representative forum.¹¹⁷

The children's council elected by more than 50% of the children may represent all the children in the residential childcare institution. The children's council decides on its own functioning after consulting the head of the institution. Its rules of organisation and operation are adopted by the elected children's council and approved by the head of the institution. Approval may be withheld only if the rules are unlawful or contrary to the institution's rules of organisation and operation or its rules of procedure. The children's self-governing body may express its opinion to the head

115 Ibid.

116 Jakab and Benyusz, 2025, pp. 101–126.

117 Ibid.

of the institution on all matters relating to the operation of the residential childcare institution and to the children, which the head of the institution shall consider.¹¹⁸

In Romania, children can participate in various civil, administrative and criminal procedures; therefore, they must be helped to be aware of the importance of participation in decision-making that concerns them and to understand why some of their opinions or wishes cannot be considered.¹¹⁹

Whether it is applications related to the establishment of guardianship, civil status records, applications for inheritance, divorce, adoption or procedures before public administration authorities for the provision of services or benefits, situations in which children are arrested or convicted, or are witnesses in legal proceedings, a child-friendly infrastructure must be ensured as stated in the National Strategy for the Protection and Promotion of Children’s Rights “Protected Children, Safe Romania” 2022-2027.¹²⁰

Children entering the special protection system should know and be informed about all the steps taken from the preparation of the move to the alternative protection system to knowing some details about siblings, school or place of placement. However, studies carried out in Romania show that 2 out of 3 children in the special protection system are not consulted about their opinions and preferences. The children who were consulted prefer the living conditions of the special protection system, stating that they want their families to be free of violence, alcohol or other substance use, and also to have good living conditions.¹²¹

In Romania, Standard 5 from the Order of the Minister of Labour and Social Justice no. 25/2019, on the approval of minimum quality standards for residential social services intended for children in the special protection system, supports the permanent involvement of children in processes and decisions regarding their own lives, as well as their active participation in all aspects of social life. The same document requires residential centres to carry out, at least once a year, periodic information and training sessions for children. Further, the staff of the centres must train and inform the children on the ways in which they can express and communicate their opinions/wishes/proposals regarding the living environment, the services received and the activities in which they are involved.¹²²

The child must be informed about the procedure in which he/she is participating and which concerns him/her, and information given to him/her must be according to his/her age and level of maturity. He/she must also know about the consequences of the decisions that concern him/her.

The guardianship court cannot decide without hearing the minor if he/she has reached the age of 10. According to Art. 264 of the Civil Code, in the administrative or judicial procedures that concern him/her, the hearing of the child who has reached

118 Ibid.

119 Mihăilă, 2025, pp. 159-225.

120 Ibid.

121 Ibid.

122 Ibid.

the age of 10 is mandatory. However, a child who has not reached the age of 10 can also be heard if the competent authority considers that this is necessary for the resolution of the case. The child can request to be heard, and the rejection of the request by the competent authority must be reasoned. In principle, the court considers the child's opinion, valuing it according to age and degree of maturity.

The hearing of the minor happens in the council room. In principle, only the judge and the clerk participate in the hearing of the minor, but depending on the situation, the court can also admit the participation of other people (parents, guardians, psychologist). Recently, special rooms have been set up for hearing children, but they are present only in few places in the country.¹²³

According to the provisions of Art. 57, para. 3 of Law 272/2004 on the protection and promotion of children's rights, special protection measures for children who have reached the age of 14 are established only with their consent. In cases where the child refuses to give his/her consent, the protective measures are established by the court itself, which, in well-reasoned situations, can override his/her refusal to express his/her consent to the proposed measure.¹²⁴

A child who has reached the age of 10 will give his/her consent to adoption in front of the court, in the adoption approval phase, according to Art. 15 of Law 273/2004 on the adoption procedure. It does not involve merely listening, it is a requirement of consent that cannot be met otherwise.

In Art. 2 of the Pre-University Education, Law no. 198/2023 states that the pre-university education system is based on the following values: r) 'respecting the student's right to opinion...', and in Art. 116 letter r), it is stated that the county directorates of pre-university education/the Bucharest Municipality Directorate of Pre-University Education keep in touch with the representative organisations of students, teachers and parents and ensure their participation in the process of drawing up and implementing educational policies at the county level and in the process of decision-making aimed at the school community.¹²⁵

The National Student Council is an important mechanism for children's participation in decision-making in the field of education. Art. 7 of the Student Statute provides for the right of student children to be consulted and to express their opinions regarding the established curriculum, in accordance with the students' learning needs and interests. Children and young people with special educational needs integrated in mainstream education have the same rights as other students (Art. 8.1). Student representation in schools is implemented through the student council and their representative associations (Art. 30). In 2019, more than 20,000 children from all branches of the organisation were involved through the programme initiated by the "Save the Children" organisation, "We have rights, too" n.t, with more than 600 volunteers, teachers and schools as partners. This programme aimed to

123 Ibid.

124 Ibid.

125 Ibid.

‘inform children in order to make them aware of their rights and responsibilities, in accordance with the UN Convention on the Rights of the Child, through peer-to-peer education techniques and stimulating their participation in social programmes and actions, increasing the degree of respect of the rights of the child, the involvement of children and young people in non-formal education activities, which will develop their knowledge about the rights of the child and at the same time skills and attitudes in accordance with them.’¹²⁶

In Serbia, hence, the child has the right to freely express his/her views in the procedures in which decisions are made about the provision of social welfare services concerning the child and his/her family, as well as in procedures in which child protection measures are adopted. In this context, a child has the right to duly receive all the information necessary to form his/her own views. Further, a child who has reached 10 years of age may address the court or an administrative body by himself/herself or through another person or institution and request assistance in realisation of his/her rights to free expression of views.¹²⁷

Furthermore, the court is always obliged to consider how the child can be enabled to express his/her views in all the proceedings concerning the rights of the child (proceedings in a dispute for the protection of the rights of the child, proceedings for the exercise of parental responsibility or proceedings for the deprivation of parental responsibility). If the court finds that the child is not adequately represented in these disputes, it is obliged to appoint a temporary representative for the child or to request the appointment of a collision guardian from the centre for social work. This type of temporary guardian is especially obliged to ensure that the child receives all the information in a timely manner in a way that he/she can understand in order to be able to form and express his/her views; provide the child with information about the possible consequences of the actions he/she undertakes, as well as inform the court of the child’s views if the child is not able to directly express them before the court.¹²⁸

In procedures for the use of social welfare services or when adopting child protection measures implemented by the centre for social work, the case manager plays a particularly important role. This social welfare specialist constantly maintains communication with the child, ensuring the child’s active participation during his/her numerous activities on the case and informs the child about the results of his/her work and prepares reports and decisions in accordance with the age and maturity of the child. The case manager must also enable the child’s participation in creating the plan of services and measures for the child and his/her family in accordance with the age and maturity of the child.¹²⁹

126 Ibid.

127 Vlašković, 2025, pp. 227–259.

128 Ibid.

129 Ibid.

11. Country-Specific Issues

In the Czech Republic, the first problem addressed by professional and international bodies, such as the UN Committee on the Rights of the Child, is the abovementioned fragmentation of responsibilities among many different actors cooperating only to a limited extent (e.g. the agenda of services for at-risk children and their families belongs to three ministries, namely, Ministry of Health, Ministry of Education, Youth and Physical Education, and in part to the Ministry of Labour and Social Affairs). Second, the excessive institutionalisation of care for children at risk and the involuntary removal of children from parental care have drawn vast criticism. Notably, the European Court of Human Rights recognised, on a couple of occasions, that the Czech Republic violated fundamental human rights in specific cases of involuntary removal of children. Third, the schizophrenic role of the SLPCB serving not only as a guardian representing children in court proceedings but also as a public body controlling (and punishing) families or providing family services is criticised by experts. Preparing young people for leaving institutions happens throughout their stay; yet, research shows its limited impact. Any child in foster care or institutional care is considered an endangered child. As such, an individual protection plan must be prepared for any such child. The plan's goal is to support young people in becoming independent, activate them and gradually prepare them to take responsibility for fulfilling their own goals. The plan's objectives relating to empowerment likely include critical areas of securing housing, preparing for future employment and/or a career, material provision, and possibly various other forms of support.¹³⁰

In Serbia, significant progress has been noted in reducing the number of children in residential care; however, this is not the case regarding children with disabilities. Thus, in 2022, children with disabilities still made up an overwhelming majority of the total number of children in residential care (66.4%). According to the General Comment No. 21 of the CRC, children in street situations involve 'children who depend on the streets to live and/or work, whether alone, with peers or with family' and 'children who periodically, but not always, live and/or work on the streets, as well as children who do not live or work on the streets but who regularly accompany their peers, siblings or family in the streets'. In 2022, Serbia adopted the "Plan" for the protection of children in street situations from violence, neglect and exploitation in an effort to implement the CRC/GC/21. In this context, the Plan envisages tasks for the centres for social work, police departments, public prosecutor's offices and the city of Belgrade in order to coordinate the protection of this extremely vulnerable category of children. Despite this, a major problem is the extremely small number of licensed drop-in service providers within the local self-government units.¹³¹

130 Kornel, 2025, pp. 71–100.

131 Vlašković, 2025, pp. 227–259.

In Croatia, a child's placement is frequently determined by 'the available place and the accommodation capacity of the institutions themselves, so the placement of a child is often conditioned by the location of an available place, which is frequently not close to the child's previous place of residence'. In the Republic of Croatia, children's homes continue to be the most common type of accommodation for children who do not have adequate parental care, indicating that work should be done on their transformation in terms of content (activities, equipment) and professionals (diverse and educated professional staff) for this form of care to reach the highest possible level. Foster care is being increasingly chosen as the first choice of placement for a child as part of the deinstitutionalisation process. In 2022, the Ombudsperson for Children requested information on the children entrusted to care from all institutions on the trend in the number of children and young people in accommodation, residence and organised housing. The numbers supplied imply a minor increase in the number of children in foster care and organised housing in 2022, although the number of children in foster care is much more. The problems in securing accommodation in foster families are comparable to those encountered in institutions. Although the number of new foster care licenses in 2022 was approximately 20% higher than in 2019, the number of foster families remains insufficient when considering the needs for care of children outside their home. In addition to insufficient capacity in institutions and foster families and many requests for child placement, issues persist regarding uneven territorial representation of foster families, lack of professional foster care, lack of foster families in urban areas, as well as a lack of specialised foster parents who are additionally educated to care for children with behavioural disorders or specific physical or mental disabilities. Difficulties also persist in terms of foster parents' structure and needs (e.g., age, lower educational structure of foster parents; insufficient professional support for foster parents, children and biological families; insufficient education and supervision of foster parents and professional staff; and uneven quality of services provided by foster families). Deficits are also seen in terms of monitoring over the services offered by foster families, as well as children's non-participation in making decisions about themselves.

12. Best Practices

In Romania, a monitoring and evaluation system known as "Progress in ensuring the transition from care in institutions to care in the community", was developed for ensuring the transition from care in institutions to care in the community, in the framework of the project implemented by the National Authority for the Rights of Persons with Disabilities, Children and Adoptions. The monitoring system allows analysis of the transition of care of children left without parental care in institutions to care in the community, from the perspective of four main objectives: closure of foster care centres, as every child must grow up in a family; development of alternative services to care in placement centres, especially those of the family type, both

numerically and from the point of view of quality; strengthening case management, to ensure the quality and adequacy of protection services; and the development of prevention and support services in the community to reduce entries into the system and stimulate family reintegration. In Romania, the establishment and application of special protection measures for a child is based on an individualised protection plan. This is developed and implemented by the case manager. Thus, children in special protection have a designated case manager (within the General Directorate of Social Assistance and Child Protection or Authorised Private Bodies). A case manager is also assigned for children with disabilities for whom there is no special protection measure. According to the National Authority for the Protection of Children's Rights Order no. 288 of 2006 approving the minimum mandatory standards for case management in the field of child rights protection, 'case management, applied in the field of child rights protection, is a method of coordinating all social assistance and special protection activities carried out in the best interests of the child by professionals from different public and private services or institutions'. Special protection measures for children are placement, emergency placement and specialised supervision.¹³²

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 role, distinct from other bodies enforcing the protection of fundamental human rights, is 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.¹³³

The Commissioner for Children primarily assesses the observance of children's rights, both on their own initiative and based on individual submissions. To do this, 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 who are 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 the 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, with a child placed in a location where detention, imprisonment, protective treatment, or educational measures are executed.

132 Mihăilă, 2025, pp. 159–225.

133 Koromház, 2025, pp. 261–294.

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.¹³⁴

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. Only a member of the National Council of the Slovak Republic can submit a proposal for a candidate for the Commissioner's post to the relevant committee of the National Council of the Slovak Republic.¹³⁵

In Poland, the institution of the Ombudsman for Children was introduced into the Polish legal system by the Act of 6 January 2000 on the Ombudsman for Children. Pursuant to the provisions of Art. 1(2) of this Act, the Ombudsman shall safeguard the rights of the child as set out in the Constitution of the Republic of Poland, the CRC and other legal provisions, with observance of the responsibilities, rights and duties of parents. In exercising their powers, they will be guided by the wellbeing of the child and on the principle that the natural environment for the child's development is the family. They will take measures to ensure the full and harmonious development of the child, respecting his or her dignity and subjectivity.¹³⁶

The Ombudsman works to protect the rights of the child, in particular, the right to life and health protection; the right to be brought up in a family; the right to decent social conditions; and the right to education. Moreover, the Ombudsman takes action to protect the child from violence, cruelty, exploitation, demoralisation, neglect and other forms of ill-treatment. The Ombudsman is obliged to provide special care and assistance to disabled children, and promote children's rights and methods of protecting them.¹³⁷

The Ombudsman's term of office lasts five years, counting from the date of taking the oath before the Parliament. The Ombudsman is appointed by the Parliament, with the consent of the Senate, following the proposal of the Speaker of the Parliament, the Speaker of the Senate, a group of at least 35 deputies or at least 15 senators. The same person cannot be the Ombudsman for more than two consecutive terms. The Ombudsman is independent of other state bodies in their activities and is accountable only to the Parliament under the terms set out in the law.¹³⁸

The Ombudsman's powers are extensive and include, *inter alia*, the following. The Ombudsman may

examine, even without notice, any case instantaneously; request public authorities, organisations or institutions to provide explanations, information or access to files and documents, including those containing personal data, for inspection at the Office of the Ombudsman for Children; report and participate in proceedings before the Constitutional Tribunal initiated on the basis of a motion of the Ombudsman or

134 Ibid.

135 Ibid.

136 Nitecki, 2025, pp. 127–158.

137 Ibid.

138 Ibid.

in cases of constitutional complaint, concerning the rights of the child; apply to the Supreme Court with motions to resolve differences in the interpretation of the law as regards the legal provisions concerning the rights of the child; file a cassation or cassation complaint against a final decision in the procedure and on the principles specified in separate regulations; request the initiation of proceedings in civil matters and participate in pending proceedings, in accordance with the rights vested in the public prosecutor; participate in pending proceedings in juvenile matters, in accordance with the rights vested in the public prosecutor; request the initiation of preliminary proceedings by an authorised prosecutor in criminal matters; request the initiation of administrative proceedings; file complaints to the administrative court, as well as participate in such proceedings, in accordance with the rights vested in the public prosecutor; request punishment in misdemeanour proceedings, in accordance with the procedure and principles set out in separate provisions; and order an investigation and the preparation of expert reports and opinions.

It is worth noting that the Ombudsman, guided by the wellbeing of the child and indications of the lack of possibility to provide the child with family foster care, issues an opinion in which they express their opinion on the legitimacy of creating a custodial and educational unit.¹³⁹

Under their operations, the Ombudsman cooperates with associations, civic movements, other voluntary associations and foundations working for the protection of children's rights. They are obliged to submit to the Parliament and the Senate, annually, no later than 31 March, information on their activities and comments on the state of observance of children's rights. Such information is placed in the public domain.¹⁴⁰

In Slovenia, after the new family legislation came into force in 2019, the need for a protocol on child removal was recognised, and an inter-institutional work group was established. In May 2020, the work group drafted the Protocol of Recommended Practices in the Case of Execution of a Decision on the Removal of a Child by Direct Extradition. The purpose of the Protocol is to protect the best interests of the child during the stage of removal of the child. All participants are obliged, after a preliminary assessment of the factual circumstances and a risk assessment, to draw up a detailed plan for the implementation of the removal of the child and to define the role and conduct of all participants from the different institutions in the different stages in such a way as to ensure that the individual actions are the least burdensome for the child and the best interests of the child are served. The Protocol is extremely useful as a working tool and provides for a normal course of action and distribution of roles of all participants in the various stages of the enforcement procedure, and, in the context of planning of the enforcement, it also foresees the possibility of certain special circumstances, in particular with regard to the characteristics of the child and the parents, and for the recommended course of action to be followed in such cases.

139 Ibid.

140 Ibid.

The Protocol comes with a ‘Risk Assessment’ form attached to facilitate the identification of risk factors relevant to the planning and execution of the removal of the child. Some of the more important aspects of the Protocol are briefly outlined below.¹⁴¹

141 Burkelc Juras and Burkelc, 2025, pp. 295–329.

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