

Record Card

File number	616/2016/VOP
Area of law	Activities of the bodies for social and legal protection of children (BSLPC)
Subject	exercise of social and legal protection
Type of finding	Inquiry report – Section 18
Result of inquiry	Errors found
Relevant Czech legislation	359/1999 Coll., Section 6 (c), Section 8 (1), Section 8 (3), Section 16, Section 42 (2)(d), Section 42 (6), Section 53 (1) 292/2013 Coll., Section 469 (1)
Relevant EU legislation	
Date of issue	30 March 2016
Date of filing	2 February 2016

Document:

Brno, 30 March 2016
File No.: 616/2016/VOP/BN

Report on inquiry concerning the exercise of social and legal protection of Adéla N., a minor

On 1 February 2016, I was contacted by a minor child, Adéla N. (born in 1999). In her letter of complaint, she informed me of long-term family problems and her feelings that her problems were being neglected by the officers of the body for social and legal protection of children of the Municipal Authority of Kutná Hora (hereinafter the “BSLPC”).

A – Subject of inquiry

I decided to initiate inquiry in response to the complaint and the subsequent e-mail and phone conversations with Adéla N. [1] Given the fact that I was contacted by the minor child herself, I did not request that she use the authority’s internal complaint procedure. I focused my inquiry on the exercise of social and legal protection of Adéla, including social curatorship, especially the placing of Adéla in a facility for children requiring immediate assistance (hereinafter the “Facility” or “FCRIA”), the family’s co-operation with the educational care centre and the social work with Adéla and her family.

B – Findings of fact

I base my conclusions not only on the information and documents provided by Adéla, but also on information obtained during inquiry on site carried out by an authorised employee of the Office of the Public Defender of Rights. I have also carefully studied the whole BSLPC file [2] and the authorised employee met with Adéla’s boyfriend P. K. on her request. [3]

Given the fact the BSLPC has the file and knows its contents, I do not think it necessary to summarise its contents here. I am pointing out the crucial facts directly in the next part of the report.

In addition to the BSLPC file, I note that Adéla confided to the authorised employee of the Office of the Public Defender of Rights that she had had self-harm tendencies [4] and followed certain pages on social networks devoted to topics of suicide and self-harm. She claimed to have witnessed her father's attempt to murder someone.[5]

C – The Defender's assessment of the case

I decided to divide my assessment into thematic chapters, concerning both the timeline and the individual problems.

C.1 Adéla's stay in the Facility – August 2015

C.1.1 Previous co-operation between the family and the BSLPC

After Adéla came to the BSLPC [6] and, together with her boyfriend, informed it about the problems in the family, the BSLPC officers reacted immediately. They interviewed the parents and Adéla – they advised the parents of their parental responsibilities and the possibility of ordering court supervision over their child's upbringing and recommended to visit the Crisis Intervention Centre B. Subsequently, they carried out an inquiry in the family and recommended co-operation with the Educational Care Centre C (hereinafter the "ECC"). Adéla's father immediately arranged the family's visit to the ECC.

I believe the BSLPC's work with the family in early August 2015 was very extensive.

C.1.2 Placement in Facility D

After the first visit of the family in the ECC, Adéla asked to be placed in the Facility for children requiring immediate assistance D (hereinafter referred to as "Facility D"), where she subsequently moved.[7]

In contrast to the above, I cannot welcome the BSLPC's approach towards placing Adéla in Facility D, especially due to the following reasons.

I consider the application to be placed in the Facility [8] as a significant manifestation of the wishes of the child who decided to deal with her difficult situation. I believe the situation must have been, in the child's opinion, extremely difficult and emotionally exhausting for the child to resort to such a radical step.[9] Escalation of short or long-term problems in the family may affect children in various ways – some children may become aggressive, some apathetic, some may become desperate, suffer a physical or mental breakdown or experience psychosomatic disorders. I am convinced that these manifestations must never be taken lightly.

In Adéla's case, the BSLPC had only worked with the family shortly [10] and, therefore, I do not believe its opinions concerning the lack of need for Adéla's stay in the Facility were justified. Equally inappropriate were the statements of a BSLPC officer who told Adéla that she did not "condone her actions, especially the fact that she lied to the mother about the reasons for leaving and did not inform [the BSLPC or the parents] and, especially, did not respect the parents' wishes and left with her adult boyfriend despite their explicit prohibition, of which the boyfriend was aware." [11] I believe the paraphrased statement above is completely contrary to the purpose of the Act, which provides for the child's right to ask for help, even without the parents' knowledge, and stipulates the duty of the BSLPC to provide such help to the child. [12] Similarly, I do not think this approach showed proper respect to Adéla's difficult choice.

My assertion is also supported by the fact that the BSLPC contacted an employee of the ECC with whom the family had previously met. The employee called Adéla's request to be placed in the Facility a "childish escape" and, according to the BSLPC's record, he stated that Adéla "left the family before any steps could have been taken." [13], [14] I especially disagree with the ECC employee's utterance that the "minor was not old enough to decide about the place where she should stay." [15] That is completely at variance with the meaning of Section 42 (2)(d) of the Social and Legal Protection of Children Act [16] as well as contrary to Article 12 of the Convention on the Rights of the Child. [17]

C.1.3 Parents' consent to placement in Facility D

Referring to the expert commentary to the Social and Legal Protection of Children Act [18], I also stress the following: "Where a parent or another person responsible for the child's upbringing grants consent to the stay of the child in a facility [19], this consent should be given in writing and be filed in the file kept by the body for social and legal protection."

In Adéla's case, the parents gave no written consent to the BSLPC or the Facility immediately after her placement. On the contrary, they stated that they disagreed with her stay in Facility D; after a telephone conversation, the father subsequently agreed with the solution he was offered by the BSLPC, i.e. to move his daughter to the FCRIA attached to Children's Centre F (hereinafter "Facility F"). [20]

The BSLPC's records further show that an BSLPC officer and the head of Facility D agreed that the parents would provide their consent afterwards, while simultaneously terminating the stay and moving their daughter to Facility F. [21]

The need for immediate submission of a written consent may seem formalistic, nevertheless, I support the above-quoted interpretation of Section 42 (6) of the Social and Legal Protection of Children Act. Since the BSLPC did not obtain the parents' consent, nor did it seek a court decision to place Adéla in the facility, I believe its procedure was erroneous. I believe the BSLPC was evading the law and the need to seek a court decision. [22]

C.1.4 Transfer of the minor to Facility F

I understand the reasons that prompted the BSLPC to recommend the transfer of the minor to Facility F (especially Facility D's distance from the family's home and the possibility to continue co-operating with the ECC). [23], [24] However, due to the reasons given below, I believe the implementation of the transfer was completely inappropriate.

Facility D indicated the minor was mentally "disturbed" and expressed – in my opinion justified – doubt that Adéla would want to be moved by her parents. [25] The BSLPC reacted to Facility D's request [26] to have the minor transported by the BSLPC officers by instructing the parents not to discuss the situation with Adéla on the way and Facility D to prepare Adéla for the transfer.

Prior to Adéla's transfer, there was no visit of the parents in Facility D and no expert intervention that would allow the parents and Adéla to talk about the reasons for her leaving home. [27] This took place only on the following day in the ECC, after the transfer.

On request by Facility D [28], an employee of the BSLPC unsuccessfully tried to contact the minor via her mobile phone.

I believe it was inappropriate for Adéla, who asked to be placed outside her family herself, to confront her parents without any kind of expert help and, subsequently, to be forced to travel with her parents for two hours to Facility F. I believe that in taking this action, the BSLPC failed to comply with its duty under Section 8 (1) of the Social and Legal Protection of Children Act, i.e. to provide assistance to a child who requests it. I regard the body's procedure in this regard as erroneous.

C.1.5 Rules for the minor's return home

I regard favourably the BSLPC's activities upon termination of Adéla's stay in Facility F, i.e. the assistance provided in setting up rules to eliminate further conflicts in the family.[29]

C.2 The family's co-operation with the ECC

I welcome that the BSLPC recommended that the family start co-operating with the ECC already during the first meeting (and provided contact details). I am also regarding favourably that the BSLPC officers repeatedly motivated the family to continue the co-operation and, at the start, asked the ECC for an assessment of whether or not Adéla showed signs of mental or physical abuse. After two interventions, the ECC's specialist in education of children with behavioural disorders, Mr Borecký, stated in his report that the ECC found no obvious signs suggesting Adéla had suffered mental or physical abuse.[30] This conclusion was supported by Mr M, a special pedagogue, in his report drawn up after six visits.[31] I also regard favourably that the BSLPC officers regularly informed the ECC about the situation in the family and drew its attention to specific problems.[32]

Nevertheless, after studying the BSLPC's file, I got the impression that the BSLPC only had a tentative knowledge of how many intervention meetings there had been with respect to the individual members of the family and what their results were. I recommend that the BSLPC request a detailed and up-to-date report on the co-operation with all members of the family and evaluate whether it serves its purpose and should continue, and in what scope.

C.2.1 Adéla's co-operation with the ECC's psychologist

The communication with Adéla revealed that she believed she was visiting the ECC's psychologist ("Mr M."). The officers of the BSLPC also mentioned during the inquiry on site that Adéla was visiting "Dr M., a psychologist" at the ECC. The BSLPC's belief is also included in the record from its inquiry in the family home.[33]

However, the authorised employee of the Office of the Public Defender of Rights found out by calling the ECC that while the facility was providing psychological care, Mr M. who was working with the minor was a special pedagogue. There is no other Dr M. working for the facility according to its website.

As there is a significant difference between special pedagogy and psychological care, I must regard this as a serious mistake on the part of the BSLPC and an error.

I am aware that the BSLPC previously offered psychological assistance to Adéla, who refused. However, given the continuing difficult situation in the family, I emphatically recommend that the BSLPC provide for psychological care [34] for the minor as soon as possible, or order it if need be [35], inform the parents of the fact and monitor the visits. [36]

C.3 Adéla's presence during a court hearing

Adéla told the authorised employee of the Office of the Public Defender of Rights that she regretted she was not allowed to be present during the court hearing within proceedings on setting up court supervision of her upbringing.

The BSLPC's file indicates that Adéla expressed interest in participating in the court hearing during a meeting with an officer of the BSLPC at school.[37] The record showed that Adéla was "informed that this was not a usual practice and that the court only tasked the BSLPC to talk with the child and then report its findings in court."

I understand that the BSLPC officer advised the minor of the "usual practice", nevertheless, she failed to comply with her duty under Section 8 (3) of the Social and Legal Protection of Children Act.

I have no doubts that the 16-years-old would be able, given her age and intellectual maturity, to understand the implications and importance of the decisions made in the court proceedings. [38] This means the BSLPC officer should have informed her of all related and important circumstances. I believe that the fact the minor could have been present during the court hearing, especially since she asked about the possibility herself, was an important circumstance.

Even though the minor was represented in the proceedings by her curator (the BSLPC) [39] and would not have been able to directly participate in the court hearing, she had the right to be present. [40] The BSLPC officer should have advised Adéla of this fact instead of discouraging her from attending.

C.4 Repeated requests by the minor to be placed in a facility

The file indicates that during autumn 2015, the BSLPC officers repeatedly discussed with Adéla and her parents the possibility of her being placed in a facility. The BSLPC in particular recommended the placement on the parent's request (which the BSLPC called a "voluntary stay"). The BSLPC officers also asked Adéla multiple times during autumn 2015 whether or not she wanted to be placed in a facility. Adéla rejected this.

In my opinion, the situation escalated on two occasions. The first event occurred during Christmas 2015.[41] I appreciate that the BSLPC officer on emergency duty during Christmas managed to calm down the situation during the evening and monitored Adéla's mental condition well via phone. However, I consider as inappropriate the statement by the key worker, Ms Netolická, that is included in the file[42], i.e. that "this was not a situation where the minor was in any danger. Such mood swings were nothing unusual for her." Firstly, I stress the key worker did not speak with Adéla that day. Secondly, given the circumstances of the case, the BSLPC could have regarded as dangerous even the fact that Adéla was repeatedly in a bad mental state and was very worried about her future. I also do not understand why the BSLPC officers did not speak with Adéla alone during the meeting of 28 December 2015. As above, I must say I do not consider this procedure appropriate. The BSLPC officers put Adéla in a situation where she had to express – in front of her parents – her wish to leave the family home. A decision to leave parents is very difficult for any child. I would compare it to the pressure faced by children in divorce proceedings, where they are supposed to decide with which parent they would like to live. Many psychologists have warned about the harmfulness of such a procedure.[43]

Problems again arose in January 2016.[44] Even after this incident, the BSLPC contacted the parents and asked whether they would "consider placing Adéla in a facility." [45] According to the file, the parents first refused this, but later said, unconvincingly, that they would consent to placing Adéla in a facility. The BSLPC thus promised to check the possibility with the facilities. [46] It did not do so until 20 January 2016 [47], when it found out that there was no free capacity in nearby educational care facilities, and for this reason it considered placing the minor in a Diagnostic Institute for Youth[48]. On the following day, Adéla collapsed while at school and was hospitalised for two days.[49]

Given the problems with the family and the repeated Adéla's requests to be placed outside the family, I believe the BSLPC should have acted in her interest [50] and independently sought a court decision to have her removed from the family. I believe that the protracted family issues had adverse effect on Adéla's mental condition, which presented a danger to her. I believe that the situation in January 2016 was so severe that the BSLPC should have sought the so-called fast preliminary injunction. [51] I stress that the presence, or lack thereof, of a person who can take care of the child is irrelevant here; such step can be taken if a normal development or any other

vital interest of the child is seriously threatened or impeded. The vital interest of the child may certainly be invoked if the child shows signs of long-term mental lability with psychosomatic disorders or repeated physical breakdowns.

On 29 January 2016, a BSLPC officer informed Adéla and her mother during on-site inquiry that “there is no other option to place [Adéla] in a diagnostic institution on the basis of a court decision; such decision could be expedited if the parents sought a preliminary injunction themselves, with which [the BSLPC] would help.” [52] I cannot agree with this statement of the BSLPC and I consider it irresponsible. The BSLPC could have sought both the so-called fast preliminary injunction to place the child in a suitable environment [53] and the so-called 7-day preliminary injunction. [54] It is thus unclear to me how the parents could have “expedited” the court decision by filing the action themselves.

C.5 The minor’s health problems

I admit that it is difficult to distinguish actual psychosomatic disorders from mere pretending an illness. The duty of the BSLPC officers is to take these manifestations into consideration and do not *a priori* assume that a child with behavioural problems is abusing medical examinations to evade obligations or duties.

I also stress that psychosomatic problems will usually not show up in empirical medical examination results. Psychosomatic disorders are usually caused by long-term stress caused by various situations and life events. Behavioural problems, aggression, defiance, and psychosomatic disorders may all be manifestations of chronic unresolved troubles in life.

In Adéla’s case, doctors objectively diagnosed scoliosis of the spine, which can be associated with pain.[55] The General Practitioner noted that she considered the frequent visits unnecessary, but she stressed she did not want to underestimate the problem.[56] She subsequently [57] referred to a hospital report which concluded that Adéla’s hospitalisation resulted from “scoliosis of the spine with psychosomatic problems related to disharmonious relations in the family.”

I also regard as important the BSLPC’s findings contained in the file that in the period before Christmas 2015, Adéla suffered three physical breakdowns at school and was taken to a hospital in an ambulance. In some cases, Adéla had to be hospitalised. Nevertheless, the BSLPC did not use its power under Section 53 (1) of the Social and Legal Protection of Children Act and did not include in the file any medical report from a hospital to which Adéla was taken by the ambulance.

I must conclude the BSLPC downplayed Adéla’s psychosomatic problems and did not take them into consideration, which constituted an error.

C.6 Incident of 5 March 2016

Adéla sent me audio recordings of her phone calls with parents and the BSLPC officer of 5 March 2016.[58] The recordings show that Adéla was calling to resolve the situation where she was unable to come home on time due to a car malfunction. The recordings show the father was talking to Adéla in a very harsh way, refused to

approach the situation constructively and threatened to “punch her in the face and beat her like a dog”; he also referred to her boyfriend using vulgar language. The mother was helplessly telling her she did not know what to do and how to explain the situation to the father. She did not provide Adéla with any help or advice.

The BSLPC officer then told Adéla on the phone that “this is so suspicious that not even I (...) can trust you, not after my experience with you. Just do whatever you can to come home today.” When Adéla asked how she should do that, the BSLPC officer told her to call a taxi. [59] After that, the BSLPC officer asked: “... or do you want the police to come and get you?” Adéla responded that she had already contacted the police because she did not know what to do. However, the police told her that her father should come pick her up. Subsequently, the BSLPC officer advised her to “get to a train station”, perhaps by a taxi.

It is not my place to evaluate the actions of Adéla or her parents, but I must comment on the BSLPC officer’s conduct. The tone of the BSLPC officer on the phone seems hostile. The BSLPC officer tried to find some solutions to the problem, but did not provide any specific help. Moreover, she told Adéla on the phone in clear language that she did not trust her, and said so in a confrontational tone of voice. Such a conduct was clearly unprofessional.

C.6.1 Consequences

Already before this incident, Adéla said she did not trust the BSLPC officer, Ms Netolická, and was afraid to confide to her, fearing she would tell everything to her father. After the above-described incident, Adéla has refused to co-operate with this particular officer, or she at least considers further co-operation very difficult. She said she was afraid to tell this officer of her feelings and wishes.

I stress that the BSLPC’s engagement with the family was extensive, as documented by the size of the file, but I am not sure the BSLPC worked in the interest of the minor. I believe Adéla’s mistrust for the key worker is justified and significantly disrupts further co-operation of the BSLPC both with Adéla and the rest of the family. The inquiry conducted at the BSLPC showed that the officers had the same opinion with respect to the minor and the head of the responsible department voiced a similar attitude. For these reasons and based on the errors noted above, I believe the most suitable solution is to refer the case to a different BSLPC (i.e. change the BSLPC’s local jurisdiction). In my opinion, this would help further proceedings in the case and, therefore, be in Adéla’s interest as everything currently suggests that an effective co-operation between Adéla and the BSLPC officers is no longer possible. For this purpose, I am contacting the superior authority, i.e. the Regional Authority of the Central Bohemian Region. If the above authority decides not to assume the case, I believe it would be suitable – in the interest of better co-operation and finding constructive solutions – for the case to be assumed by Ms Mužíková, a current BSLPC officer, who is liked and partially trusted by Adéla.

D – Conclusions

Based on the above findings and considerations, I have reached the conclusion in the sense of Section 18 (1) of the Public Defender of Rights Act that the Municipal Authority of Kutná Hora made errors consisting in:

- failure to obtain written parental consent with Adéla's placement in Facility D;
- inappropriate transfer of Adéla from Facility D to Facility F;
- provision of inaccurate information concerning the care provided by the ECC;
- discouraging Adéla from attending a court hearing resulting from provision of insufficient advice;
- failure to seek a court decision to place Adéla in a suitable environment, despite her repeated requests and physical breakdowns at school;
- trying to persuade the parents to place their daughter in a facility on their own request;
- failure to take into account the minor's psychosomatic disorders, including the failure to use powers under Section 53 (1) of the Social and Legal Protection of Children Act to obtain information from health facilities;
- unprofessional conduct in dealing with the incident of 5 March 2016.

I am sending this inquiry report to the mayor of Kutná Hora and request that he respond to the errors found within 30 days of its delivery and inform me of the remedial measures he adopted. The report summarises my current findings, which may be reflected in my final statement.

I am also sending the report to the attention of the director of the Regional Authority of the Central Bohemian region.

I shall also provide my findings and conclusions to the Complainant, in a scope commensurate to her age.

Taking into account Adéla's fears of her father's reaction to the fact that she asked me to help her deal with her problems, I am also requesting that this report, as well as all previous communication, be filed in the "special" folder, as previously agreed. I am also asking the Regional Authority of the Central Bohemian Region for confidentiality as regards the Complainant's identity.

Mgr. Anna Šabatová, Ph.D., signed
Public Defender of Rights

[1] pursuant to Section 14 of Act No. 349/1999 Coll., on the Public Defender of Rights, as amended

[2] BSLPC file, Ref No. Om 250/15

[3] With Mr K., she discussed general possibilities and did not acquaint him with my conclusion or the contents of the BSLPC file.

[4] *In the past, she used to cut herself with a razor. She said she had done so four times in the past eight months; she is currently trying to manage the problem and is supported in that by her boyfriend.*

[5] *Reflected in one instance in the BSLPC file – see the recording of the phone call of 2 January 2016 indicated on page No. 150.*

[6] *on 31 July 2015*

[7] *Adéla asked to be placed in Facility D on 6 August 2015. Her stay there lasted until 10 August 2015, when her parents transported her to Facility F. Adéla stayed in Facility until 18 August 2015.*

[8] *See Section 42 (2)(d) of the Social and Legal Protection of Children Act.*

[9] *An objective view of an uninvolved adult may differ.*

[10] *For several days, discounting the short-term co-operation in the previous year, despite the fact that in that case the BSLPC was addressing physical assault of Adéla by her father.*

[11] *See recordings of phone calls of 6 August 2015 – indicated in the BSLPC file, page No. 24.*

[12] *See Section 8 (1) of Act No. 359/1999 Coll., on social and legal protection of children, as amended.*

[13] *See recordings of phone calls of 6 August 2015 – indicated in the BSLPC file, page No. 24.*

[14] *Where the next intervention in the ECC was planned for 26 August 2015, i.e. 20 days later. I cannot and do not wish to blame the BSLPC for the date of the planned second intervention meeting with the ECC, but I stress that in Adéla's opinion, the delay might have seemed very long.*

[15] *See recordings of phone calls of 6 August 2015 – indicated in the BSLPC file, page No. 24.*

[16] *Act No. 359/1999 Coll., on social and legal protection of children, as amended*

[17] *Communication of the Federal Ministry of Foreign Affairs No. 104/1991 Coll., the Convention on the Rights of the Child, in the wording of Communication of the Ministry of Foreign Affairs No. 41/2010 Coll.*

[18] *Macela, M. et al. Social and Legal Protection of Children Act. Commentary. 1st edition. Prague: Wolters Kluwer, 2015, p. 499.*

[19] *Pursuant to Section 42 (6) of the Social and Legal Protection of Children Act.*

[20] Moreover, although Facility F by definition does provide care to children under 18 years of age, its attachment to the children's centre (former infant care centre specialising in care for children under three years of age) means it was completely unsuitable for Adéla, who was 16 years old at that time.

[21] See recordings of phone calls of 6 August 2015 – indicated in the BSLPC file, page Nos. 24-25.

[22] Pursuant to Section 42 (6) of the Social and Legal Protection of Children Act.

[23] I am disregarding the above-described inconsistencies with the legal title based on which the minor was placed in the facility. If the BSLPC had sought court action pursuant to Section 42 (6) of the Social and Legal Protection of Children Act, only the court would have been authorised to decide in the matter of the minor's transfer.

[24] At the same time, I do not consider as appropriate the argument that this would put a greater distance between the minor and her boyfriend in order to prevent or limit their contact.

[25] This is not affected by the fact that Adéla consented to the transfer following a meeting with an employee of Facility D. However, the employee of Facility D indicated Adéla was afraid that her father would take her home. See the recording of the phone call of 7 August 2015 – indicated in the BSLPC file, page No. 43.

[26] See the Facility D e-mail of 7 August 2015 – indicated in the BSLPC file, page No. 35.

[27] At least nothing of this sort follows from the BSLPC file.

[28] See the recording of the phone call of 7 August 2015 – indicated in the BSLPC file, page No. 43.

[29] See the record of the personal meeting of 17 August 2015 and the minutes of 18 August 2015 – indicated in the BSLPC file, page Nos. 68, 76 and 77.

[30] See the ECC report of 13 August 2015 – indicated in the BSLPC file, page No. 64.

[31] See the ECC report of 25 November 2015 – indicated in the BSLPC file, page Nos. 153-154. I am quoting from the report: "Adéla shows a strong tendency towards independence, which the father tries to suppress. Adéla deals with the resulting conflicts by escaping because she is unable to communicate with the father. Neither of them is currently able to listen to the other and respect his/her opinions. (...) The inability to communicate also shows in the relationship between the father and the mother. The father's attitude indicates that he does not see the mother as an equal partner – e.g. it is not sufficient for Adéla to only inform the mother of something. (...) The situation is made worse by the fact that Adéla has a boyfriend. (...) The unwillingness to make adjustments and the overall stubbornness exists not just on the part of the daughter, but also on the part of the father who is constantly looking for reasons to disregard the rules mutually agreed upon during BSLPC's visits. This

obstinacy also manifests in arranging next appointments. However, the father is partially limited in this regard by his job. (...) [Adéla] has demonstrated a partial resignation, as if there was no longer any point in discussing matters with the father or looking for a compromise solution.”

[32] e.g. Adéla’s suicidal tendencies.

[33] During that, the father asked the BSLPC officer to help arrange psychological care for Adéla. The BSLPC officer said that Adéla was already visiting a psychologist, i.e. “Dr M.”, at the ECC. See the record of the social inquiry of 12 February 2016 – indicated in the BSLPC file, page Nos. 200-201.

[34] including providing contact details

[35] pursuant to Section 12 (1)(a) or Section 13 (1)(d) of the Social and Legal Protection of Children Act

[36] In addition, I note that the minor asked about the possibility of seeing a psychologist herself during the communication with the authorised employee of the Office of the Public Defender of Rights. The authorised employee confirmed that she could find help herself and recommended that she contacted the Crisis Intervention Centre B or the psychologist at the ECC. When asked if she needed help in that, Adéla responded she would manage that herself.

[37] See the minutes of 26 November 2015 – indicated in the BSLPC file, page No. 148.

[38] Moreover, the Social and Legal Protection of Children Act assumes in Section 8 (3) that children over twelve years of age are capable of receiving information and forming and expressing their own opinion.

[39] pursuant to Section 469 (1) of Act No. 292/2013 Coll., on special court proceedings, as amended

[40] Unless the court excluded her from attending the hearing pursuant to Section 116 (4) of Act No. 99/1963 Coll., the Code of Civil Procedure, as amended. For more details, see Svoboda, K. et al. Special Court Proceedings Act Commentary. 1st edition. Prague: C. H. Beck, 2015, p. 943.

[41] On Christmas Eve, Adéla first contacted Facility F; she was subsequently contacted by a BSLPC officer. Adéla said she had to leave and go to her grandmother, was afraid to return home and wanted to be placed in an institution (see recordings of phone calls of 24 December 2015 – indicated in the BSLPC file, page Nos. 168-171). On 25 and 28 December 2015, Adéla again repeated her request to be placed in an institution on the phone. She said that at home she was stressed out, not sleeping well and wanted a break (see the recording of the phone call of 24 December 2015 (18:39) – indicated in the BSLPC file, page Nos. 172-173). On 28 December 2015, a BSLPC officer contacted Facility F and asked about the possibility to place Adéla there, even though she said that in the BSLPC opinion, she was not in any immediate danger. BSLPC officers subsequently visited the family. At

first, they only met Adéla alone at home and told her they would come in and wait for the parents before they deal with the situation. After that, the BSLPC officers interviewed Adéla, the mother and the father together and the individual parties described the course of the Christmas celebrations. The parents did not agree with Adéla's placement outside the family; Adéla herself also said she wanted to stay at home (see the record of the social inquiry of 28 December 2015 – indicated in the BSLPC file, page No. 175).

[42] See the recording of the phone call of 24 December (18:39) – indicated in the BSLPC file, page No. 170.

[43] See e.g. Matoušek, O. et al. Děti a rodiče v rozvodu: manuál pro zúčastněné profesionály a rodiny (Children and parents during divorce: guidelines for professionals and families). 1st ed. Prague: Portál, 2015. p. 83. "The interview should be conducted so that the child is not asked to compare his or her attachment to the parents, or to evaluate them individually, thus being forced to feel that expressing his or her feelings will hurt one of the parents. Therefore, it is important not to ask the child to choose between the parents."

[44] After the weekend conflict with the parents, Adéla contacted the BSLPC on 11 January 2016. According to the BSLPC record (indicated in the file on page No. 186), she said she "did not know what to do next. She could not imagine staying at home, she would rather live in a children's home; she did not know what would happen. (...) She was mentally exhausted and did not know what to expect."

[45] See the record of the social inquiry of 13 January 2016 – indicated in the BSLPC file, page No. 187.

[46] Ibid.

[47] See recordings of phone calls of 20 January 2016 – indicated in the BSLPC file, page No. 190.

[48] Specifically the Diagnostic Institution and the Centre of Educational Care in xxxx.

[49] The BSLPC file mentions the reason for hospitalisation only briefly, containing the following statement of the General Practitioner: "breakdown, examination showed no problems, will request cardiologic and neurological checks" (see the e-mail by Dr N. of 2 February 2016 – indicated in the BSLPC file on page no. 197).

[50] pursuant to Section 5 of the Social and Legal Protection of Children Act

[51] pursuant to Section 452 of Act No. 292/2013 Coll., on special court proceedings, as amended

[52] See the record of the social inquiry of 29 January 2016 – indicated in the BSLPC file, page No. 195.

[53] The court may designate as "suitable environment" either the FCRIA, or another facility considered appropriate.

[54] pursuant to Section 76 of Act No. 99/1963 Coll., the Code of Civil Procedure, as amended.

[55] See Dr N.'s report of 15 November 2015 – indicated in the BSLPC file, page No. 150.

[56] See the minutes of personal meeting of 23 September 2015 – indicated in the BSLPC file, page No. 105.

[57] See Dr N.'s report of 15 November 2015 – indicated in the BSLPC file, page No. 150.

[58] She made the recordings using a smartphone application enabling to record phone calls.

[59] Adéla said that travelling 150 km in a taxi would have been very expensive. The BSLPC officer responded that the father would surely pay up the costs.