



**REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS**

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Belgrade



Заштитник грађана
Zaštitnik građana

Ref. No.25828 Date: 15/12/2011

On the basis of Article 138 paragraph 1 of the Constitution of the Republic of Serbia (*Official Gazette of RS*, No. 98/06) and Article 31 paragraph 2 and Article 32 of the Law on the Protector of Citizens (*Official Gazette of RS*, Nos 79/05 and 54/07), in the procedure of controlling the legality and regularity of work of the Social Care Centre A..., upon own initiative, the Protector of Citizens hereby

ESTABLISHES

The Social Care Centre A... committed errors in its work violating the right of the child S.T. (born in 1997) to be protected from sexual abuse and sexual exploitation, and committed errors violating the right of the children S.T. and N.T. (born in 2000) to be protected from violence, abuse and neglect, which consist of the following:

- **The Social Care Centre A..., since September 2008, has not taken any measure or activity to protect the children S.T. and N.T, their mother and other family members, despite being informed about many years of violence, abuse and neglect in the T. family;**
- **The Social Care Centre A... has neither taken any measures to protect the children S.T. and N.T since their mother, due to long-lasting recurrent violence, in September 2008, left her family, nor any measures for empowering the mother to take her parental responsibility and care of the children S.T. and N.T. and to protect them from violence;**
- **The Social Care Centre A..., despite being notified by another state body (the Social Care Centre B...) about the suspicion that S.T. was a victim of repeated sexual abuse by her brother, not only failed to take measures for establishing whether sexual abuse occurred (establishing physical and psychological symptoms of sexual abuse), protecting and rehabilitating the child, but returned the child from the shelter for abused children to the abuser's family on two occasions;**
- **In the period from returning the child S.T. to the abuser's family (25 August 2009) until its repeated removal from that family (21 January 2011), the Social Care Centre A... did not undertake any measure aimed to:**
 - **establish mental and physical symptoms of sexual abuse;**
 - **rehabilitate the child in order to mitigate the consequences of suffered violence and sexual abuse;**
 - **assess the state and needs of the child S.T. and how her interests are protected in the family, taking into consideration the suspicion and information about the previously committed violence against her;**
 - **establish and follow up on the child S.T.'s state of health, despite the information from the expert staff of the Social Care Centre B... about the child's cardiological problems.**

- The Social Care Centre A... has not taken adequate and timely measures to protect the child S.T, after learning that the child wrote a suicide note, with the intention to commit suicide for having suffered violation for years.
- The experts of the Social Care Centre A... began to take measures for protecting the children S.T. and N.T. only when the Ministry of Labour and Social Policy, acting upon the notification of the Social Care Centre B... about the work of the Social Care Centre A... in this case, ordered urgent measures and joint activities of this Centre and the Social Care Centre B...;

The Director of the Social Care Centre A... has failed to manage the institution correctly and legally and fulfil his obligation, as manager of the guardianship authority, to establish the (in)existence of irregularity in work, ensure the rectification of identified irregularities and promote the work of authority. His omissions consist of the following:

- The manager of the Social Care Centre A... has not carried out the procedures to identify the responsibility of the expert staff who worked on this case for serious failures in their work on the protection of children S.T. and N.T. and to assess whether disciplinary measures needed to be imposed on the expert staff or whether appropriate procedures before the competent authorities had to be initiated against them;
- The manager of the Social Care Centre A... has not taken any measure to assess expertise and professional competences of the expert staff who worked on this case as well as other expert staff who perform the tasks of child protection, in order to properly organise the work of guardianship authority and prevent future re-occurrence of such serious failures.

The Social Care Centre A..., by its failures, inadequate and untimely actions, allowed the continuation of violence against the children S.T. and N.T., which makes it indirectly responsible for threatening life, health and proper development of these children.

By his omissions, the manager of the Social Care Centre A... has violated the law and his obligation of ensuring lawful and proper work of the guardianship authority.

Based on the identified errors in work, the Protector of Citizens refers to the Social Care Centre A... the following

R E C O M M E N D A T I O N S

I

The Social Care Centre A... will conduct a detailed analysis of its actions and errors in its work, without delay, regarding the T. family, particularly regarding the protection of the children from violence, abuse and neglect and the protection of the child S.T. from sexual abuse. The Centre will send the said analysis to the Protector of Citizens, the Ministry of Labour and Social Policy and the Republic Institute for Social Protection.

II

The Director of the Social Care Centre A... will conduct, without delay, the procedures of establishing the responsibility of the expert staff who worked on this case, pronounce adequate measures if the responsibility is established and consider the appropriateness of initiating adequate procedures before the competent authorities. In that procedure, the Director of the Centre will be guided by the findings of the Ministry of Labour and Social Policy from its minutes No. 551-00-494/2010-14 of 9 March 2011, the establishments and recommendations of the Protector of Citizens, the Law on Social Protection, the Law on Family, the Rulebook on the

Organisation, Norms and Standards of Social Care Centres and the Special Protocol on the Protection of Children in Social Care Institutions from Abuse and Neglect.

III

The Director of the Social Care Centre A... will take measures in order to establish competences, knowledge and skills of the expert staff dealing with the protection of children. In that procedure, the Director of the Centre will address the Republic Institute for Social Protection in order to ensure an adequate assessment methodology.

IV

The Director of the Social Care Centre A... will inform its founder about these Recommendations.

The Social Care Centre A... will inform the Protector of Citizens without delay about the implementation of these Recommendations, or 60 days of receiving them at the latest.

R a t i o n a l e

Having been acquainted with a possible violation of the child's right, the Protector of Citizens, upon own initiative, initiated the procedure of controlling the legality and regularity of work of the Social Care Centre A...

In establishing errors, the Protector of Citizens was guided by the facts and circumstances determined on the basis of the statements taken in the Social Care Centre A...No. 560-02-150/09 of ... 2011, No.... of ... 2011 and No.... of ... 2011, the statements taken in the Social Care Centre B... No.... of ... 2011 and No.... of... 2011, the report of the Ministry of Labour and Social Policy No. ... of ... 2011 and the documentation submitted by the controlled institution.

The Social Care Centre B... obtained on ... 2009 the information that the child S.T. (at that time 13 years of age) was found on the arable land of an inhabitant of the village D. Ž, Municipality B... The expert staff of the Social Care Centre B... undertook, without delay, measures of immediate intervention and accommodated S.T. in the Shelter in B... In the conversation with the expert staff, S.T. stated that she lived in the village M in the Municipality A..., with her father, adult brother and younger sister, that her brother often beat them, that her mother fled from the house in 2008 due to her son's violence, and that her father could not protect them because he himself was the victim of his son's violence. S.T. stated that three days before she had gone to look for her mother and that she did not want to go back home because she was afraid of intensified brother's violence and expressed concern for the security of her younger sister N, who stayed at home. The child was examined and certain cardiological problems were detected. The child's father was informed about her accommodation in the Shelter, as well as the expert of the Social Care Centre A..., who stated that the Centre was well acquainted with that family and that they maintained regular contacts with all its members.

In its further work, the Social Care Centre B... established that S. T. was a victim of neglect (she had never been taken to a medical doctor despite the evident cardiological problems; she lived in unhygienic conditions, and often did not have a sufficient number of meals; she was not under an adequate adult supervision), but also a victim of serious forms of physical violence by her brother and emotional violence and neglect by her father. It was also stated that there was a suspicion that S.T. was sexually abused by her brother D.T. in a longer period of time, that D.T. sexually abused also the mother and elder sister and that D.T. would try to sexually abuse the youngest sister N. The sexual abuse was stated both by the child S.T. and her mother, with whom the Social Care Centre established contact and enabled the encounter between the child and the mother. Based on the obtained information, the Social Care Centre B... filed criminal charges against D.T. The Social

Care Centre B... informed the Social Care Centre A... about all activities, information and suspicions, about the risks for the child N.T. in case she stayed in the family household and at the same time suggested to the Social Care Centre A... to remove the child N. from the primary family without delay.

Acting in this case, the Social Care Centre A... performed the following activities: recorded the statements of the father, the brother, the mother and the sisters of the child S.T; adopted relevant decisions on immediate intervention service - accommodation of S. T. and N. T. in the Shelter; visited S.T. in the Shelter, and took her statement again there; placed S.T. and N.T. in temporary custody of the Social Care Centre A...; submitted information to the competent public prosecutor's office; filed a lawsuit for determining the measures for protection from violence; addressed the Municipal Council of the Municipality A... with the proposal to provide the father of S.T. and N.T with the assistance in construction material.

During 2008, the Social Care Centre A... also initiated a procedure for depriving the mother of S.T. and N.T. of her parental rights. The claim was refused in 2010 as groundless.

The Social Care Centre A... acted properly when it submitted all the information to the competent authorities (prosecutor's office, court) and instigated a court procedure. However, the Centre did not perform suitable activities to establish whether the child S.T. was exposed to sexual abuse and did not develop a plan of services, either independently or in cooperation with the Social Care Centre B..., for the children S.T. and N.T. in order to protect them from domestic violence and provide services of their rehabilitation.

Although the Social Care Centre A... had been acquainted with the T. family for many years, this authority did not take any legal family protection measures to protect from violence not only the children S.T. and N.T, but also their mother and sisters who had lived in that household before they got married. Upon having learned that the mother of S.T. and N.T. left her family for long-lasting recurrent violence, the Centre performed only one of all the activities: filing a lawsuit for depriving the mother of her parental rights. Before the lawsuit, no other activity had been performed in order to assess the reasons for leaving the family and empowering the mother to take care of S.T. and N.T. The groundlessness of this claim is confirmed by the court decision and in particular by the court assessment that the children's mother was subjected to long-lasting recurrent violence and that it was the only reason for leaving the family, since the mother repeatedly requested help from the Social Care Centre without success.

For unknown reasons, the Social Care Centre A... decided on 25 August 2009 to return the children S.T. and N.T to the family of their father and brother, assessing that the children were safe in that family since their brother D.T. moved away. The child S.T. later stated that her brother never moved away but was only absent for one month, after which he returned to his father's house.

After sending S.T. and N.T. back to the family of their father and brother, the Social Care Centre A... did not undertake any activity concerning these children.

Returning the children S.T. and N.T. to the abuser's family is the institutional abuse of these children that enables the abuser to continue with violation. The Centre found that the abuser/brother's temporary and short absence from the household was a sufficient reason for concluding that returning the children to their father's family was in their best interest. The facts that the guardianship authority in Vranje established the neglect of the child, her long-lasting exposure to physical violence and possible sexual abuse, were not deemed by the Social Care Centre A... to be sufficient reasons for cautions acting, and primarily for verifying how long would D.T. be absent and whether the father (given the established neglect of the children) was competent enough to take care of the children, and finally, for undertaking a set

of activities that would ensure the minimum level of safety and security for these children in the family to which the guardianship authority was returning them.

Contrary to the fundamental principles and standards of professional work and the provisions of relevant regulations, the Social Care Centre A ... did not find it necessary to check the conditions in which these children lived over the following year and a half. The outcome is known: during this period, S.T. and N.T. were subjected to brutal violence of their brother D.T., while sexual violence against S.T. intensified.

The first following activity of the Social Care Centre A ... was on ... 2011 when the child S.T. reported to the Centre and the Police Station that her brother D.T. threatened her. On that occasion, the expert staff received the information that S.T. had written a suicidal note explaining that she would commit suicide because of the violence she had been suffering from her brother, blaming for her death everyone who knew about that violence. The same day, like on ... 2011, the Centre received the information from the Police Station A ... about the D.T.'s violent behaviour towards his sisters. The Social Care Centre A ..., however, for unclear reasons responded only six days later, by holding a meeting on 21 January 2011 with the child's father, a representative of the Health Centre A ... and the Director of the Primary School in B... , where it was agreed that S.T. would be sent to the Health Centre B... for a psychiatric examination. The child was examined the same day, and the psychiatrist noted a high risk for the child in her family, and stated that she should be urgently removed from the family.

The inadequate and untimely response of the Social Care Centre A ... to the alarming data received from the police, the educational institution, as well as those based on its own knowledge about the child's suffering, indicate that the guardianship authority continued to ignore the risk to which the children were exposed and to neglect its own obligations and responsibilities in protecting the children. The reasons for such behaviour of the guardianship authority are unknown, and the Social Care Centre did not explain them, but the conclusion is obvious: the expert staff continued to deal with the problems of these children superficially and formally, as they did before, with a tendency to be engaged to the least possible extent in this demanding case that required full commitment of the employees and use of all resources available to the guardianship authority, including the cooperation with other authorities and services.

The psychiatrist immediately contacted the Social Care Centre B..., whose expert staff without delay again accommodated S.T. in the Shelter in B... In the interview that the expert staff conducted with S.T., the child stated that during the period from being returned to the family (... 2009) until again being accommodation in the Shelter (21 January 2011) she suffered brutal physical violence and sexual abuse from her brother, while her sister N. was also subjected to physical and emotional violence. The experts of the Social Care Centre B... assessed that, due to the high level of risk to the children's life and health, it was necessary to immediately remove S.T. and N.T from the family of their father and brother. The Social Care Centre B... immediately informed the Social Care Centre A... about the child's accommodation in the Shelter and the assessments of risk to the child N. However, the Social Care Centre A... opposed the urgent removal of the children, considering that it was necessary to wait for a decision of the competent court in the procedure of protection from violence, initiated upon the Centre's claim a year and a half before.

With the permission and support of the Social Care Centre A ..., the father of the child S.T. on ... 2011 took over the child and took her back home. The Centre said that the children were safe, because their brother D.T. moved out of the house, acting on the judgment of the competent court of ... 2011, which pronounced the measure of eviction for the purpose of protection from violence.

The Social Care Centre A... evidently ignored all information concerning violence, and again the fact that D. T. left the household was sufficient for returning the children to their primary

family. This time again no activities for establishing facts, assessing risks, assessing the child's state and needs and planning services and measures were performed.

The Social Care Centre B... informed about the chronology of events the Ministry of Labour and Social Policy, which, immediately after being informed, ordered the Social Care Centre A ... to urgently remove the children S.T. and N.T. from the primary family, and then organised a meeting with the managers and expert staff of the Social Care Centres A... and B... and ordered measures aimed at coordinated operation of both Centres in protecting the children S.T. and N.T.

The action of the Social Care Centre B... was - given the lack of cooperation from the Social Care Centre A... and professional practice contrary to the law and standards - the only way to draw the attention of relevant authorities to this case of flagrant violation of the child's rights by the authority that is primarily authorised and obliged to organise the protection of children. By this action, the guardianship authority from B... fulfilled its obligation of acting in the best interest of the child, since this goal was not attainable through cooperation of these two guardianship authorities.

Acting on the order of the Ministry of Labour and Social Policy, the Social Care Centre A... performed an urgent removal of the children. The girls N. T. and S. T. for the second, i. e. for the third time were accommodated in the Shelter, and then they were provided with more permanent protection by being accommodated in a foster family. In working with children, the assessment of their exposure to violence was made; the assessment was conducted jointly by the expert staff of both Social Care Centres and it was found that both children were exposed to physical violence. The gynaecological examination revealed the defloration of S.T.'s hymen, which confirmed to a great extent the suspicions that the child was a victim of sexual violence. The facts established after providing the children with care, and proved by medical findings and court decisions, confirmed the assessment of the Social Care Centre B. .. and the omissions of the Social Care Centre A ... in this case.

There are many errors in the overall activity of the Social Care Centre A... in this case. It is evident that the expert staff failed to act in accordance with the then applicable Law on Social Protection and Provision of Social Security to Citizens and the Law on Family and that they failed to apply the Rulebook on the Organisation, Norms and Standards of Social Care Centres. The failures of expert staff and the Director of the Centre indicate primarily the alarming lack of knowledge about the problems of violence, abuse, neglect, sexual abuse and exploitation of children despite the existence of the binding Special Protocol on the Protection of Children in Social Care Institutions from Abuse and Neglect. The persistence in committing errors, many of which are very similar and related to criminal offences, is far more disconcerting; this fact indicates not only the possible lack of competence, but above all, the casual and indifferent attitude towards violence against children and their suffering. The children S.T. and N.T., who were the victims of an abusive brother and the parent who did not protect them, became the victims of institutional abuse that was committed against them by the guardianship authority in A... and the suffering of these children can be imputed to the acting experts of the Social Care Centre A. .. and the manager of this authority who failed to control the regularity, legality and expertise of expert staff, in the same extent as to those who abused and neglected these children.

Therefore, to put it mildly, the attitude of the Director of the Social Care Centre A ... is surprising when he says that "in this particular case we cannot talk about the responsibilities of expert staff simply because there have been some errors." This position, as well as the Director's decision not to determine the failures of expert staff because they were stated in a meeting with the Ministry of Labour and Social Policy, indicate that the Director of the guardianship authority does not want to face with the failures in the work of the body he manages, thus impeding the improvement of its work and prevention of such failures in the future. Such

behaviour is contrary to the legally prescribed obligations and responsibilities of social care centre directors.

The Director of the Social Care Centre must make a choice: whether to ignore the blatant failure of expert staff and refuse to take appropriate action within the scope of his competence, give a message that the unprofessional, incompetent, improper and unlawful work of expert staff is acceptable, or to face the failures of expert staff, conduct legal procedures for establishing the responsibility or possibly initiate appropriate procedures before other authorities, thus demonstrating his own leadership responsibility and willingness to advance the work of the authority that he manages and to prevent the recurrence of failures that have been made in relation to the children S.T. and N.T. The choice that the Director of the Social Care Centre A ... makes will determine the attitude of the guardianship authority (not only this one) and expert staff toward their obligations concerning the protection of children from violence, and certainly will have impact on the choice of the activities of other state bodies in providing proper and lawful action to protect children from all forms of violence, abuse, neglect and sexual abuse and exploitation of children.

Based on all the established facts and circumstances, the Protector of Citizens, by applying Article 31 paragraph 2 and Article 32 of the Law, gives the recommendations to the Social Care Centre A..., aimed at improving the work of the institution, preventing similar failures in the future and providing children with more complete protection from all forms of violence, abuse and neglect.

DEPUTY PROTECTOR OF CITIZENS

Tamara Lukšić - Orlandić

Send to:

- *A copy to the Ministry of Labour and Social Policy*
- *A copy to the Republic Institute for Social Protection*
- *A copy to the Social Care Centre B...*
- *A copy to the Assembly of the Municipality A...*
- *Case files*