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Child Neglect in the Migration Family – Social-Legal Aspects

Abstract: Child neglect in legal terms in migration families is a widespread social problem. The article is an appeal that the author addresses to migrating parents on behalf of their children, often left in the country without legal guardianship. Furthermore, it refers to the responsibility of teachers, pedagogues and other specialists on informing parents who are going abroad to work about the consequences of not ensuring legal guardianship to their children during their absence from home and how they can protect themselves from these potential consequences. It needs to be emphasized, that parents are not always aware of the threats related to leaving children without legal guardianship, therefore, all efforts should be made to improve their awareness of the mentioned problem.

Key words: economic migration, Euro-orphanhood, neglect, violence, legal consequences.

Introduction

Since the dawn of time people have moved and migrated around the world for various reasons, which were linked, among others, with their family, economic, and social situation. Despite the economic crisis in many European countries, Poles are still leaving in search of better living conditions. According to Eurostat data, in 2009, 15.4 thousand people have emigrated from Poland, so more than have returned from emigration. Poles are still leaving to other countries to earn a living, although not to such a scale as in the first years after Poland's accession to the European Union. The forecasts of governments that their compatriots

will be returning en masse to the country have not come true. The reasons for such a decision should be seen in the still increasing number of unemployed, which is associated with a decrease in economic growth, the bankruptcy of many enterprises, and thus, the worsening financial situation of families. There are still over 2 million Poles living abroad. Many of them – though they have lost their jobs for some time – are hoping to find a new one soon, and also for this reason they are not planning to return. However, the destination of Poles is changing. More and more often we are going to Belgium, the Netherlands, Norway, despite the crisis we find employment in the UK (Więckiewicz 2011, p. 12–13).

Economic migration, however, implies the occurrence of the problem of “Euro-orphanhood” in Poland, which affects children of parents going abroad to earn. Stanisław Kozak defines the term “Euro-orphanhood” as “the fact of a minor not having both or one parent, who has left the country to earn” (Walczak 2009, p. 5).

The studies carried out in 2011 by the Ministry of Education show that in the West Pomeranian Voivodeship the parents of 40% of pupils lived abroad, in Świętokrzyskie – 35%. In the Warmian-Masurian Voivodeship 1.5 thousand families left their children in the country in going abroad, in Lesser Poland – 4.5 thousand, in the Kuyavian-Pomeranian Voivodeship – 5 thousand (Więckiewicz 2011, p. 15).

As a result of economic migration, parents often commit negligence in relation to their child or children left in the country, not completely aware of the social and legal consequences arising from this situation and the responsibilities that lie with them. This article aims not only to show the effects connected with the situation of child neglect by parents going abroad, but it is also an attempt to encourage educators, teachers and other professionals to reflect on the problem of Euro-orphanhood, as in the event of parents leaving the child without care they are obliged to ensure that they can effectively protect them.

Neglect as a form of child abuse

The scale of Euro-orphanhood in Poland is increasing from year to year. At the end of September 2008, “Pedagogium” University of Social Sciences in Warsaw carried out a study commissioned by the Spokesperson for Children’s Rights. The final conclusions showed that: “Every fourth pupil in Poland is a Euro-orphan, [...] in the case of parents’ migration the child is mainly taken care of the grandparents (46%) or the parent who happens to be in the country (29%); it rarely happens that other relatives or adult siblings exercise custody of minors (7%)” (Report 2008). In two out of a hundred cases underage children take care of each other. Specialists are concerned by the fact that most “Euro-orphans” do not look for help anywhere. Slightly more than 55% of underage pupils admitted that they did not turn to their educator with a problem. Nearly 62% sought help from another teacher, and 62.5% did not want to meet with the school pedagogue.

Euro-orphanhood is a growing problem in Poland. State authorities have also noticed it. "In connection with this problem, more and more cases are finding their way to social welfare centers, prosecutors' offices and courts, concerning children left by parents, who went to work abroad, often due to tragic conditions in the family" (Kozak 2010, p. 119–120).

Due to the fact that the scale of Euro-orphanhood is constantly growing, it is worth analyzing the effects that this problem entails. One of them is child neglect. Parents are rarely aware of the fact that in a situation of departure, when they leave their child without proper care, they commit neglect in relation to it. The responsibility of parents for neglect related to negligence towards children usually takes on the character of interference in their parental authority. However, in the case of extreme negligence, parents can incur criminal liability.

In papers devoted to the ill-treatment of children the term neglect appeared very late. It was not until the late 1970's and 1980's that this form of abuse was distinguished as a separate issue and studies were begun on it.

Neglect is one of the types of child abuse and may include both the mental and physical sphere. Throughout the history of exploring this phenomenon and research interests in this problem, there have been many difficulties in defining it. Today, negligence is defined as the "non-satisfaction of the child's needs that are necessary for its proper development – needs related to nutrition, clothing, shelter, hygiene, medical care, education, as well as the mental sphere of the child" (Szymańczak 1995, p. 14).

Therefore, negligence consists in not satisfying the existential needs of the child which are conditions for the proper physical and mental development and good health condition. This form of abuse may have different degrees of intensity: from mild forms to chronic and very serious.

There are several types of negligence distinguished (Jarosz 2001, p. 65):

- physical neglect – inappropriate (insufficient) nutrition, clothing, hygiene, but also the lack of proper supervision and care, leaving the child in dangerous and threatening situations; this also includes:
 - lack of medical care – failure to call for medical help or serious delays in calling for medical assistance for serious injuries, diseases of the child or other health problems, as well as the lack of actions related to treating the child, which are recommended by competent medical services;
 - abandonment – leaving the child without care and supervision for a longer period of time;
 - throwing the child out of the house and refusing to accept it upon return from "running away"; the category of neglect also includes situations when parents permanently do not know where their children are and what they are doing;
 - educational neglect – involves negligence in the child's realization of schooling obligation, consent to repeated truancy of the child or not at-

tending school without justifiable reasons and lack of attention to provide assistance for children with special educational needs;

- emotional neglect – includes the lack of satisfying emotional needs, lack of emotional support, not paying attention to the child, etc. as well as repeated or serious acts of violence between parents in front of the child, but also consent to the child's use of alcohol or drugs, or acquiescence to other anti-social behavior, and lack of care for ensuring the child necessary psychological help.

Emotional neglect is often connected to emotional violence, as it concerns so-called passive behaviors of parents, i.e. the absence of their certain actions caused by either indifference or hostility towards the child or ignorance and immaturity. It includes various forms of emotionally rejecting the child, e.g. by not displaying feelings towards it, neglecting and ignoring its emotional needs, avoiding interactions with the child, ignoring communication and presence of the child, isolation from the child and lack of cognitive stimulation in relation to young children (Jarosz 2001, p. 64).

The most common symptoms indicating the existence of emotional violence, which are often also part of health consequences that may arise in the case of neglect, include (Iwaniec, Szmagalski 2002, p. 25).

- speech disorders which are the result of nervous tension;
- sleep disorders;
- psychosomatic symptoms such as: abdominal pain, headache, nausea, vomiting;
- abnormal urination and feces;
- stomach ache;
- involuntary muscle movements, especially of the face;
- lack of self-confidence, not accepting oneself;
- withdrawal, states of depression;
- fear of failure, of the consequences of various actions;
- regressive behaviors like thumb sucking, rocking;
- aggressive and self-destructive behavior;
- excessive subordination to adults, complaisant behavior or frequent lies;
- adult-like behavior – taking care of siblings, controlling others.

Psychosocial effects, resulting from neglect of the child in childhood are shown by Józef Brągiel, who writes that the picture of a neglected young child is a very sad one, whose situation becomes more and more complicated when it starts going to school and understands little of what goes on there. Some scientists stress that neglected children do poorly in school because of the home environment, which robbed them of the ability to understand the information provided in the classroom. At school it is also becoming more apparent that the socialization of neglected children is much lower. This is also the result of shortcomings in the development of the child's speech and inability of its conceptualization above

the basic level. This leads to poor communication with others who have this ability, and consequently to isolating oneself from those who do not have such limitations. As a result, the child responds only those who are similar and thus does not develop. An important element in the socialization of the child is also the internalization of moral standards. Due to the changing situation at home, tension and changes in the behavior of parents and norms recognized by them, a neglected child never knows what to expect and what is really right and good. Without permanently instilled norms and rules neglected children constantly face punishment, if their behavior annoys the guardian. At home, far too little attention is paid to what is best for them. Therefore, neglected children do not develop an internalized set of standards that could serve them later in the peer environment. Quite common in neglecting homes is also the fact that older children leave their parents very early and try to become independent. They do it in different ways: run away from home, fall in love and start having sex very early or establish closer contacts with criminal groups. All in pursuit of unmet needs from childhood. It happens frequently that the escape ends with a court hearing, and the attempt at being an adult – an unwanted pregnancy. As a result, the process begins of repeating old patterns and behavior patterns of parents learned from the family home (Bragiel 1998, p. 280–282).

Economic migration: psychosocial consequences

Economic migration has led to many transformations in the family, especially in terms of relationships between its members. They have begun forming so-called “distance marriages”, which is defined as a nomadic family. Originally, the concept of nomadism was associated with a nomadic lifestyle typically associated with seasonal exploration of areas richer in food or climatic conditions better suited for life (Wolański 2008, p. 175).

In a nomadic family, due to distant jobs, the spouses live far away from each other and only visit one another. One could probably detect many advantages of such a marriage, for example, comfort for people with irregular working hours, lack of typical everyday problems, visits of spouses treated like a kind of holiday. However, “distance marriages” experience their specific problems in situations when children appear, they face increasing jealousy of the partner left without control, they are also more exposed to divorce (Hołyst 2015, p. 246).

The term “distance marriage” is also associated with a new concept, such as “nonresidential mothering/transnational mothering”, which in the case of women is extremely difficult, often traumatic, and even leads to diseases. Wioletta Danilewicz stresses that caring at a distance, if migration is not accompanied by the mother leaving the family, does not necessarily have to be linked with family incompleteness. In addition, the transnational perspective of the role of mother

fulfilled by the female migrant during her separation from children has therefore a new meaning and does not have to be associated right away with resigning from the parental role. However, for “distance mothering” to succeed, two conditions must be fulfilled: the woman’s departure must meet the financial needs of the family and the children must be provided with appropriate care (Danilewicz 2012, p. 142). Tomasz Szlendak calls “distance mothering” “transnational mothering”, treating it like a “new specialty” of mothers, who were not able to obtain the sufficient resources for “mothering” in their own country (Zbyrad 2012, p. 3). In literature, there are also other terms: “global families”, “marriage migrants” who live outside national, religious, cultural, ethnic borders (Beck, Beck-Gernsheim 2013, p. 293).

Economic migration, although it contributes to improving the financial status of the family, often causes the weakening or breaking of family ties and increases the incidence of behavioral problems of children left behind in the country. This causes behaviors in them, which in pedagogical and psychological literature is part of social maladjustment (Kozak 2007, p. 100–108).

The persons left to take care of the children rarely cope with their upbringing, which leads to conflicts and problems of an educational nature, and also to legal consequences. The symptoms indicating the lack of proper social adjustment of “Euro-orphans” can be aggression, arrogance, vulgar language, a greater inclination to enter a pathological environment, use of alcohol, drugs, smoking, a higher propensity for socializing (Głowiak 2012, p. 57).

Every young person during adolescence needs an emotional relationship with their parents, they need the feeling of closeness, love, a sense of security. The absence of these feelings leads to changes in the child’s behavior. They may involve the following defensive attitudes and lead to:

- closing up, the symptoms of which include:
 - depression;
 - withdrawal from colleagues, friends, acquaintances;
 - suicide attempts;
 - worsening grades in learning;
 - self-inflicted injuries, and others.
- opening the child to any negative changes, and the typical symptoms include:
 - aggression;
 - frequent thefts;
 - frequent lies;
 - increasing number of missed days at school due to truancy;
 - brawls;
 - increase in the inclination to reach out for drugs (Kurkiewicz 2010, p. 97).

The absence of parents also increases the likelihood of school problems occurring, i.e. lack of motivation to learn, worsening academic performance, missing lessons without justification, closing up inside oneself (Grapich 2006, p. 8).

Ewa Kozdrowicz studied the opinions of teachers on the impact of the migration of parents on children's school problems. In the opinion of the surveyed teachers, decreased motivation to learn, worse grades and not doing homework came to the fore (Kozdrowicz 2009, p. 43).

The situation of children from families of economic emigrants is often compared by sociologists to the situation of orphans, who for various reasons lost their parents and are raised in incomplete families (Dryll 2008, p. 5).

The typical symptoms of orphanhood include: withdrawal from life, rebellion, havoc in the emotional sphere, lack of a sense of safety and love, anxiety, low self-esteem (Potrykowska 2009, p. 9).

Iwona Kurkiewicz also studied the effects of the lack of full parental care, who indicated, among others, consequences such as: lowered level of control, loosened discipline, being late for school, frequently spending time away from home, e.g. outside with peers, in supermarkets, etc. (Kurkiewicz 2010, p. 92–93).

According to Ewa Winnicka, a defective side effect of the migration wave is the loneliness of tens of thousands of children who are not mixed into the plans of parents and remain in the country. But also those taken by the parents go through the trauma of uprooting. Emigration disrupts the family, especially one that was previously fragile (Winnicka 2007, p. 17).

The topic of chronic separation was also addressed by Eugenia Mandal, who argues that knowledge about stereotypes associated with gender is important, which is one of the major sources of gender identity formation. The period of development of sexual awareness is dated to 18 months of age or even a little later to the third year of life. Its intense development occurs in preschool. She particularly emphasizes the role of the father in upbringing, who takes up work abroad much more often. She claims that children who grow up without a father or if the father who raises them present a less mature attitude, they may not achieve the proper social maturity in adulthood (Mandal 1998, p. 5).

A serious threat to the healthy development of a child is also a lack of physical contact with a migrant parent, which impoverishes the interpersonal relationship. Communication experiences related to the touch are in fact an extremely important means of establishing interpersonal relations and communicating information about feelings and mutual relations of people towards each other. In addition, the lack of physical contact can lead to alienation (Pasternak, Urbańska-Bulas 2013, p. 27).

The problem is all the greater that the smaller the children, for whom separation from a parent is experienced as a kind of loss, is compared even with death. In older children, teenagers, the effects are much less severe and far-reaching.

Bożena Balcerzak-Paradowska points to a three-month separation as the boundary moment for changing relationships inside the family. Poles usually use the scheme three months at home, three abroad (Balcerzak-Paradowska 1994, p. 11–14).

However, it is worth remembering that economic emigration is certainly related to the improvement of the financial situation of the family, but the savings of post-accession emigration are getting smaller, at least due to the increasingly high cost of living. Therefore, before deciding to leave, one must also take this into account (Kacprzak 2011, p. 4).

Legislation in relation to the problem of child neglect

In accordance with art. 572 of the act of 17 November 1964 – Civil Code “Leaving a child by parents leaving the country to work abroad without establishing actual care, endangers the welfare of the child and gives rise to notification of the family court. Therefore, in cases where both parents are going abroad and the minor child is left in the country, it is necessary to ensure his care”. This includes both actual and legal care. Providing legal care is also required when one of the parents exercises parental authority over the child and this parent leaves for a longer period of time leaving the child in the care of others. “Before parents go abroad, they should consider providing legal care for the child while they are gone. This is to protect not only the rights of the child, but also protect oneself from the accusation of child abandonment. Anyone who knows of a situation that justifies the initiation of an official case is obliged to notify the family court of it”, and this is a duty in particular of self-government and government authorities, Police, educational centers, social guardians (Civil Code, Journal of Laws No. 43, item 296 as amended).

If the child’s welfare is threatened, then, in accordance with art. 109 of the act of 25 February 1964 – family and guardianship code, the family court may oblige parents and the minor to a specific procedure at the same time indicating the method of controlling the performance of issued directives, specify which actions cannot be done by parents without the consent of the court or subject the parents to other restrictions, which the guardian is subject to, assign constant supervision of a custodian, refer the minor to an organization or institution appointed for vocational training or to any other institution which exercises partial custody of children or order placing the minor in a foster family home or in a care and education facility (Journal of Laws 1964, No. 9, item 59 as amended).

The court may suspend parents from exercising parental authority if they are not able to exercise it due to transient obstacles (e.g. temporary move abroad) and to establish a legal guardian for the child.

The following possibilities exist to regulate the legal situation of the child:

- submitting by the parent, before they leave abroad, a request to the court to transfer legal guardianship of the child to an indicated adult (grandmother, aunt, sister) for the duration of the parent’s absence;

- submitting a request to the court by the person who is the actual guardian of the child to establish this person as the child's legal guardian for the duration of the parent/parents' absence abroad;
- providing a delivery address in the country by the parent leaving or staying abroad (Kozak 2010, p. 115).

Act of 5 December 1996 on the professions of doctor and dentist also regulates legal issues related to the situation of a minor patient left by parents without legal guardianship. In accordance with art. 32, sec. 2 "if the patient is a minor or incapable of providing informed consent, the consent of the legal representative is required, and if the patient does not have a legal representative or contacting this representative is not possible – the approval of custody court. If, however, there is a need to examine the person referred to in sec. 2, consent to perform the examination may also be expressed the actual guardian. If a patient is over 16 years old, also his consent is required. If the patient referred to in sec. 2 has no legal representative or actual guardian or an agreement with such persons is not possible, the doctor, after performing the examination, may proceed to provide additional health services only after obtaining consent of the custody court, unless the provisions of the act provide otherwise". Then, art. 33 sec. 1 of this act states that "examination or providing the patient with other health services without the patient's consent is admissible if immediate medical attention is required, and due to the health condition or age the patient cannot express consent and it is not possible to come to an agreement with the legal representative or actual guardian". Article 34 sec. 7 of this act also reports that "the doctor may perform the activities referred to in sec. 1 without the consent of the patient's legal representative or consent of the competent custody court if delay caused by the proceeding in the matter of obtaining consent would endanger the patient with death, serious body injury or a serious health disorder. In this case, the doctor is obliged, if possible, to consult a second doctor, if possible of the same specialty. The doctor shall endorse the patient's medical records appropriately on the performed procedures" (Journal of Laws 1997, No. 28 item 152).

We also deal with neglect both in the case of migrating parents and other guardians, who at the given moment are exercising custody of the child (e.g. the foster family). The act of the Penal Code of 6 June 1997 clearly defines sanctions that even unintentional actions leading to a threat to the life or health of the child constitute a crime. Negligence of parents and others who have the responsibility of such care is a particularly severely punished form of this crime. Article 160 § 1 says that he who puts a person in immediate danger of the loss of life or serious health injury, is punishable by imprisonment up to 3 years. Furthermore, § 2 states that if the perpetrator has a duty to care for the person exposed to the danger, he is subject to the punishment of imprisonment from 3 months to 5 years. In contrast, § 3 reports that if the perpetrator of the act specified

in § 1 or 2 acts unintentionally, he is subject to fine, restriction of liberty or imprisonment for up to one year (Journal of Laws of 1997 No. 88, item 553 as amended).

Conclusions

Parents going abroad to earn are usually unaware of the social and legal consequences caused by leaving children in the country without legal guardianship. This ignorance does not relieve them of the sense of responsibility for negligence, which they may commit in relation to their child. The awareness of parents in this regard should be raised, among others, in school, but this problem must first be noticed by school employees. If parents will not report the fact of going abroad at the institution which the child attends and do not establish a legal guardian for the duration of their absence, then the school has a legal obligation to inform the District Court, Department of Family and Minors competent for the place of residence of the child of this situation. This follows directly from art. 109 of the family and guardianship code. Only a parent or established legal guardian of the child can make decisions concerning the child's didactic, health or educational situation. Accordingly, a legally unregulated situation of the child may be a serious threat to it. Therefore, the duty of school employees is not only intervening in such situations, but also prevention in this area, which can include, among others, meetings with parents at which educators will inform parents of how they can protect their child from the negative consequences of going abroad. One of such measures is to plan the shortest possible stay outside the country and talk to one's child about the details of the trip – precisely specifying the length of stay outside the country, date of return, and explaining the reasons for leaving. As it may happen that the children will treat the parents' departure as rejection, for which they blame themselves, because in their mind it was caused by their bad behavior. Regular contact with the child is also very important, through home visits as frequently as possible or through multimedia devices that enable to talk using a webcam. When the parents' absence is prolonged, and the child does not know what the cause of it is or if it goes into the care of strangers or educational institutions, emotional problems in the child may appear, which lead to depression or even suicide attempts. Therefore, we should do everything in our power to prevent the emergence of such a situation and effectively counteract it; and not just because of the obligations arising from a parent's or pedagogue's role, but also due to legal liability.

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