

# **NGO report on the Implementation of the UNCRC in the Czech Republic**

Information prepared by NGO: “V zájmu dítěte, o.s.”  
 (“In the interest of the child”)

in the cooperation with following NGOs:

Amalthea, o.s.,

Středisko náhradní rodinné péče, o.s. (Centre for Adoption and Foster Care),

Sdružení SOS dětských vesniček (SOS Children's Villages)

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## Content

<b>Introduction .....</b>	<b>3</b>
About the authors .....	3
Process of writing this report .....	3
The overall situation in the field of protection of rights of children living out of family or children at risk of separation from parents .....	3
<b>Family environment and alternative care .....</b>	<b>4</b>
1) Fragmentation of the system.....	4
2) Case load for social workers.....	4
3) Lack of prevention and supporting services for families .....	5
4) The length of Court hearings .....	6
Alternative care.....	6
1) Institutional upbringing .....	6
2) Number of children in alternative care .....	7
3) Reasons for placements .....	9
4) The representation of Roma children among children in alternative care.....	9
5) Placing infants in alternative care.....	10
6) Placing siblings.....	10
8) Absence of Children's Ombudsman.....	10
9) The child's possibility to make a complaint.....	10
10) Determination of the child's view .....	11
11) Services for children.....	12
Baby Homes and Homes for children under 3.....	12
1) Baby Homes transformation into Children's centres .....	12
2) Length of stay .....	13
Institutions run by the Ministry of Education, Youth and Sports.....	13
1) Changes in institutions.....	13
2) Children's Homes with schools.....	13
3) Revision of internal rules of institutions for institutional and protective upbringing .....	13
4) Contact with the biological parents .....	13
5) Runaway children .....	14
6) Joint placement of children with ordered institutional upbringing and ordered protective upbringing.....	14
7) Leaving institutional upbringing to adulthood .....	14
Children with disabilities in institutional upbringing .....	15
Foster care.....	16
1) Process of placing children in a foster or adoptive family .....	16
2) Training for foster carers .....	16
3) Systematic campaign for foster care.....	17
4) Services for foster carers .....	17
5) Other forms of foster care.....	18
6) Foster care as a service not only for child but also for the biological family.....	18
7) Contact of fostered children with their biological parents .....	18
8) Standards of foster care .....	18
9) Inspection and monitoring of foster care, regular evaluation of the placement, child's ability to make a complain.....	19
10) Children's rights in foster care .....	19
11) Leaving foster care to adulthood .....	19
<b>Conclusion .....</b>	<b>20</b>

# Introduction

## About the authors

The civic association “In the interest of the child” was founded in 2009 from the initiative of 4 volunteers: Chris Gardiner, Kateřina Šlesingerová, Tereza Gardiner a Danka Žilinčiková all of whom have many years of experience within the field of social-legal protection of children and out-of-home care not only in Czech Republic and Slovakia. All were involved in the IFCO/FICE/SOS Quality4Children project where where they met and exchanged information with people from all over Europe who were also involved in the changing the childcare systems in their countries.

Chris Gardiner was also involved with the work with UN and UNICEF which led to establishing the Better Care Network (BCN). He has been part of the BCN advisory board since 2005. BCN is a web-based resource coupled with a moderated Discussion List which currently links together more than 1900 people and organisations worldwide in order to share information, research and best practice. However, a limiting factor with BCN is that it is only in the English language thus effectively excluding many people.

In 2008 we began to talk about the possibility of setting up something like the Better Care Network for all those involved with the childcare systems in the Czech and Slovak Republics and to publish information in Czech and Slovak.

NGO “In the interest of the child” has started to run the website <http://www.vzd.cz> as a response to an obvious need for more information in the Czech and Slovak languages.

This website is providing expert and skilled information about out-of-home care, children at risks – researches, statistics, methodologies, relevant sources of information and experience from Czech Republic, Slovakia and other countries. The website is being regularly updated, informing about interesting coming events and is giving space for skilled monitored discussion.

There were placed over 210 items in July 2010 with the ambition to serve anybody who is interested, especially experts working in the field, social workers, foster carers, NGOs, students, academics or ministry employees working on new concepts of children’s care.

Since the launch in January 2009 VZD.cz managed to become very quickly known to professionals and there are now over 2600 visits of the website in a month from all over both countries.

## Process of writing this report

This report was created with accessible sources and practical experience – our own or partner NGOs. Proposal of this report has been placed for several months on our website <http://www.vzd.cz> for the general public and other NGOs dealing with these issues have been informed about it during the informal NGO's meetings.

## The overall situation in the field of protection of rights of children living out of family or children at risk of separation from parents

Although we feel that most of the reservations expressed by the Committee on the Rights of the Child on the Czech Republic in 2003 are still current, recently we can recognise efforts of all stakeholders - including relevant state institutions - to change the main shortcomings of care for children at risk.

The Czech Government at its meeting on 19 January 2009 approved the "Proposal for action to transform and unify the system of care for children at risk - basic principles." The transformation is aimed to reduce the number of children in institutional upbringing, improvement of preventive work with families and the improvement of cooperation between different government departments.

So far, only a phase of analysis of the current system is being run and we do not see any visible results.

Outcomes, which were planned according the original schedule of transformation and should have been known by now, are not known to the public. Despite Petr Nečas, as ex-minister of labour and social affairs the initiator of transformation, being Prime Minister after the elections in June 2010, care for children is not among the government's priorities.

## **Family environment and alternative care**

### **(Art. 5, 9, 10, 11, 18, 20, 21, 25, 27.4)**

(arts. 5, 9–11, 18, paras. 1 and 2; 19–21, 25, 27, para. 4, and art. 39)

#### **1) Fragmentation of the system**

There are 5 ministries involved in care of children at risk:

- Ministry of Labour and Social Affairs (MLSA) (responsible for the children's social legal protection of children and youth, part of it is foster care and adoption agenda), e.g. institutions for children with disabilities
- Ministry of Education, Youth and Sports (MEYS) (responsible for educational institutions and protective education)
- Ministry of Health (MH) (responsible for baby homes and children's homes for children under 3 )
- Ministry of Justice (MJ) (responsible for youth justice)
- Ministry of Interior (MI) among it's competences belongs e.g. public administration of regional offices and local authorities

Following consequences e.g.:

- Disunity of procedures for children at risk
- Legislative differences between each ministry
- Inconsistent use of terms
- Disunity of monitored data about children
- Sometimes no continuity and concept of provided services
- No flexibility, time-consuming and insufficient communication and cooperation between various ministries

There is an aim to change this situation as part of the National Action Plan for Transformation and Unification of the System of Care for Children at Risk 2009 – 2011. But we are still aware of the missing process of unification and creation of a complex coherent system of care for children at risk. It is a question if individual departments cooperate enough and are willing to give up their competences which are also associated with the flow of money.

#### **2) Case load for social workers**

Social workers representing state authorities have to cope with permanent case overload.

According the Ministry of Labour and Social Affairs press release (17.6.2010) there are 354 caser per social worker.

By the amendment to the Act on social and legal protection of children (2006), the obligation of authorities for social and legal protection of children to provide assistance to the family in cases where a child has been placed into care outside the family, has been further extended. These authorities are required to assist in arranging family circumstances and life and social situation with the aim of returning the child to the family. The authority for social and legal protection of

children is required to visit a child placed in the institutional upbringing and his or her family at least once in three months. It should be reviewed whether reasons for the stay of the child in a facility still exist.

The legally required one visit per three months tend to be a formal act, duty to be fulfilled. With the existing practise is impossible for any of these social workers to really assist in arranging family circumstances and social situation with the aim of returning the child to the family when they very often have no contact with the biological family.

The Research Institute for Labour and Social Affairs – RILSA carried out the survey in the department of social legal protection of children in municipalities with extended power and “proved the insufficient staffing nationwide, regardless of region or the size of catchment area. The qualitative research also showed the current staff provide service only to a minimal legal level, the field work is deficient towards the needs, there is not enough time for systematic work with families at risk and preventive activities. For social workers this state is very exhausting and frustrating – there are no conditions for the ability to work in a satisfactory quality.”<sup>1</sup>

### **3) Lack of prevention and supporting services for families**

Generally, the Czech Republic lacks preventive services for families. Prevention of family breakdowns resulting in residential care is mostly a matter of NGOs. Even though the number of such NGOs is growing it cannot supply demand.

Although most families whose children are placed in residential care, have had past contact with social workers (research by The Institute of Criminology and Social Prevention - ICSP), in many cases families did not receive adequate services because they were simply not available and social workers were overwhelmed with cases. Shortcomings in providing adequate preventive services to families at risk were also found by the Public Defender of Rights (the Ombudsman) – see Sborník stanovisek veřejného ochránce práv<sup>2</sup>.

Among other matters there were also found deficiencies in the administration of the case file on the family which makes impossible the follow-up control and proof of provided services. Perhaps even more difficult to access are support services for families whose children were removed from them, usually into residential care. At the same time some NGO's experience shows the usefulness and effectiveness of such services. These services are based on team work of all subjects around the family (social worker, NGO, paediatrician, school, etc.).

“Analysis of current state of the field activities of the bodies of social legal protection of children and setting optimal conditions for social legal protection of children in relation to the number of clients”<sup>3</sup> also shows that cooperation between NGOs can help to improve the quality of field work with families. But it also point out limits to such cooperation: The success of the model of cooperation with NGOs “is determined by sufficient number of workers in organizations suitable for cooperation. Currently, for this model system is threatening the

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1. PhDr. Věra Kuchařová, CSc. (Výzkumný ústav práce a sociálních věcí, v.v.i.): Analýza současného stavu v oblasti terénní činnosti orgánů sociálně-právní ochrany dětí a stanovení optimálních podmínek výkonu sociálně-právní ochrany dětí ve vazbě na počet klientů, duben 2009, Praha

2. JUDr. Otakar Motejl, Mgr. Iva Černá, Mgr. Klára Panovská  
Mgr. Petra Matyášová: Sborník stanovisek veřejného ochránce práv - Rodina a dítě, Kancelář VOP, 2007, Brno

funding of NGOs, the uncertainty of income or the existence of the project in following year. It leads to big staff turnover. It happens that organization with which was a good cooperation developed, must stop its activities because no grant was received for the next period."

Research of the Department of Social Work, Faculty of Arts, Charles University, Prague also found that: " The need for the emergence of new services for families with children within NGOs is clearly felt, especially social field services for families, social counselling and low-threshold facilities for children and youth."<sup>4</sup>

It is not yet widely established practice to provide services based on the individual plan for the care of an individual child whose implementation would be periodically evaluated. In most cases each of the stakeholders around the child is creating its own tool for assessing the child's situation and setting up an individual care plan. There is no unified tool shared by all stakeholders which would mean more conceptual care planning process for individual child. There is a need for the implementation of quality standards for the social and legal protection of children and clear specifications for NGOs to be licenced and regularly inspected and professionally assessed.

#### **4) The length of Court hearings**

Courts have a significant role in protecting children in danger. Only a court is entitled to make certain decisions - e.g. decision on placing child into institutional care, on adoption, foster care, removal or restriction of parental rights. Court hearings sometimes take several months. According to statistical data from the Ministry of Justice there were 2248 hearings on placing a child into institutions in 2008. 35% of these hearings were completed within three months. 24,4% took longer than 6 months.

## **Alternative care**

### **1) Institutional upbringing**

The institutional upbringing is sometimes ordered under the preliminary injunction (Interlocutory judgement that should represent a very special measure. This preliminary order is being given by a court on a proposal of the district authority within 24 hours.) even in cases where the statutory requirements are not being met<sup>5</sup> (the child is found to be without any care or its life or positive development is seriously threatened or disturbed).

This procedure is probably being used to avoid the often long lasting legal proceedings. Often the child is being removed from the family suddenly also in cases when the unfavourable situation in the family has been known for a long time.

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3. Věra Kuchařová, CSc., Research Institute for Labour and Social Affairs / RILSA, Analýza současného stavu v oblasti terénní činnosti orgánů sociálně-právní ochrany dětí a stanovení optimálních podmínek výkonu sociálně-právní ochrany dětí ve vazbě na počet klientů, duben 2009, Praha

4. PhDr. Hana Pazlarová, PhDr. Oldřich Matoušek, CSc.: Analýza dostupnosti a kvality sociálních služeb pro rodiny biologické i náhradní ve vybraných krajích ČR, FF UK, Katedra sociální práce, Praha 2006

5. JUDr. Otakar Motejl, Mgr. Iva Černá, Mgr. Klára Panovská, Mgr. Petra Matyášová: Sborník stanovisek veřejného ochránce práv - Rodina a dítě, Kancelář VOP, 2007, Brno

It takes much longer time to achieve the cancellation of a preliminary injunction than to order it. In practice the social worker is approaching adults, parents, and the child is not being explained or consulted about the situation. After such a sudden change there is rarely help and support being offered to keep mutual contact between parent and child, incl. cases of splitting siblings by placing them in different institutions.

The municipalities who are responsible for a child at risk are not financially motivated to provide services for families or to search for an alternative family (foster, adoptive). It is financially more convenient to place child in institutional upbringing because such placements are paid for from central ministry funds. The developments of family support services are the responsibility of regional authorities.

## 2) Number of children in alternative care

Statistical data are collected by relevant department that is why they are not always compatible. Monitored data are also different in different years, e.g. because the change in the division of types of institutions run by the Ministry of Education, Youth and Sports (we are featuring the new division since 2005). There is no evidence of the **total number** of children under 18 living in institutions. It is not clear how many children are living in Institutions for people with disabilities (former Institutions of social care). Until 2006 statistical reports of the Ministry of Labour and Social Affairs listed the division in between the institutions for adults and institutions for youth. But in institutions for youth might be placed persons above 18. In the last years only the total number of persons living in such institutions is being showed. According to some unofficial sources close to the Ministry of Labour and Social Affairs there should be around 1000 of these children.

Different sources show different data on children in care. Here are some examples:

Ministry of Labour and Social Affairs in it's response to an inquiry about numbers of children placed in "social institutions", dated 1.7.2010 features following numbers:

### "Numbers of children in institutions (run by MLSA, MEYS, MI):

- total of 21 000 to 22 000 of children
- Institutions for people with disabilities - 11 000 to 12 000
- educational institutions (children's homes, children's homes for protective upbringing, diagnostic institutions) 7 000 to 7 500
- baby homes and children's homes for children under 3 - aprox. 1 800
- the total number of children placed in institutional care by court decision (institutional upbringing, protective upbringing) 9 269 (to 1.1.2008) - the rest of children are placed in institutions on legitimate representative's requests (they are mostly children with disabilities)"<sup>6</sup>

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6. 2009/49923-21 Informace sociálních zařízení pro děti,  
<http://www.mpsv.cz/cs/7513>  
quoted 1.10.2010

Eurochild 2010 report “Children in Alternative Care”<sup>7</sup> figures for the Czech Republic of children in residential homes quoted UNICEF statistics and statistics provided by Czech ministries. The UNICEF 2008 TransMONEE report (2006 statistics) said that 24 517 children (of which 2 957 are in State Boarding Schools) were in full-time care in residential homes. If the 2 957 children are deducted then there are 21 560 children in full-time care in residential homes. The Ministry of Labour and Social Affairs said that in 2006 10 517 of these children were “handicapped children”.

Disunity is also shown in terms of numbers in alternative family care. Sometimes only the children in foster care are monitored, sometimes together with children who are looked after by guardians. Sometimes the numbers are counted till 1.1. of the year, sometimes by the end of the year. The table below is showing number of children in foster care till 31.12. of certain years according to the Ministry of Labour and Social Affairs Annual Statistical Report.

	2003	2004	2005	2006	2007	2008	2009
Baby Homes and Homes for children under 3 (Institute of Health Information and Statistics of the Czech Republic)	1624	1570	1565	1470	1407	1418	1391
Children's Homes			4869	4815	4618	4739	4704
Children's Homes with school			815	724	674	742	787
Children's Homes for protective upbringing			1400	1404	1430	1546	1534
Diagnostical institutions			537	516	705	793	853
Total (Children's Homes, Children's Homes with school, Children's Homes for protective upbringing, Diagnostical Institutions) (Institute for Information on Education)	7250	7590	7621	7459	7427	7820	7878
Institutions for young people with disabilities (Ministry of LSA) persons above 18 years incl.	10426		10381	10517			
Foster care (Ministry of LSA)	6637			7149	7583	8159	
<b>Total number of children in Alternative care</b>	<b>25937</b>			<b>25871</b>			

No statistics monitor whether the child returns into the alternative care system or it is removed from family for the first time. Data about the length of stay are collected only about children placed in Baby Homes and Institutions for children under 3 years. NGO “Středisko náhradní rodinné péče” realized research in 2004 focusing on young people, who left institutional

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7. Eurochild:

[Children in Alternative Care - National Surveys - 2nd edition January 2010,](http://www.eurochild.org/fileadmin/user_upload/Publications/Eurochild_Reports/Children_in_Alternative_Care_-_National_Surveys_-_2nd_edition_January_2010)

[http://www.eurochild.org/fileadmin/user\\_upload/Publications/Eurochild\\_Reports/](http://www.eurochild.org/fileadmin/user_upload/Publications/Eurochild_Reports/)

[Eurochild%20Publication%20-%20Children%20in%20Alternative%20Care%20-%202nd%20Edition%20Janu](http://www.eurochild.org/fileadmin/user_upload/Publications/Eurochild_Reports/)



upbringing in 2003 (became adults). From the research sample 15% came into institution before the age of five, 5% even in the age 0-3 years.<sup>8</sup>

### **3) Reasons for placements**

Statistical data on children in alternative care are collected by different bodies so they are not always comparable. The reasons for placements are monitored by The Institute of Health Information and Statistics of the Czech Republic in terms of children in Baby Homes and Institutions for children under 3. In 2009 48% of children were placed because of social reasons, 18% health-social reasons and 33% from health reasons.

There is no concept of accessible social housing in Czech Republic and the loss of housing (e.g. because of financial reasons) may often cause the removal of children and their placement into institutional upbringing. It is proved by outcomes of researches done by the Institute of Criminology and Social Prevention<sup>9</sup>.

Czech Republic has been criticized by the European Court for Human Rights for removing children mostly for economic reasons. Also the Czech Constitutional Court has been dealing with a case where a child was placed out of the family mostly because of the oppressive social situation of the mother. Their findings feature the following: "The Constitutional Court expresses regret for, that within conditions of modern democratic legal state of 21st century, acknowledging principles of social solidarity and taking notice of parenthood and family protection ... a material insufficiency can be a cause of such a draconian parent from a child separation, when the material insufficiency is from the state's point of view effectively solvable problem."<sup>10</sup>

In the report of the Public Defender of Rights is said: "Public Defender of Rights is often encountered with the fact that children are taken from the family on the basis of hygienic deficiencies in the flat or inability of parents to provide their own housing. These ways of addressing the situation of children at risk are inadequate and their consequences are often disastrous. Families who lose or have lost their economic functions are often still able to continue to perform their emotional and relational functions. By removing the children the family is losing motivation to improve their economic functions and its emotional functions are often loosened up."<sup>11</sup>

### **4) The representation of Roma children among children in alternative care**

There are insufficient statistical information. Child's ethnic origin is observed only in institutions under the Ministry of Health. According to The Institute of Health Information and Statistics of the Czech Republic in 2009 20% of children placed in Baby Homes and Institutions for Children under 3 were of Roma origin.<sup>12</sup>

There is strikingly high number of children of Roma origin in other institutions (some sources show up to 60%<sup>13</sup>) although the representation of the Roma population in Czech Republic is estimated at about 2% - 4%.

Moreover, there is a lack of Roma foster carers and Roma social workers. Roma children are also less likely to be fostered or adopted.

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8. Středisko náhradní rodinné péče. Práva a potřeby mladých lidí odcházejících z dětských domovů, Praha 2004/2005

9. JUDr. Petr Zeman, PhD. a kol. : Praxe v oblasti rozhodování o nařízení ústavní výchovy a uložení ochranné výchovy, Institut pro kriminologii a sociální prevenci, Praha 2009 .

10. Nález Ústavního soudu spis. zn. II.ÚS 485/10, citováno z <http://nalus.usoud.cz/>

11. JUDr. Otakar Motejl, Mgr. Iva Černá, Mgr. Klára Panovská, Mgr. Petra Matyášová: Sborník stanovisek veřejného ochránce práv - Rodina a dítě, Kancelář VOP, 2007, Brno

12. ÚZIS č.13/2010: Činnost kojeneckých ústavů a dětských domovů pro děti do tří let a dalších zařízení pro děti v roce 2009

### **5) Placing infants in alternative care**

If the mother leaves her newborn child, that child will be for at least several weeks placed in a Baby Home. There the child is waiting either to be legally free for adoption or to be returned to the original family or for some other solution. The staff of such health institutions sometimes attribute the need of this placement as inevitable due to medical checks as in an institution a doctor is usually easily available. If there is a missing safe and stable person in this early period that the child would be attached to like in a family, attachment disorders appear and cause severe difficulties to establish quality relationships in the future life.

### **6) Placing siblings**

With regard to the division of institutions between different ministries siblings are still being split. At the same time there are cases when larger groups of siblings are placed in one foster family with the aim to keep the siblings together. Nevertheless, such a placement should always be assessed according to the capacity to fulfill individual needs of every one of the siblings.

### **7) Periodic evaluation of the placement**

Once the placement of a child in institutional upbringing is finished its return to its original family or placement to a foster or adoptive family is not easily achieved. The court does not determine the length of placement. The regular visit by a social worker at least once in 3 months in case of children placed in institutional upbringing should monitor primarily development of mental and physical abilities of the child and if the reasons for the placement are still presented and how the relationship between parents and child developed. There is also a relatively new duty of social worker to visit the birth family of the removed child at least once in 3 months.

These visits are in practice often very formal and do not effectively help the family, they usually lead only to a statement that the reasons for placements of the child in institutional upbringing still remain.<sup>14</sup>

Due to the already mentioned lack of services there is no parallel work with the family to improve the situation or to help return the child, the needed level of support cannot be given by social worker or by the institution where the child is placed. This leads sometimes to situations where a child is placed long-term and only after several years is there an attempt to arrange an alternative placement (e.g. foster care).

### **8) Absence of Children's Ombudsman**

Public Defender of Rights (Ombudsman) is also concerned with protection of the children's rights. The activities of Ombudsman's office are important and bring new perspective in social and legal protection of children. There have been long professional debates about the need for the body of Children's Ombudsman but this has not yet led to any action of creating this body.

### **9) The child's possibility to make a complaint**

The Act on execution of institutional upbringing gives children the opportunity to request a personal interview with a social worker, employee of the Czech School Inspectorate, Ministry or Regional Authority without the presence of other people.

The child may also call with appeals, complaints and suggestions to the director of the institution and require the submission addressed to the competent national and local authorities,

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13. Kajanová, A., Kubelová, V., Urban, D., Kousalová, H.: Kvalitativní sonda do současné situace dětí a mládeže romského původu v dětských domovech a dětských domovech se školou, SOCIOTERAPEUTICKÉ LISTY - socioterapie.cz, Havířov 2010, ISSN 1804-0411; dostupné z: <http://www.socioterapie.cz/index.php?a=16>

14. Mgr. Jan Folda, Mgr. Alena Svobodová, Mgr. Adam Křístek: Analýza stavu dětských práv v České republice - Děti v náhradní péči a děti ohrožené ztrátou náhradní péče, Sdružení SOS dětských vesniček, Praha 2009

legal entities and individuals authorised to social and legal protection for children to be sent next working day and without any content inspection. These appeals, complaints and suggestions must be filed by the institution.

The Public Defender of Rights investigated during checks and systematic visits in institutions for institutional upbringing that “children are often unable to name any state bodies (often not even one) which they can in case of need address with their appeals. The child’s right is non-productive if the child does not know to whom to address the complaint. In the institutions should be clearly explained the mechanism of handling complaints. The rules how to make a complaint (who, by what date, how) should be mentioned in the internal rules or any brief document (or placed on bulletin board). The rules should be given in the form appropriate to the age of children. There should be accessible contacts at least for the Czech School Inspectorate, The Public Defender of Rights, Ministry and social workers with a clear information that children can make complaints without the content being checked. There should be also a confidential mailbox in the institution. Effective functioning of any complaints mechanism also implies that the content of any complaint will be regarded as private and will be handled by the institution adequately ensuring the anonymity of the complainant – not being handled e.g. within the group of boys and employers.”<sup>15</sup>

#### **10) Determination of the child’s view**

The Civil Procedure Code § 100 art. 4 says that in proceedings to which the participant is a minor child who is capable of forming own opinions, the court shall proceed in order to determine child’s views on the merits. The court finds the view of the minor child through child’s hearing. The view of the child can be in exceptional cases found via representative, expert’s report or via relevant Social and Legal Protection of Children Department. The child’s hearing might be done without the presence of other persons, if it can be expected that their presence could affect the child to express their true opinion. The court considers the child’s opinion taking into account their age and intellectual maturity.

Amendment no. 295/2008 to the Civil Procedure Code brought this provision. Before it the possibility of determining the child’s views via a representative was preferred. However, many courts continue the old practice.

Social workers who often represent the child in proceedings to remove a child from family and other processes, often feel not competent to identify the child’s view.

Research of Institute for Criminology and Social Prevention examined the court decisions on institutional upbringing and the imposition of protective upbringing. Research took place before the Amendment of Civil Procedure Code.

It was discovered that courts rarely identify the child’s views, attitudes, even with older children, which can generally be considered able enough to comment. Within the imposition of institutional upbringing in total of 63.8% researched cases the courts did not investigate the child’s views and opinions properly. While in the analysed sample 74 children (out of 94) were older than 12 years. In many cases, not only the child was not heard, but the court failed to investigate the child’s opinion via a representative, e.g. social worker. It is related to the question of child’s presence at the court procedure. In cases ending with the order of institutional upbringing the child’s presence at the court procedure was rather the exception. In cases when protective upbringing was ordered to a child under 15 years, the child was presented during the procedure only in less than half of the surveyed cases.<sup>16</sup>

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15. JUDr. Otakar Motejl, Mgr. Iva Černá, Mgr. Klára Panovská, Mgr. Petra Matyášová: Sborník stanovisek veřejného ochránce práv - Rodina a dítě, Kancelář VOP, 2007, Brno

Act No. 359/1999 Coll., on Social and Legal Protection of Children gives a child who is capable of formulation of own opinions, the right for the purposes of social and legal protection to express those views freely in dealing with all matters concerning this child, even without the presence of parents or other persons responsible for the child's upbringing.

The child's expression in dealing with all matters concerning this child is paid appropriate attention to the age and intellectual maturity. Social and Legal Protection of Children

Department takes child's wishes and feelings into concern with regard to age and development so as not to jeopardize or disturb its emotional and psychological development.

Similarly, the Act No. 109/2002, Coll., on the provision of institutional education and protective education says that a child has a right to express own views on proposed and implemented measures concerning him. The views of the child must be given appropriate attention relevant to the age and intellectual maturity.

From our experience this child's right is not always fully implemented. This is not yet commonplace and responsible workers do not feel competent and adequately prepared for a sensitive interview with the child.

### **11) Services for children**

Needed community-based services for children are often difficult to reach, in practise especially there is a lack of experienced therapists and child psychiatrists. This leads in many cases to the child's placement in psychiatric hospital or more closed institutions (diagnostical institutions, institutions for protective upbringing).

Workers of pedagogical-psychological counseling services have little experience with children in alternative care and often refer parents with problems unrelated to alternative care (e.g. specific learning difficulties) to specialize workplaces for alternative care.

Age appropriated support for a child at risk, child placed in institutional upbringing or child in alternative care is generally missing.

### **12) Lack of support groups for children, missing national umbrella organisation for children in alternative care**

There have been several attempts to bring together children and youth in institutional upbringing or alternative care. However, there is no experience with self-help groups or national or regional organizations of such children and youth. The voice of children and young people with such experience is not formalized and their participation in the processes of change (e.g. The National Action Plan for Transformation and Unification of the System of Care for Children at Risk 2009 – 2011) is missing.

## **Baby Homes and Homes for children under 3**

### **1) Baby Homes transformation into Children's centres**

Some of the institutions for children under 3 years try to enlarge their services and help whole families. They want to provide services directly in families and also time-limited residential service for mother with children as a training of parental skills. For 1818 places for children there are only 71 placements for mother or other adult (in 2009 there were placed 1966 children, 277 adults accompanying the children)<sup>17</sup>

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16. JUDr. Petr Zeman, PhD. a kol. : Praxe v oblasti rozhodování o nařízení ústavní výchovy a uložení ochranné výchovy, Institut pro kriminologii a sociální prevenci, Praha 2009

17. ÚZIS č.13/2010: Činnost kojeneckých ústavů a dětských domovů pro děti do tří let a dalších zařízení pro děti v roce 2009 )

## **2) Length of stay**

59% children leaving in 2009 spent in Baby Home or Home for children under 3 more than 3 months, 27% spent there over a year.<sup>18</sup>

# **Institutions run by the Ministry of Education, Youth and Sports**

## **1) Changes in institutions**

At large expense a gradual transformation of institutions is being realized. The number of children in a group was reduced. The old Children's Homes have now been divided into "family groups" (or "educational groups") with 6-8 children. Higher demands are placed on education of employees. However, this financially, organizationally and personally demanding measures do not mean according to our opinion any significant improvement for situations of children and it is not leading to reduction of the total number of children in institutions.

## **2) Children's Homes with schools**

Children placed in Children's Homes with schools have limited contact with the outside world. These facilities are often in remote places and children are dependent on educational and leisure time activities offered by the facility.

## **3) Revision of internal rules of institutions for institutional and protective upbringing**

There has been made some progress in terms of revision of internal rules of children's homes (approved by the Ministry of Education, Youth and Sports). In fact, some of them were found to use inappropriate measures as punishments – for example restriction of contact with relatives, home visits. The change of staff at the Ministry of Education brought special focus on this and they have started to check closely the rules of every institution. There will still be a need to monitor if these changed rules are implemented into practise.

## **4) Contact with the biological parents**

Biological parent may face within contact with their child placed in institution many difficulties. E.g. great distance between their home and the institution and the difficulty to reach the place with limited public transport which they may not be able to afford. The Public Defender of Rights found in investigations the use of practices that may interfere with parents. E.g. banned or allowed parental visits were used as an educational measure. "Parents often suffer from lack of knowledge of the environment in which the child is being institutionally educated, lack of their rights and obligations and children's right and obligations towards the institution, lack of knowledge of internal rules around the telephonic contact between parents and children, organisation of visits in the institution and short-term stays outside the facility, etc." Institutions generally do not have staff and capacity for more intensive contact with biological parents. Sometimes there are only random formal addressing in case of necessary matters (e.g. a need of their signature).<sup>19</sup>

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18. Aktuální informace ÚZIS č.13/2010: Činnost kojeneckých ústavů a dětských domovů pro děti do tří let a dalších zařízení pro děti v roce 2009

19. JUDr. Otakar Motejl, Mgr. Iva Černá, Mgr. Klára Panovská, Mgr. Petra Matyášová: Sborník stanovisek veřejného ochránce práv - Rodina a dítě, Kancelář VOP, 2007, Brno

### **5) Runaway children**

Relatively high number of children who run away from institutional care show that children do not perceive their situation as helpful for them. Moreover, on the run they are exposed to risk of abuse, drugs and other danger. They often run to their family or they stay on the street.

The Institute for Criminology and Social prevention shows some wards are running away repeatedly, some individuals were noted to run away 16 times. About one of the wards the facility even said that “we cannot evaluate this boy as he is almost always on the run”.<sup>20</sup>

The Institute for Information on Education shows in their online statistics that from the total number of placed children in 2009 (7878) 504 are on the run. (www.uiv.cz)

### **6) Joint placement of children with ordered institutional upbringing and ordered protective upbringing**

Protective upbringing could be ordered by court only when statutory requirements are completed. It is used for example when a children or youth commits a crime or an offence that would be classified as a crime if being committed by an adult. However, children and youth with ordered protective upbringing are placed in institutions together with children who have not committed any crime.

### **7) Leaving institutional upbringing to adulthood**

#### **Leaving age**

Unless the institutional upbringing is terminated before, it finishes with reaching 18 years. For important reasons it may be prolonged by a court for maximum of one more year. It depends on the assessment of the court if an extension of institutional upbringing is convenient for the development of the child's personality. The court has to decide before the 18<sup>th</sup> birthday otherwise it expires by law.

Young person after reaching the age of 18 may stay optionally in the facility if she/he is systematically getting ready for her/his future (is attending a school or other educational facility) and is without means. In such a case she/he can sign a contract on her/his request with the facility and will stay at the longest until 26 under conditions listed in the contract. The Director of any institution must inform every young person about this possibility.

According to research of Stredisko nahradni rodinne pece focused on a group of children leaving institutional upbringing in 2003, 52% were of the age of 18, only 15% was older than 20. While 35% of all those who were leaving did not finished compulsory education.

#### **Services for those who are leaving**

By law the director of facility has to inform the local authority about the upcoming leaving of any child. If the child is leaving because of adulthood the director has to arrange a meeting with a probation officer. The child had not known the probation officer before, as he/she had been visited by a social worker from a department of social and legal protection of a child.

After leaving the young person in cooperation with the Social and legal protection body and the institution should be provided with counselling about how to find a job and accommodation. For 2 years after leaving the help to cope with difficult situations is provided. Legally the number of

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20. JUDr. Petr Zeman, PhD. a kol. : Praxe v oblasti rozhodování o nařízení ústavní výchovy a uložení ochranné výchovy, Institut pro kriminologii a sociální prevenci, Praha 2009

persons to whom the young person can turn for help widened but at the same time it is not specified who should have the key role within this process.

Generally there is lack of services for young people leaving institutions and they are not ready for independent life.

## Children with disabilities in institutional upbringing

Children with disabilities can be placed in any types of institutions. There are also special homes for persons with disabilities (former Social Care Institutions). This kind of facilities are regularized by Social Services Act No. 108/2006 Coll.

In annual statistical reports of the Ministry of Labour and Social Affairs there used to be published how many clients of the Institutions of Social Care were placed into institutions for youth. The last data about these persons that we were able to reach is from 2006 when there were 10517 young people placed in institutions for youth with disabilities (see the table above). It is not clear how many of their clients stay only during a week or how many are placed over the whole year. *See page 9 for more statistics.*

Annual statistical reports from 2007 and 2008 show only the total number of clients of homes for persons with disabilities and it is not in evidence how many of them are under 18 years, as they care for clients of all ages.

In 2009 out of the total 7878 children placed in institutions run by the Ministry of Education, Youth and Sports (Children's Homes, Children's Homes with school, Children's Homes for protective upbringing, Diagnostical Institutions) 4069 have some kind of disability. Detailed information is in the following table (<http://delta.uiv.cz/>, Institute for Information on Education)

	Total number	In the age		
		before beginning of compulsory education	of compulsory education	after compulsory education
Intellectually disabled	1821	39	1138	644
Hearing impairment	35	1	23	11
Vision impairment	94	4	63	27
Speech impairment	223	64	137	22
Physically disabled	20	0	10	10
Combined disability	242	24	154	64
From those deaf-blind	15	3	12	0
Developmental disabilities	680	15	433	232
Medically diagnosed autism	9	2	7	0
With severe behaviour difficulties	748	0	171	577
With extreme behaviour difficulties	197	0	27	170
Total	4069	149	2163	1757

In 2009 out of the total 1966 children placed in Baby Homes and Homes for Children under 3, 311 were children with special needs (previously classified as handicapped children).<sup>21</sup>

## **Foster care**

### **1) Process of placing children in a foster or adoptive family**

The first and very important step is the child's name is put on the list of those who are considered suitable for family placement. Generally it happens after few months or years of child's placement in institutional care. The search for a suitable family is done first on the level of the region by so-called "advisory board" formed by experts of a variety of professions which is choosing a suitable family from the applicants. In principle there are people who know the family in person (e.g. social worker or psychologist) and people who know the child (e.g. staff from the institution where the child is placed). But it is not yet a rule that there are people who know both the child and the family in person. If there is not any suitable family found within the region, the child's name is placed on the list of the Ministry of Labour and Social Affairs. According to an announcement of a staff member of MLSA there were over 1000 of such children in September 2010. Allegedly there are around some tens to hundreds of children on the lists in the regions. It means that out of the total number of min. 11 000 children in institutional care (for the questions about this number see above) only for less than about 1500 a family is being sought.

Many social workers and professionals still classify many children as unplaceable or unsuitable for foster care or adoptive care (e.g. children with severe disabilities, children of older school age, children of different ethnicities etc.), in many cases based only on the statement that "nobody would ever want such a child".

We know about cases when approved foster carers have been waiting a long time for a child to be placed despite the fact they were ready and willing to accept older child, a disabled child or a child of different ethnicity (it means in cases when it is generally more difficult to find a family).

### **2) Training for foster carers**

Applicants for foster care (or adoption) are required to undergo training. Currently there is not a unique form of such a training, standards or national curriculum. These trainings are the responsibility of the 14 regions. Ministry of Labour and Social Affairs issues only methodical recommendations how to run such a training. The region may either carry out the training itself or delegate this to NGOs. There is no specified number of hours or range of topics, or any requirements for expertise and experience of the person who provides training. In practice, the preparation is normally provided for prospective foster carers and adopters together, although these groups are different and have specific issues and needs.

Applicants from different regions are given very different level of training in terms of content and quality. Training is often run just as one session in the office or in the applicant's household which is not enough to assess competence and ability of a person to become a foster carer. Other members of the applicant's household are not taken into account sufficiently (own children, grand parents sharing household).

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21. Aktuální informace ÚZIS č.13/2010: Činnost kojeneckých ústavů a dětských domovů pro děti do tří let a dalších zařízení pro děti v roce 2009



Preparation or training for a child to be placed in foster care is not regulated. There are some rare sporadic cases when the child might be prepared but it is directly linked to the approach of the institution which the child is leaving.

There is an ongoing research of Stredisko nahradni rodinne pece focused on training and practical preparation in different regions, its output will be available in the end of 2010. Within the process of transformation there should be created standards for training, we hope there will be sooner a wide professional discussion.

### **3) Systematic campaign for foster care**

The lack of suitable foster carers is often quoted as one of the reasons for the high number of children in institutional upbringing. Several NGOs are trying to find foster carers for concrete children and increase the general opinion about foster care, adoption and children living without their parents. However, there is no systematic national campaign to obtain more foster carers such as e.g. the one to recruit new police officers. The growth of number of applicants for foster care is determined by the higher prestige of foster care in society.

### **4) Services for foster carers**

Social worker from the Social and Legal Protection of Children Department has to visit every 6 months the foster family and investigate child's satisfaction with the foster placement. Some foster carers find it difficult to open up a potential problem with social worker. They fear that they would be regarded as incompetent and the child would be taken away. In addition to it the role of social worker is mixed - there is a duty to supervise how the child is satisfied with the foster placement and at the same time their duty is to support the foster family. In case of conflict between the foster carers and fostered child it is not clear on which side the social worker stands.

For many foster families it is very difficult to find services they need.<sup>22</sup> And there is a general lack of information about possibilities of such services. Social workers with their high case loads cannot provide everything the foster family needs. Specific services for foster carers are provided by some NGOs but long-term ongoing support services for foster carers are not named or recognised by the law. Most of the NGOs are providing field work services for families in general and professional counselling according to the Social Services Act No. 108/2006 Coll. Any kind of long-term support and continual support of foster families during the whole period of child's placement is not in compliance with this Act. Social services according to this Act should be only for families in socially unfavourable situation and for those who are threatened by social exclusion. The enlistment of such services for foster families with social services named by law is not designed for foster families or for providers of these services.

It is therefore difficult to provide funding for such activities to supportive NGOs which means these services only operate in some regions.

With regards for all that is mentioned above it is necessary to highlight that the state transfers nowadays many activities to NGOs, mostly in terms of supporting foster families, running training and help with difficult situations related to the care of fostered children. On the other hand the state is not able to set up clear standards for assessing the quality of provided care in all its forms - from institutional care to foster care.

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22. PhDr. Věduna Bubleová, Mgr. Jana Decká, PhDr. Věra Haberlová, Barbora Holá DiS., Mgr. Jaroslava Máliková, Alena Vávrová: *Pěstouni mají právo na služby*, Občanské sdružení rozum a Cit, Praha 2007

Disintegrated system of financing stays on a long term basis still as an unsolved problem when every form of care is financed by different rules. In case of NGOs financing is based on short-term grants which make impossible to plan any activities in the long term.

### **5) Other forms of foster care**

Family Code Act No. 94/1963 Coll. in expression of all amendments names "foster care for a temporary period" and "foster care." Foster care can be performed individually or in placements for foster care. From the legal point of view there is no difference between individual foster carers or foster carers in placements for foster care. But what is different is the payment. Foster carers in placements for foster care are instead of regular allowances in title of financial support for the maintenance and running the household from the founder of such a placement. The law only defines such a financial support but it does not mention any source of needed finance. This state's approach leads to a minimum interest to run such placements because founders of placements for foster care are mostly NGO's or local authorities. Nevertheless, these types of placements for foster care are an opportunity for higher number of children to grow up in a foster home than individual foster carers can manage.

In practice the long-term foster care without any involvement of biological family is still being implemented. Foster care for temporary period is being used only in rare cases because of insufficient financial arrangement. If there is not a child placed for temporary foster care, the foster carer (while waiting for a child) is not given any financial support. Nevertheless, the whole idea about foster care for temporary period is about time-limited help for the biological family or temporary help for the child for other solutions to be found. Recently, several NGOs pilot projects appeared to introduce new types of foster care. There is also a working group specializing in professional foster care at the Ministry of Labour and Social Affairs. We believe that a suitable model for increasing the effective use of foster care for more children will be found. For such a transition legislative change to provide financial security for foster carers during the times while they are waiting for a child to be placed is necessary.

### **6) Foster care as a service not only for child but also for the biological family**

By foster care in Czech Republic it is mainly understood that this is to help a child but it is not used as a help for biological family. There is a widespread concern that the emotional bond between foster carers and child would be an obstacle to the relations between parent and child. This is also one of the reason why the "emotionally neutral" institutional upbringing is often used.

### **7) Contact of fostered children with their biological parents**

Social workers often lack experience how to support contact of children placed in foster care with their biological family, they are too overloaded and not trained in this matter. This kind of contact is often supported by NGOs. Foster carers are often not motivated to contact the family of origin (with regard to disunity of the training) and very rarely they are offered any help with this process. In some cases foster carers use their own intuitions and try to establish the contact on their own.

Generally fostered children are not in touch with their biological parents and the foster carers are rather anxious about establishing contact.

### **8) Standards of foster care**

The National Action Plan for Transformation and Unification of the System of Care for Children at Risk is supposed to create standards of care for children at risk. However, so far there are no

standards to guide and assess foster care. It is therefore difficult to decide whether a particular foster family provides quality care for the fostered children.

### **9) Inspection and monitoring of foster care, regular evaluation of the placement, child's ability to make a complain**

The experience of some NGOs show that many foster families need long-term support and assistance, which they usually do not receive. This is one of the reasons that not every child in foster family experiences quality and safe care. Social worker's formal visits once in 6 months are often completely inadequate. Foster care is viewed as fixed and permanent, it is not examined really whether the reasons for placement still exist. Family law court may revoke the foster care only for important reasons and always do so, if requested by foster carers. Once the applicants become foster carers, their abilities and skills are not re-checked, they are not obliged to learn and to use any services. It threatens the quality of the performance of foster care.

Another situation happens with foster care for a temporary period where the family law court has to examine regularly (at least once every 3 months) whether there are still valid reasons for child's placement. The court always has to decide if the reasons for which the child was placed in foster care are still relevant.

### **10) Children's rights in foster care**

Under Czech law, children in foster care have the same rights that belong to all children. Act No. 359/1999 Coll., on Social and Legal Protection of Children says in § 8 that the child has the right to ask an institution to protect its rights for help to protect its life and other rights. These institutions, legal bodies and authorized individuals are obliged to provide child appropriate assistance. The child has the right to ask for help even without the knowledge of parents or other persons responsible for the upbringing of the child (foster carers).

In practice it is rather a declaratory provision, the child is usually not informed about its rights. Social worker has no obligation to speak with the child during the visits in the family. The child has the right to speak with a social worker without the presence of others, but it is not informed about this possibility. Right of the child in foster care to complain is not explicitly regularized by law.

### **11) Leaving foster care to adulthood**

Given the usually long-term foster care, where children do not have contacts with their biological parents, the foster family is often operating in a quasi-adoptive manner treating their children as their own. They therefor feel responsible for "their" children, even after the termination of foster care.

Many foster families fear not being able to provide facilities and financial assistance for all "their" children upon reaching adulthood.

## Conclusion

Many of the previously mentioned insufficiencies should be solved by the currently running process of transformation which we welcome and support. We do believe this process will be continued and placed into practice in the best way to implement its sense and not only as formally realized required tasks.

Our main recommendation for improvement of the system of care of children at risk is to

- unify this area under one body with competences large enough (e.g. Ministry for Family)
- strengthen preventive services for families at risk
- strengthen field social work
- strengthen the processes of recruitment, training and support for foster parents
- strengthen child's right to express their opinion in all matters related to him
- strengthen child's right to participate in process of taking decision around this child
- create obligatory standards for the care of children

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*Document prepared by NGO "V zájmu dítěte, o.s." (In the Interest of the Child)*

*<http://www.vzd.cz>*

*[vzd@vzd.cz](mailto:vzd@vzd.cz)*