

Original Paper

A Czech Story about the Social and Legal Protection of Children

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Abstract

In the Czech Republic, aid to and protection of children in various life situations have a longstanding tradition. In identifying children who are growing up in situations of risk, as well as providing them with full support and assistance in gaining their rights, all who work them professionally in some aspects of their lives are obliged to participate. Along with social workers, these are mostly paediatricians and other doctor specialists, midwives, pre-school teachers, teachers, pedagogues, psychologists... When applying work, social workers need to possess many layers of knowledge and skills on the one hand, and practice thoughtful ethical behaviour on the other hand. The text brings information about the system in the Czech Republic and the view of the social workers themselves helping children.

Keywords

Czech Republic, child protection, legal system, social care

1. Introduction—The Social-legal Protection of Children

The social-legal protection of children represents the legal way to ensure children rights to live, a positive influence on life in a family, the identity of a child, the freedom of thinking, religion, the right to be educated, the right to work. Also, it includes protection before physical or mental violence, neglect, abuse, or exploitation. The protection which has a wider meaning than just social-legal protection includes the protection of the whole complex which protects children's rights and needs. Therefore, it is embedded in law fields and diverse law prescription with diverse law power. Thus, it makes the daily agenda of many law fields, legal and physical subjects (The Ministry of Labour and Social Affairs CZ, online, 2020-08-29). The priority of social-legal protection is the needs and interested of children, which cannot never influence any other powers. The social-legal protection of children is guaranteed by the state.

According to Motejl et al. (2007, s. 18), the aim of the social work, which is focused on the children's social-legal protection is to reduce the negative influence and restart the family functions. The social worker at the OSPOD he defines "the collection of work and influence of a social worker based on evaluation of the current situation in the family. The work is based on the initiative of a child, family, or parents".

Whether the author is looking at this problem from the view of legalities, there are few important papers to be mentioned. The Charter of Fundamental Rights and international documents, agreements, or recommendation (e.g., Declaration of Children's Rights, The European Agreement about Children's Rights). Since 2014 the new civilly law is legal n.o. 89/2012 Coll., whereas the law about family n.o. 94/1963 Coll.. The new civilly law includes the adjustment of family law including the adjustment about provisional care institutions. Another law n.o. 359/1999 Coll., about the children's social-legal protection which defines the new rights and duties for the social-legal workers (further just "OSPOD") for examples duty to keep the documentation for needs of social-legal protection (§ 54, § 55), find out in the school, children's place of staying, in the hospital, in the job and any other environment, where the child stay, how parents of any other responsible person for the child meet their duties and needs of the child (§ 52; 1).

According to legalities, it is important to mention that the long-term discussion about the modernisation of the law about the social-legal protection of children is still going on. In future, there should be a program of financial help for the care institutions, caregivers and mainly for those who take care of children with some type of handicap. The program should motivate more caregivers to take in their care children with a handicap.

1.1 The Organisations Working in the Children's Social-legal Protection

To ensure children's social-legal protection is done throughout diverse institutions. At the basic level, there are those institutions which have to provide children's protection, for providing the factual information are recommended these institutions: the town office, district office, The Government of Work and Social Things of the Czech Republic, and the Office for the children's international legal protection in Brno. The children's social-legal protection provides also the town office on their own and the district office as well. However, the town offices and the district offices are not the parts of the OSPOD, thus they can provide help. However, they cannot decide about each case, this remains as the main agenda of the OSPOD (law no. 359/1999 Coll., on the Social-Legal Protection of Children, § 4; 2). While providing the children's social-legal protection there is still the rule about districts, thus the family from Prague will cooperate with OSPOD office in Prague.

The agenda of the children's social-legal protection is done by **The Government for Work and Social Things of the Czech Republic**. "It does in relation to the children's social-legal protection legislative, methodical and control action, including the control of final decisions of the district office. The

Government for Work and Social Things cooperate with the important institutions on the international level, it monitors the children's rights and monitors the following of the international agreements. The Government for Work and Social Things does research on the whole country level. Based on the research it analyses the collected data and prepares new national strategies for children's protection. Also, they publish methodical material for other office working on protecting the children's rights and needs" (The Ministry of Labour and Social Affairs CZ, online, 2020-08-29).

Another department working on the children's social-legal protection is **the Government for Education of the Czech Republic**, which controls institutions such as institutional care houses, institutional care houses with school, diagnostic or behavioural institutions. The form of help is mainly in the legislative way and methodical support including the institutional care. Plus, the Government for Education is participating in the transformation of the institutional care system for jeopardized children. The Government for Education presented in 2016 that the number of children in institutional care is falling, whereas the number of children with behavioural problems in behavioural and diagnostic institutions is growing. More than 8% of children are placed in the institutions due to problems with biological family or in the family is a threat or their mental or physical health. Most children placed on institutional care are between 15-18 years old, which is not convenient for their upbringing and future life. Thus, the OSPOD decision is done when the harm is huge and the pathological changes and the possibility of fixing those changes is lower (Ministry of Education, Youth and Sports CZ, online, 2020-08-29).

The Government for Health of the Czech Republic is helping with educating the health workers. Mainly, they are focused on practical doctors (such as GPs) because these doctors are more often in relation to the victims of home abuse. Another group who is working with victims are primary health workers and workers at the traumatology departments who can be the first health workers who recognize the trauma which a child could experience. The special attention is given to the harassment and jeopardizing of children.

The Government for Justice of the Czech Republic target to the legislative adjustment, which should affect the agenda of process prescriptions, legal adjustments, social-legal children, and young people protection.

The Government for Interior Things is focusing on the illegal harassment done with children. Plus, they offer the prevention's program about children criminality.

There are more other institutions working in this field. However, they are non-state and free of charge. Those organizations work on voluntarily base when the volunteer comes to family and tries to help. Mainly, they point the families to the state organizations and monitors them.

1.2 The Social Worker in OSPOD

The main aim of OSPOD is to offer help to disadvantaged or children is an urgent need or help children in a risk situation. Dunovsky (1995) categorises the family to three categories: problematic, dysfunction

and non-function. To each of these families, the social workers tend to use a different approach (motivation, advice, monitoring, reprehension or execution of a child), but always the needs and interests of a child should be at the first place. Most often reasons, why the family starts to cooperate with OSPOD, is fall one of those aspects and a child can be treated in its upbringing such as monitoring of a child, creation of a safe environment for upbringing, ensuring sufficient food for health grow, clothes and hygiene, care of physical and social health, care of the development of a child and its education. Families which have lower material safety can be seen as risk families and can be motored by the OSPOD even though they have good emotional and health environment (Ševčíková, 2006).

The OSPOD is throughout the social workers the executor of many activities. According to Matoušek (2016), it is submitted the suggestion to the justice organs to deprive, stop or restrict the parents' responsibilities; presents the suggestion to execution, renewal or prescript the institutional care; submit the suggestion for early proceeding in case that the child has been without a caregiver or there is a possibility that the current caregiver is not able to give to the child enough care. Another function is to be the contemporary caregiver; proceed the adoption; offer the counselling to future caregivers or adopting parents; monitor the process of protective care, and be part of the trial with young people and cooperate with the prisons. Based on the list of duties of OSPOD is obvious that the social workers cooperate with many institutions such as trials, schools, hospitals, and intuitional care institutions.

As mentioned before the key worker at OSPOD is a social worker who has the professional competencies which are stated in law No. 359/1999 Coll., about social-legal protection of children.

The main duties of a social worker are:

- **To ensure the prevention actions**—monitor the negative influences on children and find out its origin.
- **To offer the counselling**—help parent while figuring out the behavioural problems, to offer the counselling while upbringing and educating and even with the care for children with a handicap, organize the lectures and courses focused on the figuring the educational, social and other problems coherent with care for a child, to allow suitable people to adopt a child and offer to counsel to those people. The worker must be able to help the family to get to normal after executing a child and ensure the possibility for the comeback of the executed child.
- **To make actions for the protection of children**—submit the suggestion to trial, it does the unnecessary action for child best interests and needs.
- **While committing a child to care of other people than parents**—the workers decides if the child will be committed to other people, whether the child is in institutional care the workers decided who will have the child in care. Also, the worker collects the agreements from parents if they decided to give a child to the adoption of the institutional care. Plus, it keeps all the documentation to each directed case.

- **To practise the institutional and protective care**—The worker works against repetitive behavioural problems and mainly against illegal activities, alerts the district office for the needs to help children, mainly those who left the institutional care with receiving any possible help which they can receive, the worker cooperates with worker offices, offers to the children the programs which they can help to successfully replace in the society.
- **The offer of social-legal protection with foreign families**—to help parents to receive the funds for giving the care, to help children to get them back to the Czech Republic.
- **In case of social-legal protection in specific cases**—to do announcements about the existence of a child in risk or harmful environment. The workers are supposed to do necessary actions to protect health growth and development of a child.
- **The research practical show**

According to the aims of this paper the authors would like to represent a practical show of social workers at the OSPOD

2. The Character of the Respondent

The worker is a married woman 38 years old. She reached a bachelor's degree in social work. The respondent works in the office of the City part of Prague for 12 years. Before this job, she worked for 4 years as a referent of social funds at the Office for work for the Czech Republic also in Prague in the same part of Prague as now. She changed her job because she has finished her studies and she is interested in this problematic. Her whole career she works at the city part as a social worker at the department of social-legal protection of children.

During the interview whole, the ethical considerations were followed. The fact of anonymity and the right environment was chosen based on the sensitivity of the topic. The respondent has agreed on the use of dictaphone which allowed the researcher to focus on the topic and support the atmosphere, the whole interview took 150 minutes.

The research adds that the respondent looks very good, she is very professional orientated, and she does not have symptoms of tiredness or dislike of the job. Thus, these findings are very relevant.

The text below is with the answers with the respondent.

The T = researcher and the R = respondent.

2.1 Interview—Selection

R: *“My location is in the city part Prague, it is calmer and thus my often clients are families in the divorce situation.”*

T: The divorce situation starts when one of the couples decides for the divorce. The request for divorce is handed to district trial, the request can submit one of a couple of both together, then it is called agreement divorce. Whether is in the family a child, there needs to be the decision about divorce and decision about

children.

R: *“Often our client contacts us even before submitting the request for the divorce. During the working hours, each social worker is available at the department and they are ready to help with concrete problems or cases. In the case of divorce, the social worker explains to the client the whole process of divorce. The important information for parents is options after the divorce.”*

T: Most frequent method of care is the exclusive care of one parent when the second parent has clarified alimony (if it is needed than the exact time for meeting the child). Another option is an alternative way or collective care of a child. Those two alternatives should come from the agreement of both parents (but it is not a condition), for the child they should keep one educational institution, one doctor and the distance between parents’ place of living should not be too big. Collective care comes in the mind when parents agree that they will not have separate living. They are staying living together e.g. in one house thus, they can take care together.

R: *“For request of a client the social worker is available to help with submission of the written request to the district trial. The request hands the client independently. While the trial is going on, each child is assigned a social worker so there cannot be the collision of interest. Thus, the social worker is assigned by the OSPOD. The social worker is assigned to every trial so even the first trials about setting up the rules for the meeting have the social worker there.”*

T: The process of divorce can take time, which is very intensive mainly in the emotional area for both parents. Whether the parents do not agree about the upbringing the divorce process can be long-term. When the request is submitted the social worker is asked to do an investigation in the family and in the environment where the child is brought up. The social worker is focused on the practical and suitable part of the place of living; on the possibility of the hygiene, suitability for a living; if the child has own bed and place to play or study. During the investigation the social worker interviews both parents separately, during the interview the social and family aspects are found out:

- Mainly who has secured the care for the child or children, including the preparation for school and cooperation with school
- Who secured the household work such as ironing, shopping, cleaning etc.
- Who from parents spend leisure time with children and how
- How is secured the care for a sick child who goes to doctor with child
- What are the working hours of both parents
- What is the financial situation of the family
- What method the parents use for the upbringing
- Whether both parents have reached the agreement about the care for the child after the divorce
- Whether the child knows about the divorce
- What are the relationships between child and parents

- Whether the child prefers any environment (with mother, with father or alternative).

R: *“After the investigation, the social worker hands the written rationale. In the written rationale the social worker offers the ideal solution which is based on the investigation. The social worker is also in the trial where they ensure the children’s best interests.”*

R: *“...in the Czech Republic is used the Cochem’s praxis...”*

T: The Cochem’s praxis is model of interdisciplinary cooperation of professions involved in the parents’ conflict, which originates in 90th years 20th century in Germany and slowly is getting its space in the Czech Republic as well. Cochem’s praxis is based on assumption that children of divorcing parents do not want to lose either one of parents. However, mainly during divorce, there are not at the first place the right of children but right for children.

R: *“Cochem’s praxis prefers the way of agreement between parents, if they do not reach the agreement, they are sent to the counselling centre. Whether they do not agree even after the visit of the counselling centre the trial assigned the trial’s expert, who prepares new family reports. I have experienced many divorces. My experience is that more educated parents mean more complicated divorce and more stress for a child. The parents have paid the expensive lawyers who have just more complicated the family problems.”*

R: *“The social work with family during a divorce can be successful just when parents understand that the divorce is uncomfortable not just for them but also for the children. The children cannot pick their parents and they are just waiting what kind of future their parents will prepare for them. The parents have to separate their married duties from parents’ duties, and they have to realize that they will be parents for the whole life. When parents get this point the divorce is faster and less stressful.”*

R: *“Another usual activity for a social worker is the monitoring of the families, which have assigned the monitoring program over their hat. That means some problems have already been in the family.”*

T: The main duty of OSPOD is to build for a child the ideal conditions for quality development, hence the child should not be taken from family or that the comeback to the family could be possible for the child.

R: *“The social worker often visits the family, leads parents to equal parents responsibility, monitors the household—if children have enough food to eat if they have a place to do homework. Also, the social worker is in contact with the school, child’s doctor and they offer to parents advice for social issues such as how to get social funds, where to find leisure time activities for children. The trial assigns how often and how long must the social worker offers a written rationale about the family and the monitoring program. Often the rationale is handed in after every 3 months.”*

T: The theme of reporting duty and view on this problematic.

R: *“...In the case that the report seems like truth and the social worker decides that the situation is risky for a child it is crucial to react fast and contact other organs cooperating in children’s social-legal protection. The social worker submits a request for immediate action. The trial needs to decide in 24*

hours (in urgent cases) or 7 days (in cases when the risk situation is not threatening the child in life). In the case that the trial decides for immediate child execution and this decision needs to be done immediately. I have witnessed the execution a few times. It is a bit drastic situation. Due to the atmosphere in this situation, it is not without a child's cry, parents' hysteric scenes and parents' vulgarisms to the social workers or their partners. The trial's workers assigned to each case must execute the child with the cooperation of police and the social worker from OSPOD. The child is taken with basic personal stuff to the doctor to evaluate the child's condition and then the child is taken to a diagnostic office. Later on, after a few days, the child goes to institutional care house."

T: OSPOD is in the trial process assigned to be the conflict worker—like a barrier between parents. Whether the child is placed in the institutional care the social worker visits the child every 6 months and recognises how is the child doing and if parents are interested and take care of them. Hence the threatening situation is not happening just in working hours the OSPOD must have the emergency for 24 hours.

R: "The emergency means the social worker has the working mobile phone with them. They need to have the mobile everywhere and be non-stop available to work. Mostly is used by police which requests the cooperation if there is a child or young person who needs to be interrogated without the presence of parents...or if there is violence in the family during the night and it is needed to secure the safety for a child."

3. Result

The above text presented the work of the staff of the social and legal protection body for children in the Czech Republic and focused on one of the main problems. The thematic area also becomes the worker himself, not only in terms of education, but also in terms of social interaction. An environment that is groundbreaking for a child's development, and depends not only on the teacher, students, but also on society as such, what position it occupies. Child clients of social and legal protection have a much higher rate of psychosocial problems, but they also come from a high-risk environment. Risk and protective effects include genetic factors; physical trauma; forgiveness psychosocial experiences; experience "in care" and experience after leaving care.

When applying work, social workers need to possess many layers of knowledge and skills on the one hand, and practice thoughtful ethical behaviour on the other hand. They need to be prepared for controlling the processes, recognising the problems, using the applicable tools and techniques, managing conflicts, evaluating the result, and finally giving feedback.

The OSPOD work is very diverse and interesting it is not a stereotype work, each case is different and requires a specific approach. However, it is a hard job the social worker does not have a vacancy even for a year and it is challenging for the emotional side. The personality of a social worker is crucial, and it is

important to have good formal side and the emotional side in balance. Socio-legal protection of children as a part of the system of care for children at risk has been undergoing the above described transformation, which is not a one-off event but a long-term process for over 10 years. At the moment, in the Czech Republic we can rest upon the present situation, and be prepared for the legislative and system changes due in the next few years.

References

- Davies, M. (2012). *Social Work with Children and Families*. New York: Palgrave Macmillan. ISBN 978-0-230-29385-4. <https://doi.org/10.1007/978-1-137-00567-0>
- Dunovský, J. et al. (1995). *Týrané, zneužívané a zanedbávané dítě*. Praha: Grada. ISBN 80-7169-192-5.
- Hämäläinen, J. et al. (2012). *Evolution of Child Protection and Child Welfare Policies in Selected European Countries*. Ostrava: University of Ostrava. ISBN 978-80-7464-163-3.
- Informační portál pro orgány sociálně-právní ochrany dětí*. (2020). Retrieved from <http://www.ospod.cz/>
- Konečná, H. et al. (2016). *Závěrečná zpráva ze setkání zástupců OSPOD a NNO poskytujících služby v NRP ve 13 krajích České republiky*. Praha: Nadace Sirius. ISBN neuvedeno.
- Lyons, K. (2014) Evolution of child protection and child welfare policies in selected European countries. *European Journal of Social Work*, 17(1), 151-152. <https://doi.org/10.1080/13691457.2013.871860>
- Matoušek, O. (2016). *Slovník sociální práce*. Praha: Portál. ISBN 978-80-262-1154-9.
- Matoušek, O., & Pazlarová, H. (2016). *Státní orgány sociálně právní ochrany dětí. Dobrá praxe z pohledu rodin a pracovníků*. Praha: Karolinum. ISBN 978-80-246-3336-7.
- Ministerstvo práce a sociálních věcí ČR/ The Ministry of Labour and Social Affairs CZ*. (2020). Činnost MPSV v oblasti sociálně-právní ochrany dětí. Retrieved from <https://www.mpsv.cz/cinnost-mpsv-v-oblasti-socialne-pravni-ochrany-deti>
- Ministerstvo práce a sociálních věcí ČR/ The Ministry of Labour and Social Affairs CZ*. (2020). Legislativa a systém sociálně-právní ochrany. Retrieved from <https://www.mpsv.cz/web/cz/legislativa-a-system-socialne-pravni-ochrany>
- Ministerstvo školství, mládeže a tělovýchovy ČR/Ministry of Education, Youth and Sports CZ*. (2020). MŠMT pracuje na zlepšení péče o ohrožené děti. Retrieved from <https://www.msmt.cz/ministerstvo/novinar/msmt-pracuje-na-zlepseni-pecce-o-ohrozene-deti>
- Motejl, O. et al. (2007). *Rodina a dítě*. Brno: Kancelář veřejného ochránce práv. ISBN 978-80-254-1750-8.

- Novotná, V., & Fejt, V. (2009). *Sociálně-právní ochrana dětí*. Praha: Univerzita Jana Amose Komenského Praha. ISBN 978-80-8672-377-8.
- Pemová, T., & Ptáček, R. (2012). *Sociálně-právní ochrana dětí pro praxi*. Praha: Grada Publishing, a.s.. ISBN 978-80-247-4317-2.
- Petrášová, M. (2011). *Kompetence sociálních pracovníků oddělení sociálně-právní ochrany dětí* (Diplomová práce). Retrieved from https://theses.cz/id/pw73ls/Diplomov_prce_-_M_Petrov.pdf
- Rudolph, J. (2010). *Jsi moje dítě. Cochemská praxe—cesty k lidštějšímu rodinnému právu*. Praha: Magistrát hlavního města Prahy. ISBN 978-80-254-8250-6.
- Stárek, L. (2020). Definition of Substitute Family Care and Issues of the School Environment. *Journal of Education and Training Studies*, 8(9), 43-53. ISSN 2324-805X E-ISSN 2324-8068. <https://doi.org/10.11114/jets.v8i9.4954>
- Stárek, L. (2019). SUBSTITUTE FAMILY CARE IN THE CZECH REPUBLIC AND ITS ASPECT IN SPECIAL-NEEDS PEDAGOGY. *Studia Edukacyjne. POZNANŹ: Wydział Studiów Edukacyjnych UAM, 2019, 54*, 311-323. <https://doi.org/10.14746/se.2019.54.18>
- Ševčíková, H. (2006). V posouzení životní situace dítěte se upřednostňují materiální podmínky před hodnotou rodiny. *Sociální práce/Sociálna práca*, 1/2006, 3-5. Retrieved from <http://www.socialniprace.cz/soubory/2006-1-090221133624.pdf>
- Vecchiato, T., Maluccio, A. N., & Canali, C. (2002). *Evaluation in Child and Family Services: Comparative Client and Program Perspectives*. New York: Aldine de Gruyter. ISBN 0-202-30722-0.
- Závěrečná zpráva z pilotního ověření celoživotního vzdělávání pracovníků OSPOD: MPSV ČR. (2019). Retrieved from http://www.knihovnanrp.cz/wp-content/uploads/2019/05/Zaverecna-zprava-z-pilotniho-overeni-ce-lozivotniho-vzdelavani-pracovniku-OSPOD_final.pdf

Legislative Sources

- Act No. 359/1999 Coll., on the Social-Legal Protection of Children. *In: Collection of Laws of the Czech Republic*. ISSN 1801-8688.
- Act No. 89/2012 Coll., Civil Code. *In: Collection of Laws of the Czech Republic*. ISSN 1805-9589.
- Act No. 94/1963 Coll., Family Act. *In: Collection of Laws of the Czech Republic*.
- Charter of Fundamental Rights and Freedoms. *In: Collection of Laws of the Czech Republic*. ISSN 1211-1244.
- Communication No. 104/1991 Coll., Communication from the Federal Ministry of Foreign Affairs on the negotiation of the Convention on the Rights of the Child. *In: Collection of Laws of the Czech Republic*.