

Postmodern Openings

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The Best Interest of the Child and its Application in the Practice of Social Workers in the Czech Republic

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Abstract: Historically, the views of lawyers and social workers in the application of socio-legal protection of children in the Czech Republic often fail to understand the best interests of the child (the best interests of the child under the UN Convention on the Rights of the Child). In 90's we can see in practice the direction of implementation of the basic principles of the Convention into individual decisions of social workers. Emphasizing the principle of proportionality between the various rights of the child should lead to the recognition of the child as the holder of the rights, not as the object of care and protection. However, in the late modern era, we have seen a certain shift.

Instead of reflecting on the subjective conviction of the creator of what is best for the child; rather, decisions that consist not of ignorance of the content of these fundamental rights and freedoms, but of determining the values of the decision maker. Therefore, this should lead us to a deeper reflection on how workers in social and legal protection institutions understand the issue of the best interests of the child and to further discuss its implementation. The research part of the article focuses, through qualitative interviews, on uncovering how social workers in child protection in the Czech Republic think about the best interest of the child and their impact on practice, and these results relate to the perspective of lawyers extracted from legal acts, regulations, and judgments.

Keywords: *Social Work; law; the best interest of the child; child protection.*

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1. Introduction

The upswing of postmodernism and its influence on public administration is unmistakable. Questioning the recognized standards of modern social sciences has led to a situation of uncertainty in the application of old models of practice in the context of postmodern society. (Rakšnys et al., 2015) However, we do not necessarily perceive this fact only as unfavorable. At the same time, postmodernism has opened up a new space for the inclusion of the voice of marginalized social groups, thus creating opportunities to integrate these groups into society. (Noble, 2004) Of course, these groups include children and adolescents, as particularly vulnerable members of society. They, too, have come to be seen as having inalienable human rights in the context of state and public policies, especially in situations where the state intervenes in their lives. (Howe, 1994)

The growing impact on the recognition and respect of the rights of the children is undoubtedly the logical consequence of the postmodern influence on the human rights debate. (Levesque, 1994) The concept of human rights as a modernist project has been criticized by postmodern authors in recent decades and has therefore been redefined. As a result, our concept of human rights has undergone a specific evolution from the rights of a white heterosexual man as a universal concept of fundamental human rights to stronger respect for the rights of women, persons of different sexual orientations, and ethnic minorities. (Nash, 2002) The very idea of a universal rational human, disregarding the various cultural and power aspects, and unspokenly based on Western philosophical tradition, was abandoned. (Alves, 2000)

In the end, the rights of the children also came to the center of attention. Children may not be entirely rational and thus free and responsible beings as referred, but, as some authors point out, children are undoubtedly human beings, and so should be subjects of law. It is not permissible to make children an object of law and to hold them in the position of a discriminated minority or second-class citizens. (Wall, 2008) Especially when there is no strong childhood concept that can justify such a situation. Our traditional, seemingly scientific concept of childhood is a culturally conceived social construction that varies over time and depending on the cultural context. (Meynert, 2013) It is highly desirable to change this situation, and the tool of this change is the concept of the best interests of the child (BIC_h), which advocates the notion that children are also subjects of the law and have the right to co-decide about their lives.

The best interest of the child is the principle to which the Czech Republic has committed itself with the adoption of crucial international treaties over recent decades, in particular, the approval of the UN Convention on the Rights of the Child (UN, 1989). The substantive gestures on child rights protection, family support, surrogacy, and care for children at risk and their families are fragmented among several different departments in the Czech Republic (labor and social affairs, education, health, justice, etc.). This situation can negatively impact the quality of working with children and their families and promoting the best interest of the child in particular cases. This fact and the numerous incentives from the research and practice carried out has brought the need for reform of this system and the creation of a front-runner strategy to protect children's rights at the government level. This document was the 2012 National Strategy for the Protection of Children's Rights (Ministry of Labor and Social Affairs, 2012), so called "Right to Childhood." The purpose of this strategy is to define the basic principles of work with children and families across all departments and to bring the "meaning of the Convention" into the work of all experts working with children and their families and to society as a whole. The recommendations of the UN Committee on the Rights for the Child (UNCRC, 2011), adopted on 17. 06. 2011, after discussion of the Czech Republic's third and fourth periodic report documenting activities to implement the Convention since 2003, also provided a significant impetus for reform and the emergence of a national strategy. (Ministry of Labor and Social Affairs, 2012) In the context of the above changes, the principle BICH has necessarily begun to emerge more and more in the theoretical and methodical preparation of social and legal child protection workers overtime. At the same time, in specific forms, it has also begun to translate into the daily practice of social work with families and children. We can say that the current structure of the method of protecting the BICH in the context of the social and legal protection of children cannot yet be considered final. This reality reflects, among other things, the fact that even in the Czech discourse of law, the contemporary concept of the child's best interest is not yet quite clearly defined. This contribution aim is to sketch out how social workers from the Departments of Social and Legal Child Protection in municipal authorities understand the best interest principle and how they apply it in their practice. The contribution is based on a research investigation carried out in the year 2018 within the Hradec Králové Region, which included most of the existing Departments of Social and Legal Child Protection.

2. Problem Statement

2.1 The principle of BICh in the context of the support system for children at risk and their families transformation

The process of transforming the support system for children at risk and their families in the Czech Republic has been underway since 2006. The aim of the system changing is to improve the quality of work with children at risk based on respecting and developing a child's fundamental rights. It is about ensuring that every child's rights are consistently protected, and their individual needs met. Promoting the quality of life of children and families, eliminating discrimination and unequal access to children, supporting the child's all-round development in his or her natural family environment, and encouraging the child's participation in decision-making on matters affecting him or her. (Hanzlikova, 2019) The Convention and the National Strategy are the starting points for transforming the system of support for children at risk. As a part of national strategy, the government seeks to work together and unify approaches of the various departments and to coordinate their activities towards supporting children and their families, and to unify the view on BICh. The implementation of a strategy based on precisely defined principles, objectives, and activities is envisaged in close cooperation between government, local authorities, non-state non-profit organizations, and various civic initiatives. There is a clear set of responsibilities for individual departments, a way of monitoring ongoing activities and evaluations.

The aim of the National Strategy is a functional system to ensure that children's rights are consistently protected and their needs met, which works on the following principles. It is entirely focused on the child, respects the needs and development of the child, monitors the child's long-term interest and promotes its uniqueness and development, enables equal opportunities for all children, includes their families and their entire social surroundings in dealing with the situation of children, builds on the strengths of children and families and identifies problem spots, functions in an integrated and collaborative manner, is a lasting and interactive process, provides and revises measures and services provided, and is based objectively on evidence (Ministry of Labor and Social Affairs, 2012).

In the context of the ongoing transformation and the emphasis on quality, training and methodological support for practitioners are essential topics, because the practitioners often reflect insecurity in their professional roles and the non-optimal methodological support from the Ministry of Labour and Social Affairs of the Czech Republic.

Under the Convention, the state has to secure that the public institutions, social and care services, and the management responsible for child protection care comply with the standards established by the competent institution (Article 3 of the Convention) while safeguarding their development (Article 18 of the Convention). “The training of Social and Legal Departments workers is indirectly regulated in the Convention through the guarantee of quality and expertise of care for children at risk, as one of the rights of children.” (Hanzlikova, 2019)

“The training of Social and Legal Departments workers is a lifelong process in which workers need to receive sufficient support. At the same time, the emerging competencies of workers are a direct prerequisite for transforming the system of care for children at risk and their families.” (Hanzlikova, 2019)

2.2 The principle of BICh - interpretation of the concept

Under the Convention, the best interest of the child is the “foremost consideration in any activity involving children, whether carried out by public or private social welfare institutions, by administrative or legislative bodies.” (Convention, Art. 3) The obligation for individual states which have undertaken to comply with the Convention by contract to “ensure that the child is protected and cared for as necessary for his or her welfare, taking into account the rights and obligations of his or her parents, legal representatives or other individuals legally responsible for him or her, and taking all necessary legislative administrative measures to do so.” (Convention, Art. 3)

The UNCRC issued a general commentary in 2013 on the Convention, further clarifying the content of BICh. It points out that the BICh is a “dynamic concept that must always be assessed in the light of a particular situation” and “encompasses various issues that are constantly evolving.” (UNCRC, 2013) This general comment aims to “provide a framework for assessing and determining the best interest of the child, not ordering what is best for the child in any situation and time.” (UNCRC, 2013) While, to some extent, the UN Committee expresses its understanding of the specific cultural and social conditions of the signatories to the Convention, it recalls that the concept of the BICh “aims to ensure the full and effective exercise of all rights contained in the Convention and the universal development of the child” and further points out that “the judgment of an adult regarding the best interest of the child must not outweigh the obligation to respect all the rights of the child under the Convention.” (UNCRC, 2013) The Committee further notes “that there is

no hierarchy of rights enshrined in the Convention; all rights contained in the Convention are in the 'best interest of the child' and no right can be denied to a child based on a negative interpretation of the best interest of the child." (Ibidem) These recommendations then also imply a requirement to "establish a rights-based approach involving all actors to ensure the child's versatile physical, psychological, moral and spiritual integrity and to promote his or her human dignity." (UNCRC, 2013)

To better understand the principle of the best interest of the child, the UN Committee recommends that this concept have to contain the following three components:

“1. Substantive law: The right of the child to always consider his best interest when considering various interests to decide on contentious issues.

2. The basic principle of the interpretation of the law: If a legal provision allows for more interpretations, an interpretation which effectively fulfills the best interest of the child should be chosen.

3. Procedural rule: Whenever a decision is made that affects a particular child, a group of undetermined or unspecified children or children in general, the decision-making process shall include an assessment of the possible (positive and negative) impact of such a decision on that child or children.” (UNCRC, 2013)

An essential part of the general comment of the UNCRC is the list of factors that must be taken into account when assessing the BIC. Here we are getting closer to the practice of social and legal protection of children, whose reports and recommendations must be taken into account by the courts. For courts to be able to issue qualified decisions, it is standard practice that a careful assessment of BIC by the relevant social and field workers must be carried out before.

This assessment should, in the Committee's recommendation, take into account the following factors: 1) the views of the child, 2) the identity of the child, 3) protecting the family environment and maintaining relationships, health and 7) the child's right to education (or other factors, if any). (UNCRC, 2013) In assessing BIC, the assessment of these factors should be balanced (although in some situations even contradictory), where the main requirement is to seek solutions that allow the exercise of all the rights guaranteed by the Convention as well as universal development of the child. It is always desirable to “take into account the child's physical, emotional, cognitive and social development,” “to consider the different options for the child's future development and to analyze them in the short and long term "and ultimately, instead of making a final and irreversible decision.” (UNCRC, 2013)

It is quite understandable that the recommendations of the UN General Committee on the Rights of the Child mentioned above are not easy to implement day-to-day into everyday practice. Either because of the difficulty of translating the abstract language of law into conventional thinking or the reason is that there are expected conflicts between the “traditional” paternalistic setting of the practice of social and legal protection of children in the Czech Republic with more progressive interpretations of “outside” law. However, if we overcome certain prejudices about the professional legal language or the unusual ideas that are formulated by it, we find that the concept of BIC_h in the contemporary conception has a certain logic, and perhaps a few of us might even be attracted. In this context, it is worth recalling the text “On the concept of the best interest of the child” by Anna Hofschneider, which was published on EPRAVO.CZ website (17. 10. 2017). In this article, Hofschneider seeks to convey the guiding ideas of the commentary and put forward many statements that may be critical, but at the same time, cannot be denied certain convictions. Right at the beginning of the text, the postulate “recognition of a child as a rightsholder and not as an object of care and protection” is emphasized. (Hofschneider, 2017) That should be the starting point for any consideration of the best interest of each of our child clients. For the sake of doubt, it is further emphasized below that “the child has all the fundamental rights and freedoms of adults, and the state has a duty to ensure that children can exercise their fundamental rights and freedoms on an equal basis with others.” (Hofschneider, 2017) This may sound too radical, but it cannot be overlooked in practice that sometimes our best plans for dealing with the situation of our children's clients fail because we did not perceive and respect them as equal partners, but decided on them regardless of their will. The subsequent dysfunctional behavior of these children can then be likened to a rebellion, which is not always fully capable of articulating the rights of its actors, but certainly not without cause. No one doubts that we “mean well” with our child clients, but just as we cannot impose “good” on adults, it will not work with children.

Part of the Hofschneider's text is also devoted to the interpretation of the UNCRC's requirement regarding the factors that must be taken into account when assessing BIC_h. It states here that it is quite “obvious that in many cases the full and effective enjoyment of all fundamental rights and freedoms by a child can only be an ideal, inaccessible situation in practice, because the individual rights and freedoms of the child themselves may counteract each other.” (Hofschneider, 2017) This is a very common situation in the social and legal protection of children, where good solutions are difficult to find. In this context, Hofschneider proposes the use of the

so-called proportionality test, which is used in our legal system and can also be used to assess BIC_h. In the event of a conflict between the individual rights of the child, it is necessary, according to this test, to check whether the proposed intervention fulfills the “requirement of suitability, necessity, and proportionality in the strict sense, if the measure in question is objectively capable of leading to the legitimate aim pursued. If of all the means objectively capable of attaining the legitimate objective pursued, the least onerous and least restrictive (requirement of necessity), and if there is no 'price' which the child must pay for the intervention in question by limiting or depriving one of its essential rights, disproportionate to the benefit the child receives through intervention (a requirement of proportionality in the strict sense).” (Hofschneider, 2016, 2017)

We have to not ignore the value of human dignity as the superior value of otherwise non-hierarchical fundamental rights, value incomparable with other constitutional values or social norms, which prohibits any human being, including the child, from being treated as a species interchangeable with things. (Hofschneider, 2017) This value cannot be sacrificed for any child's interest, even if it will be most attractive in the situation.

Those who have followed the implementation of the concept of BIC_h in the practice of social and legal protection of children in the Czech Republic in recent years, knows that the interpretation mentioned above and the resulting recommendations have created many controversies among social workers. These controversies mainly concerned with the text of the “Methodical Handbook for Curators for Children and Youth” (Ministry of Labor and Social Affairs, 2016), which works with these ideas and recommends their implementation in practice. Despite the severe criticism focused on this methodological guide, this material remains an authoritative text to guide the thinking and decision-making of social workers in practice, and it remains a question now how much social and legal child protection workers have identified and actually follow it. This is what our research attempted to answer, whose objectives, methods and results are presented in the next section of this paper.

3. Research Questions

The research aimed to find out how social and legal protection workers apply the principle of the best interests of children in their practice. In formulating the research questions, we focused on the following two questions:

(1) “How do social and legal child protection workers understand the concept of the best interests of the child?”

(2) “How do they assess the best interests of the child in their practice?”

These questions are followed by the thematic axis below:

- understanding of the concept of the best interest of the child,
- sources for application of the principle of the best interests of the child in practice,
- and identification of the rights of the child, which are important for the specific situation.

4. Research Methods

Following the research objective and questions, we based our data collection on a qualitative strategy of semi-structured interviews.

Qualitative methods are better suited for social work research in general (Gilgun, 1994; Hodge, 2001) and for this study in particular, because of its exploratory nature.

The qualitative research that was conducted used availability to find participants for the interviews. Initial contacts with existing social legal child protection department workers were made through e-mail. For recruitment purposes we used so called snowball sampling, where informants were asked to assist in identifying other potential participants (Institutional Review Board, 2010). This resulted in 13 semi-structured qualitative interviews.

The research sample included 13 informants (ten curators for children and youth and three employees of the Team for the Endangered Children; of which ten were women and three men), all of them were currently working in municipalities within the Hradec Králové Region (specifically, it was Dobruška, Hradec Kralové, Náchod, Nové Město nad Metují, Nový Bydžov). We collected the data between July and September 2018.

We conducted individual face-to-face interviews with informants according to a prepared range of free questions and usually developed discussions on individual topics. The interviews have taken usually 90 minutes. There was voice recorder used for authentic recording, transcription of the data was used for further data analysis. We used the Evaluation Coding method for data processing, which is suitable for evaluating the implementation of public programs and policy measures.

(Saldaña, 2009) Using a coding method, we mapped the data to give an insight into the different facts and to make sense of them in relation to our research questions. (Elliot, 2018) This first cycle was followed by the second cycle of recoding and then grouping the obtained codes into main categories. The created categories became the basis for interpretation and subsequent description of the research results.

5. Findings

After 2016, the term “best interests of the child” has become widely used in the area of the social and legal protection of children. With the publication of the Methodical Handbook for Curators for Children and Youth, there was a demand that the principle of BICh should become guiding in every intervention of social workers in their cooperation with the family with the child client. Less than three years after the publication of this methodical handbook, it is certainly a good time to look back and evaluate its impact on practice, even if it is only an initial probe that certainly has no ambition to cover this process of implementation of the principle mentioned above into practice in its entirety. We focused only on the most basic topics: (1) how the social and legal protection workers understand the concept of BICh and 2) how they assess it in their practice.

5.1. Understanding of the concept of BICh by workers of the social and legal protection of the child

The question of how the addressed informants would describe the meaning of the concept of BICh brought a wide range of answers. We could say that most of them somehow reflected the descriptions of the principle of BICh, mentioned in the Methodical Handbook for Curators for Children and Youth. Given that this methodology does not strictly define the concept of BICh in a single definition, the breadth of opinions obtained is quite understandable. The most frequent descriptions of the questioned term mentioned the individual character of BICh and its situational conditionality. Very often, the informants' statements started with the words “*it is... individual*” or in a more complex wording “*it's based on some individual assessment of the particular situation of a particular child*”, or synonymous descriptions such as “*the best interest may be different*” or “*for each child the interest is somewhere else, and our perspective is to look for what the child really needs*”, etc. Besides, or rather in connection with this, there were natural references to the importance of the diversity of contexts in which child clients are located.

The most important of these contexts was the family environment in which children grow up. So, when we talk about the individual assessment of BICh, according to some informants, it is also necessary to realize *“that in each family, the interest of the child is a little different. There are families where some of their ideas, the standard of living requires something else for their particular child.”* Similarly, another informant said that it is necessary to take into account *“the possibilities within the family, what are the capacities of the family.”* Thus, the best interest of the child is always *“somehow derived from the context of the whole family system.”* The second barely negligible context is, of course, the child's age. If the assessment of BICh is carried out *“individually, currently to that situation,”* we must also take into account the *“age of the child.”* Less frequently, rather in the context of minority families, informants have identified the cultural (ethnic) identity of the family as an important context, where *“for example religion, nationality... can play a significant role”* in determining the best interest. Cultural (ethnic) identity is also a context that we cannot, of course, ignore in cooperation with families of vulnerable children. When we asked this topic directly, whether cultural identity of the family is taken into account by social workers in assessing the best interests of the child, most informants responded in the sense that *“there is a real need to take into account the cultural background of the family, those family habits, those fine threads, that work in that family,”* of course, always only *“unless it seriously threatens the child.”* If the situation in the family is not threatening, the social worker must respect *“the limits as they can go.”* As one of the informants pointed out, *“it really has to be perceived a lot by the fact that you cannot impose or talk to them in their family or explain that it should be so and so, because they simply do not have that set up and you have to live with it.”*

The requirement of a Methodical Handbook for Curators for Children and Youth for the individual approach to clients seems to resonate with the experience of many social workers, as well as experience of different situational contexts, which then influence BICh (especially the age of the child and the related competencies and prerequisites for further personal growth, as well as the socio-cultural family level mentioned by the informants). Although the informants' answers do not directly mention the important aspect of the notion of the best interests of the child, that this interest includes all the rights contained in the Convention, it can be assumed that an individual approach for many social workers means that the specific components of each child's best interests (individual rights and interests) are affected or fulfilled at different levels in specific cases. At least this can be assumed for the part of the informants who started their answer with the sentence *“This is individual...”* and further stated in their comments on this issue some of the partial rights and interests. For other informants,

however, this cannot be said with certainty. Some of them may consider it so obvious that they did not need to mention these particular interests, but we cannot rule out that they do not realize this fact.

A simple list of the rights and interests of the child was another common type of answer to a question about the content of the term. Although the individual interests and rights usually did not sound as we would find them in the Convention or in the comments of the UNCRC, we can say that they were more or less identical in content: *“health status, some family background, some wider social ties, how a child thrives - does not thrive at school, whether a child has already committed some illegal activity and the like”, “a happy child, a healthy child with access to education or just to make the child happy and especially in the home family environment - in the biological family,” “that children should not be abused, abused, neglected to such an extent that they would be beyond such a degree of tolerance.”*

With some reservations, we could say that the second group of informants focused more on the indication of the rights and interests that the best interest of the child entails, instead of focusing on principles. As can be seen, the informants did not usually list all the interests and rights mentioned in the Convention or Commentary on the Rights of the Child, but it was clear that they perceived BICh as a sum of all legally guaranteed rights, they just remembered. Most of these informants, however, have not mentioned any principles that are relevant to BICh or could be considered relevant in this context.

Only one informant gave an answer that we could perceive as a more comprehensive description of the principle of the best interest of the child. In her words, this principle *“follows from the Charter of the Convention on the Rights of the Child,”* and *“it's not one thing to say, it's a set of certain rights where there are the guiding principles to stick to ..., and it is individually tailored to the child's situation.”*

On the contrary, only one informant gave an answer, which largely missed the content of the concept of the best interest of the child: *“I would also like to know what the best interest of the child is. From my point of view, the best interest of the child is when the parents can communicate, at least on basic things. And those parents are somehow pulling together; I think it is the best interest of the child.”* If we can conclude from the other context of the interview, this answer was not conditioned by the ignorance of the methodical handbook, but rather by her internal refusal.

5.2 Ways of assessing BICh by workers in the social and legal protection of the child in the practice

The answers of the informants often mentioned the methodical ministerial handbook for obvious reasons, but many of the responses gave it the status of a supportive tool only. According to these answers, experience, competences or laws, or other professional standards of our field play the main role. A minority of informants perceived the methodical handbook as the main instrument, and isolated voices rejected it.

What the informants most often perceived as the basic point of view when assessing the best interest of the child was not the methodology view, as mentioned above, but above all, “*common sense – first.*” The ministerial methodology was perceived by almost half of the addressed informants as being usable only in “*combination*” with this common sense or with professional experience, eventually intuition and professional competence. In the view of this part of the informants, the methodical handbook thus plays the role of a certain instrument of support “*to the personality of the social worker he brings there*” or a certain corrective, as evidenced by the sincere answer of one of the informants: “*It is not possible to stand strictly on the side of methodology or as if I can't just follow what I think*”. It is not surprising that this part of the informants was critical of the strict application of the methodical handbook in practice. According to some of them, the recommendations of the methodological handbook “*are fine, but they are not equally applicable to all situations.*” We cannot trace any “*concrete instructions*” to some of these situations, and the methodological handbook in these situations does not serve as “*the simple recipe we would have imagined.*” Some of the informants then pointed out situations where strict adherence to the methodological handbook would be contrary to the laws of the Czech Republic. Expected was also a criticism of the increasing degree of youth autonomy with their age approaching full adulthood, with which also a part of the informants completely disagreed.

The second group of informants in their statements rather focused on formal regulations such as the Convention, the relevant legislation, the methodical handbook, and standards; also, some informants mentioned scientific texts from developmental psychology several times. Of course, the informants of this group do not accept the ministerial methodology blindly but accept it as a framework in which they try to find a good solution. In cases where it is not possible to unambiguously assess the situation and decide on the way forward, informants from this group usually have the opportunity to consult with the consultancy team so that no worker who

“seeks the best interest ... is not alone in assessing the child's need... but he has the opportunity to have another view, another view that would enrich it.”

An essential requirement in determining BIC_h is to identify all the child's partial rights that may be at risk in the given situation (through or without social workers' interventions) and their subsequent balancing. We, therefore, considered it important to ask our informants how they identify the individual rights of the child in a particular situation and how they work with their potential conflict. Here, in spite of the uniform methodological manual, it was possible to find out several different types of answers. According to the answers, it seems that social and legal protection workers do not use the recommended principle of proportionality in their practice, at least not consciously, and rather develop their strategies to determine BIC_h in specific cases.

Although the interests of children in the hierarchy of protected rights are on an equal footing, the informants' answers often show a tendency to create certain hierarchies, where they attribute to some interests a stronger position than others. In many cases, it can be fine because even the Methodical Handbook for Curators for Children and Youth consider some rights to be more significant, and we can say that the informants' answers reflected this in some way. Other responses followed a slightly different logic.

Understandably, more than half of the informants have paid special attention to the right of the child to care, protection and safety, especially when child is at risk of health or even life, *“when the child is at risk, domestic violence, abuse, etc.”*, in such cases, *“further action, right now immediately”* follows. That, of course, implies that any delayed reaction could have fatal consequences for the child. However, almost all of these informants also mentioned that this right was not superior to the rights of others and recognized that it was equally desirable to pay attention to the other interests of the child, but only after they had neutralized the child's health.

Another frequently mentioned response (in almost half of the cases) expressed respect for the child's view as a right of key importance, as it is a prerequisite for fulfilling the partnership principle and the principle of child autonomy. The informants did not always see this right as appropriate or useful, and we can say that rather, only a minority of the informants were able to appreciate this right as essential. It is as if the idea that the juvenile is still *“a child who has no sense, a child who is not able to make decisions for themselves and there are few children who are so advanced and able to realize the consequences of their actions.”* On the other hand, if the informants had reservations about this right, they always referred to somewhat more acute situations, so we cannot

assume that they would not internally agree to this right in all cases and on principle.

Likewise, informants often perceived as a key right to maintain the family environment and established relationships. Half of them saw this right as a prerogative, the other half again as one of the others, but one that had a significant influence on the fulfillment of the other interests of the child, basically the right from which “*everything then derives education, other rights, good health care... .*” In any case, it was undisputed that they were completely in agreement with the methodical ministerial handbook, according to which the placement of a child in a residential facility was the last option.

6. Discussions

The conclusions presented here should be interpreted in light of limited degree of generality of the collected data. We have included only the Department of Social and Legal Protection of Children from the Hradec Králové Region in the realized research. We can hardly assume that we would find the same results in the other twelve regions of the Czech Republic and the capital Prague. Nevertheless, we can assume that we have found the most fundamental views on the application of BICh among social workers in practice. Rather, the question is how many workers agree or reject the current concept of applying BICh. In the course of the research, we suspect that the proximity of academic staff of the research team to individual departments of the social and legal protection of children in individual cities may have distorted the research results. Where the relationship between workers and our team was closer, more critical views on the advocated concept of the best interests of the child were more frequent. That fact leads us to suspect that, in practice, critical attitudes could be even more frequent than our results indicate.

7. Conclusions

The results of the research showed the difficulties of introducing and strengthening the principle of BICh in the practice of social and legal protection of children in the Czech Republic. We are not too surprised, even though we hoped for more optimistic results. We have to admit that the practice of social work in this area has been influenced for too long by some paternalism, so it is not so easy to change the perspective from which social workers see the welfare and interests of the child at once. It is not always easy to give up the attitude that children are not, due to their age, competent

partners in solving their difficulties, which legitimize the way we work, which we generally call „control“. On the other hand, the way the Ministry of Labor and Social Affairs transmits the concept of BICh to the workers themselves in practice can be considered as a partial problem. If we have to see the Methodological Handbook for Curators for Children and Youth as the main instrument, we must partly agree with the reservations of the informants they had against it. Without knowing the other context, it is not easy to create a coherent picture of the concept based on this handbook, which social workers should then apply in practice. Fortunately, this problem is not unsolvable. It will probably be more difficult to abandon the more conservative attitudes that prevail in the best interests of the child. It will probably be more difficult to abandon the more conservative attitudes that dominate the perception of the best interests of the child. At this point, we are concerned that on this count, Czech social work is a mirror of our entire society. Without public demand, this process of implementing the best interests of the child in social work practice will be slower.

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