

What legal regulations provide efficient child protection policy: Russian and Czech cases comparison

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Abstracts: Efficient child protection is viewed as the mechanism for achieving balance of child safety and family autonomy values in practice of intervention with children and parents. Intervention is divided into several stages: preventive work with families and children, crisis treatment and after crisis care. The consistency among stages is defined as the key criterion of intervention efficiency. Three elements of child protection legal regulations, public services' responsibility, legal status of child and legal order of decision making are justified as main frames for efficient child protection, and shortcomings of these regulations in Czech and Russian legislation are explored in context of contemporary issues of child protection.

Keywords: Child protection. Child safety. Family autonomy. Preventive intervention. Crisis treatment. Child placements' variety.

Resumo: Uma proteção eficiente à criança é vista como o mecanismo para o alcance do equilíbrio entre a segurança da criança e os valores de autonomia familiar em práticas de intervenção junto às crianças e pais. A intervenção é dividida em vários estágios: Trabalho preventivo com famílias e crianças, tratamento de crise e atenção pós-crise. A consistência entre os estágios é definida como o critério-chave para a eficiência da intervenção. Os três elementos regulatórios da proteção legal à criança: responsabilidade dos serviços de assistência, situação legal da criança e ordem legal da tomada de decisões são identificados como a estrutura principal para uma proteção eficiente à criança, as falhas desses elementos regulatórios nas legislações Tcheca e Russa são exploradas no contexto das questões contemporâneas relativas à proteção infantil.

Palavras-chave: Proteção à criança. Segurança da criança. Autonomia da família. Intervenção preventiva. Tratamento de crise. Variedade na colocação de crianças.

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Call to systemic approach towards child protection

Many countries run into problem of huge number of children in institutions. Two common explanations of this trend are widely distributed among public and practitioners: lack of preventive work and shortcomings of alternatives to residential care. But the process of decision making about child removal from birth family is usually excluded from discussion about child protection reform. The same time assistance to birth and/or substitute families and public care for children are often viewed as separate (and sometime contrary) parts of child protection policy (CPP). But the crisis intervention with family links these areas. It is reasonable to view on child protection in countries with huge number of children in institutions as continuity of following stages:

- prevention of families' crisis and child removal from family (supporting family in needs and general policy toward families' empowering);
- crisis intervention (intervention with family in case of direct threat for the child safety);
- after-crisis care (aftercare for the child placed into residential care institution or foster family; adoption process; family re-unification after child removal).

Table 1 presents the detailed description of these stages. The efficient CPP is distinguished by the high consistency among these stages. Consistency among stages is based upon several points:

keeping possibilities to back on preventive work stage after crisis and reunify family; make decision during crisis intervention taking into account previous efforts to treat with families; as soon as possible indicate the long-term stay for child removed from family.

The degree of continuity among stages depends on current dominant CPP values: child safety and family autonomy. Child safety includes various points: prevention child abuse and neglect, keep high standards of children's needs providing (first of all educational and health care) and implementation child right to be heard. Family autonomy means that parents are flexible in planning and fulfilling their duties and obligations towards child upbringing: they have equal rights for providing care for child, they have access to services' variety for the choice educational trajectory, and way of solving different issues, they are protected from oppressive intervention. Neither child safety nor privacy & autonomy don't play the predominant role according to relevant decision making, within *ideal* child protection both values should be taken into account. The main outcome of such policy is keeping balance between children's safety and respect to family life privacy. The key dilemma of child protection policy, "What is more important in doubtful situation: keep privacy and autonomy of family or implement intervention and safe the child though at the cost of privacy" can be successfully solved in context of such policy. But majority of current attempts

to establish sustainable prevention work have met huge difficulties.

In many countries the family intervention mostly is focused on the crisis treatment. The family crisis gives evidences that previous stages of the intervention with family were either insufficient or missed by different levels' practitioners (state policy, regional authorities' shortcomings, particular services' and specialists' mistakes). So the task of the legal regulations of crisis intervention is complicated. These legal regulations should provide distinct rules for services and specialists relevant to the principals of:

- prevention of services' over-intervention;
- providing promptitude of the treatment ;
- transparency of the intervention strategies (clear criteria of threats' identification, limits for possible and necessarily violation of family privacy, and etc).

Regulations of services' actions toward coping with the family crisis are internally contradicting – because services face both risks: being late and getting too many initiatives. The services' and professionals assessment procedures should be introduced into law due to this ambivalent nature of family intervention. The legislation should promote criteria for the evaluation of the services' previous actions implemented for crisis prevention. So the efficiency of crisis intervention links with previous and further stages of family treatment. The appropriateness of the child removal; the

chosen option for child placement as temporary as long-term; re-defining of parental rights and responsibilities – all these types of decisions are inevitable elements of crisis intervention, and should be implemented in context of the previous stage events' evaluation and further stage planning. And within legislation the continuity between different stages should be reflected through the definition of services' responsibilities on each step of treatment with families. The balance between family and services' responsibility would be achieved only if crisis intervention can be viewed as one of the stages of family intervention.

Child protection in post-transit countries: fallacy of reform focus?

Central Eastern Europe (CEE) countries have been struggling against *orphanhood* for last twenty years¹. The definition *orphanhood* represents nothing for Western Europe – maybe only charity foundations and partners of international projects realize the content of this concept. Orphanhood based on the Greek origin word *orphan* and denotes the social trend when numerous children don't have access to family care though their parents are alive – in most countries this concept doesn't use, but in Russia and some former socialist countries the issue of *orphanhood* is one of the most popular topics. It is possible to compare the *orphanhood* with *disability*

¹ Tobis D. (2000) Moving from Residential Institutions to Community-Based Social Services in Central and Eastern Europe and the Former Soviet Union, The World bank, Washington D.C.

concept – both were constructed by society and academics under the influence of stereotypes and prescriptions toward looked-after children, institutions, specialists involved in public care, and etc. This concept is focused on crisis and post-crisis intervention and smoothes the issue of services responsibilities on earlier stages. The orphanhood approach opposes placement into substitute family and residential care system. The first option is viewed as the unconditional good for children, but the second as the objectification of the evil. This position doesn't support alternative to public care forms of CPP – because stigmatization of institutions produces a lot of stereotypes referred directly to children with experience of such care.

Family placement, adoption and fostering become the priority of fighting against orphanhood, but the dropping of the removals and increasing families' reunification as the indicators of the *orphanship* prevention stay on the outlying areas of family policy. Statistic of former USSR countries and some of CEE countries gives the evidence that struggling against orphanhood hasn't declined the number of children in institutions – in countries like Poland, Czech Republic, Slovakia, Russia last fifteen years the number of children placed into institutions has been increased. The additional evidence for the insufficient CPP is the appearance of the cases against these countries in European Court on Human rights (ECtHR) related to the issues of children's removal and their placement

into institutions². More than 35 cases referred to indication of legal or illegal removal were communicated by ECtHR, and in majority of it's the court made decision about violation of the right for respect to private and family life.

Judgments of these cases stressed the issue of lacking preventive work with families – this criterion was introduced by the court for cases evaluation. All these countries have been producing a lot of changes in legislation for last years and the impact of these changes on CPP should be evaluated. there are two judgments versus Czech: in case *Wallov and Walla v. Czech Republic*, 2006, the inappropriateness of child removal from families in due to financial issues was established and involuntary placement of Roma children into institutions (*D.H. and Others v. Czech Republic*, 2007) was indicated as discrimination against ethnic minority. Both cases stress obvious shortcomings of existing procedures of crisis intervention and narrow range of measures of preventive work with families. In despite of international actors' intentions the situation can be characterized as critical: number of children in boarding schools hasn't been dropped off as well as number of strengthen interventions aimed at children's removal. At the beginning of 2010 Russia had got ECtHR judgment for *Kuimov* case about illegality of parental rights termination

² Annual report 2001, Registry of European court of Human rights, Strasburg, 2002, p. 45; Annual report 2002, Registry of European court of Human rights, Strasburg, 2003, p. 65; Annual report 2004, Registry of European court of Human rights, Strasburg, 2005, p. 73

in case when parents are against medical treatment with child.

In developed countries the three-stages cycle of family intervention doesn't operate enough efficiently too. Nobody disagree that it is better to prevent crisis

intervention than bring it into action, but there is no country, no social service, no family policy's profile obtained the issue of crisis intervention in total. The UK introduced new legislation based upon the

Table 1 - Stages of intervention with children and families

Criteria	Stages		
	Preventive work	Crisis intervention	After-crisis care
Aim and planning outcomes	Stop to aggravating child life conditions, ensure family's empowerment and improve networking around child and family, prevent child placement into residential care system	Save child life and health; make primary decision about child status and parental rights status in context of child best interests	Placement child into substitute family as prior form in case of impossibility tore-unify birth family Rehabilitation of child, parents and surrounding
Balance between child safety and family autonomy	Family autonomy is the priority of services' activity, indirect intervention is predominant: wide range of services and types of assistance are accessible	Decision making takes into account the conflict between child safety and family autonomy through either contesting procedures and legal order or negotiation and services' efforts to keep intervention as voluntary	One placements (residential care, foster care) better provide safety in order to openness to public control and professionals' participation in family and child life, others are focused on family autonomy (kinship care and adoption)
Services' participation	Intervention is voluntary and	In accordance with prosecution office and	Transparent decision about permanent placement is

(degree of intervention)	<p>could be implemented within agreement with family</p> <p>Indirect intervention is predominant: through working with professionals and families' members from child neighborhood</p>	<p>other services social services have got rather significant power for decision making including involuntary treatment or providing arguments for such treatment</p> <p>Services achieve acceptance by parents decision making through mediation and negotiation or provide legal aid for parents in case of family disagreement with strategy of crisis intervention</p>	<p>made by boards and courts with indication of possibilities to appeal the decision by parents, particular period of decision making legitimacy and conditions of decision restatement</p>
What does law regulate	<p>Parents'/ legal representatives /child's right to get aid, assistance and advice</p> <p>Right to reject the offered assistance</p> <p>Gathering information about children and families at risk</p> <p>Legitimation of families & children at risk criteria</p>	<p>How to indicate the situation as the crisis requiring immediate intervention (criteria and procedures of assessment)</p> <p>Child removal from families (decision proceeding and criteria)</p> <p>Evaluation of services' activity on previous stages as factor of the situation aggravation</p> <p>Short-term and temporary placement of child after removal</p> <p>Social services and courts communication</p>	<p>Adoption, custody, kinship care foster care and residential care standards (towards providing children's rights on the same appropriate degree within each of placement types)</p> <p>Communication between child and biological parents in case of child placement into substitute family or institution</p> <p>Public control under residential care units</p>

		<p>Legal and administrative order of decision making</p> <p>Limitation of parental rights</p> <p>Definition of child-parents' communication during decision-making process</p>	
Types of services	<p>Family visiting services, variety of educational centres for children with special needs (diploma inclusion instead placement into boarding schools);</p> <p>mediation and probation services for under age people in conflict with law instead correctional institutions;</p>	<p>Centres for temporal placements, shelters, short term foster care, assessment services</p>	<p>Various types of residential care units, services for substitute families' support including preparation and further accompaniment of such families</p>

European convention of Human Rights in 1998 and transformed the practice of intervention with families according to new values and principals, and after 7 years social workers become to criticise the system for the lack of timeous

treatment³. The new legislation and relevant design of services failed the task to keep balance in solving the dilemma

³ Munro E.R., Ward H. Balancing parents' and very young children's rights in care proceedings: decision-making in the context of the Human Rights Act 1998 //Child and Family social work, 2008, No 13. P. 227-234

privacy vs. safety. In the USA the decennial period of family-centered services dominance was dramatically finished in 1998 when the new law rejected previous soft policy toward parents and families⁴. The analysis of both reforms' contradictions give the understanding that new approaches are no thoroughfare for social policy, but can't be universal approach to CPP implementation⁵.

The task of minimisation the need of crisis intervention as the main source of increasing number of looked-after children can be solved only on context of the improving the cycle of family intervention on each stage. The presence of legal regulations is necessary, but not sufficient condition for better providing child protection policy. But if shortcomings start on ground level as gaps of legislation, what are consequences for the practice? What is the impact of legal regulations on the consistency of the family intervention? What should be regulated by legislation on each stage? What are consequences of the legislation's shortcomings? This article is aimed at finding answers on these questions for contemporary Czech and Russia.

Both countries demonstrate the highest rank of children placed into institutions for last ten years within their geopolitical groups (Czech among Central Europe countries, approximately 6 children on

1000 under age population are placed into residential care units, and Russia among former USSR countries, 12 on 1000 under age are in institutions). In period 1995-1999 the number of parental rights termination in Czech had been increasing rapidly, from 128 people in 1995 to 311 in 1999 – the same period the number of cases of custody of relatives was increasing, but other forms of substitute family were not developed. After the acceptance of the new law, About social and legal protection of children in 1999 for next three years the number of termination of parental rights had been declining, but in 2003 this number rapidly grew with the number of children placed into institutions. Courts implemented the limitation of parental rights rare than the termination – less than 6-7 times for the period 1994-2007⁶ (MPSV, 2007). Statistic data gives primary understanding of the scope of the superfluity of services actions in modern Russia. The number of children whose parents are terminated of their parental rights has been increasing since 1996 in Russia. In 1996 the number of children whose parents lost their rights consisted of 46526 people, and in 2006 r. this number was 74141. 70% of these children lost both parents. Among them a little more than 10% were removed in situation of direct threat to safety and health. Only 4% of parents lost their rights because of abuse and physical violence under the child. So majority of parental rights termination in modern Russia is linked with the first of grounds given in Family Code – not sufficient providing of parents' obligation⁷ (Federal agency

⁴ Stein T.J. The adoption and safe families act: Creating a false dichotomy between parents' and children rights //Families in societies: The journal of contemporary human services, vol.81, Number 6, p. 586-592

⁵ Henricson C. Governing parenting: is there a case for a policy review and statement of parenting rights and responsibilities? //Journal of law and society, Vol.35, No 1, March 2008, pp.150-165

⁶ MPSV, statistic data, 2007

⁷ Federal agency Russian Education (2007). *Data about children and adolescents without parental care*,

Russian Education, 2007). It argues that superfluity of services is the one of the basic factor of increasing number of looked-after children in modern Russia. Both in Czech and Russian legislation criteria for parents' evaluation are based upon moral features, but Czech legislation stresses the relationships between child and parents as the key factor for the trial judgment⁸.

In both countries the aim to reduce number of children in institutions could be taken as national idea, and a lot of attempts are implemented for this aim's achievement, but all have been failed. But not only current common issues justify the appropriateness of comparison. These countries obtain similarities as well as differences. Czech and Russia within their reforms are focused on transformation of residential care and miss the necessity to change procedures if decision making within crisis intervention. The same time positive treatment with birth families stays out of mainstream. But all these similarities don't provide possibility to work out universal way of reform for these countries – in due to distinctions between existing legal regulations for each stage of child protection. The further exploration indicates main contexts which are significant for specification reforms in countries with similar contexts.

Intervention with family: principles

Crisis intervention is the most contradict stage of social work with families in industrialized societies: practitioners run

into conflict between two catchwords of child protection, child safety and family autonomy. Child safety is key priority of crisis intervention: lack of social standards embodiment, suspicion in abuse and neglect by legal representatives, missing child right to be heard are arguments for limitation (to the extent of termination) immediate child removal from family and proceeding rights of people responsible for child. The child safety is very well presented in national legislation of industrialized countries as the ground of child protection. But the same time the right to respect for family and private life should be taken into account during crisis intervention. This right includes providing the reasonable expectation of privacy in keeping confidentiality and autonomy – as the right to choose the way of life and implement one's own capacities. The article 8 of ECHR denotes on states obligation not only prevent the private life right violation, but improving this right protection by various public services. Intimacy, emotional ties, attachment are viewed as conventional values. At moment of child removal from family this right should be violated in best interests of child. And efficient crisis intervention is developed towards balance between these values. And following principals of crisis intervention are based upon the balance between child safety and family autonomy:

Prevent the superfluity of services' action. Superfluity of services produces a lot of risks for the violation of the right to private and family rights. Taking the child from family by services in context of better providing child interests is the most repeated case of family right violation, because the tie between child and relatives

Forma No 103-RIK, Federal state statistic observation, Moscow: Rosobrazovanie

⁸ Rychlík D.(2008) Jak se změnila činnost sociálních pracovníků v sociálně-právní ochraně dětí? *Pravo a rodina*, 05, S.16

(if it exists) has dismissed⁹. The evaluation of parents' risk behaviour requires opinions' competitiveness (there is no monopoly to judge about parents' ability to bring up the child) and transparent criteria for parents ability evaluation. Child and parents' opinions should be taken into account by decision makers and participative approach to the decision making should be advanced. And the previous activity of social services toward the prevention of risk situation appearance should be evaluated as the factor of current crisis.

The promptitude of the treatment can be understood in twofold way: on one way, the time and previous efforts' appropriateness of services toward preventive work with families, on the other way, the quality of data collection related to families and children need assistance and monitoring. The evaluation of previous services' efforts consists of the one key condition for European court of human rights in cases referred to the violation of parental rights and child right to family life. The data collection should be based on the interagency collaboration and the rule of expanded advisory board decision making when the duties of child rights providing are distributed among various services and bodies.

The transparency of services intervention means that parents realize consequences of the each of option and identify the link between their one's own efforts and types of social services actions. The reestablishment of lost parental rights, the reunification of the birth family, the

proportion between control and support by services should be fixed in the legislation and practice of the intervention with families. The transparency means the access of parents to legal aid in case of their disagreement with services' decision to take child from family, involuntary intervention with parents and children or parental rights' limitation.

The relation between principals of the superfluity prevention and promptitude of the services' actions can be mutually conflict. Specialists meet the dilemma "Intervene with family or not?", "What is more dangerous for the child well-being, the risk of violation of right to private life in case of intervention or the risk to miss the violence against the child?" – so there are two different discourses related to legislation and practice of intervention for the obtaining these questions, traditional, based upon the idea of the right of state to treat family in cases when parents don't correspond to the requirements of "good parenting" and the post-modern discourse reflecting the humanistic approach to family intervention and fixed in the European convention of human rights and judgments of European court of Human Rights¹⁰. The first more traditional discourse promotes the child safety as the basic principal for child policy, but the second is focused on family autonomy. The comparison of discourses is presented in Table 2.

In this context the impact of the legislation on the intervention with children and families becomes extremely important for field social workers and other helping

⁹ Key case law issues (2007) The concepts of private and family life, European court of Human Rights, p 3, 4

¹⁰ Moloney L.. (2008) The elusive pursuit of Solomon: faltering steps toward the rights of child. *Family court review*, vol.46, No 1, p. 39-52

professionals, as far as the recognition of discourses' difference gives the arguments for the diversity of family intervention types, and this variety can be implemented only in case of consistent child protection policy.

Traditional discourse plays the more significant role in majority of countries with child protection developed under industrialization process. Czech and Russia are akin to many others countries in predominance of traditional discourse, but in comparison with developed countries the post-modern discourse doesn't operate as alternative towards traditional, and crisis intervention with families misses the role of right to respect for private and family right.

Legal fundamentals for the principals' implementation

The prevention of services actions superfluity, achievement of the prompt treatment and transparency can be achieved through three interconnected ways:

- establishing the legal order for decision making when either court or transparent administrative board explore the case in participation of parents and children (support of contentions of the decision making process),
- formation of the legal status of the child, parents, and services through development the network of institutions of guardians and associations aimed to present interests of each participant of the situation of intervention;
- operating by the diversity of options for decision making (services operate the range of measures toward regulation parents' rights and placement of children in context of keeping chances for restoring of the birth family).

Table 2 - Traditional and post-modern discourses of child policy

Criteria for comparison	Traditional discourse	Post-modern discourse
Meaning of childhood	Preparation for future, the period of intensive socialization	Here and now life of children, childhood is meaningful presence
Role of parenting and key criterion for parents' evaluation	Key actors of child upbringing, efforts of child integration into society	Emotional tie, providing experience of autonomy and protection of one's own private life

Role of social services in child protection	Control and monitoring under families, intervention at time	Preventive work at time, mediation process, working on consensus
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Legal order of decision-making in crisis intervention

Experience of developed countries justifies the importance of transparent procedures of decision making in case of crisis intervention: when services indicate pro and contra arguments for child removal from families. In countries with Anglo-Saxon profile of child protection this transparency is provided by legal order: the court views the case, and contesting between services and parents protects the arbitrariness against child¹¹. In countries with Nordic profile of child protection appeal to court is viewed as last resort measure: services should present their plan of further intervention with both children and parents to special interdisciplinary and interdepartmental board before making decision to remove child, and the main task of services is to provide acceptable decision for all participants of case. In case of parents' disagreement with the services' decision to remove child legal aid for parents is provided as well as legal order for the case exploration¹².

One of the huge gaps of the Russian legislation is the missing of legal order in cases related to the child removal from families and transfer child placed into institutions from one type of unit to other.

¹¹ Cull L.-A., Roche J. (Ed.) The law and social work. Contemporary issues for Practice Palgrave, England, 2001

¹² Child and family policy Social policy in Denmark, Ministry of Social affairs February, 1995

According to the article 77 of Family Code in proximate treat to safety and health the child should be removed by Custody and Guardianship Commission officers, who sent the statement to the prosecutor office. For seven days the Commission has to prepare the application for the court about limitation or termination of parental rights. In October, 2008 the Russian parliament discussed amendments to Family Code – the main suggestion was to change the procedure of child removal and introducing legal order instead current rules giving unreasonably wide authority to the commissions, but this amendment was not accepted. But legal order is missed not only in case of child removal decision making.

The absence of legal order is the most important issue for children placed into residential care system. According to the legislation the legal guardian of the looked-after child is the head of the residential care. The head of the institution makes the decision about placement child from institution into mental health clinic and transfer child from one institution to other (usually from institution for “normal” children to institution for children with special needs, and these institutions are out of diploma inclusion standards) .

In Czech republic there are two main mechanisms of decision making related to children rights protection: legal order (when court makes decision) and expanded advisory board of all bodies of

social and legal protection of children rights established by local authorities. The Ministry of social affairs and health certifies services for implementation various types of assistance to families and children. The children removal can be implemented by social services and police – in both cases court judgment is necessary. The risk of services' superfluity had increased after the entry into the force the new Legal Act about prevention domestic violence (*Zákon na ochranu před domácím násilím*) in 2007 – according to this act the police was authorized by huge power to separate the aggressor from the family, limit direct contacts between parents and children through removing the child from family, and etc...But the legal order gives some limitations for the possible arbitrariness from police side.

In both countries the network of institutions aimed to present child interest is not developed. The advocacy of children should be based upon the multi level system of institutions providing the right to be heard (for instance like the institute of guardians in Germany¹³), and this system depends on readiness of professionals to take into account child opinion. This position can be got by professionals in case of post-modern discourse of children's rights establishing¹⁴.

¹³ Stötzel M., Fegert J.M. The Representation of the Legal Interests of Children and adolescents in Germany: A Study of the Children's Guardian from a Child's Perspective //International Journal of Law, Policy and the Family 2006 20(2) pp. 201-224

¹⁴ Forsberg H., Vagli A. The social construction of emotions in child protection case-talk // Qualitative social work, No 5(1), 2006. P.9 -31

Legal status of the child in crisis intervention process

The comparison between Russian and Czech legal regulations identifies one more condition of the prevention of services superfluity – the legal status of the child which provides child right to be heard. The Russian legislation provides not enough guaranties for the child right to be heard in such circumstances. Minors under age (the age of legal capability is 18 years, and exception is done only for young under-age people in marriage and in case of emancipation if the young person elder than 15 , but under 18 years old has the contract – they purchase the status of capable individual) are viewed like legally incapable or partly legal incapable, it means that they couldn't present their interest and need guardian or legal presenter.

The right to be heard depends on custody and guardianship commission suggestion - if the commission considers that the child presence in court can be traumatic for the child, the (s)he wouldn't be invited to the process of decision making. The right to be heard is extremely limited for the children placed into residential care institutions – the legal representative for these children is the heard of institutions, and there are no special independent services for providing advocacy for children under public care. In many cases when volunteers identified the children rights' violation in institutions there were no options for calling authorities to account. Mostly these cases are referred to the transfer the child from mainstream children's home to boarding school for children with SEN and from this school to the residential care institution for children

with multiple disorder of development¹⁵. The inappropriateness of such decisions can't be disproved, because the monopoly of decision-making of special panels and the status of the child prevent all attempts to use legal order for the providing children's interests.

Following for the UN requirements and ECHR implications Czech legislators established the child right to be heard by authorities and require the taking into account this point in several acts: in the law about the family there is the definition that the child has the right to get the information and present one viewpoint related to the any decision by parents (legal representatives) (article 31, *Zákon o rodině*¹⁶). The court is obliged to hear the child viewpoint and prevent any oppression by relatives or other interested people (the court is responsible for providing child position without any negative consequences for the child). Supplementary guaranties of this right are provided by the Law about residential care for children (*Zákon o výkonu ústavní péče*, 2002).

The protection of the child status in Czech legislation substantiates the meaning of legal procedures for decision making in cases like removing the child from family, limitation of parental rights, placement child into institution, transfer of the child from one institution to another, and etc. If the child has the right to be heard this right can be implemented only within trial

process. And if the legal procedures are missed in decision-making related to child removal and limitation of children's rights in further situation, there are no any guaranties for providing the right to be heard.

In Czech the child legal status is provided independently from the child legal representative position (doesn't matter who is it, parents, adopters, guardians, etc – the law provides equal guaranties for child under the various type of the custody). So children from birth families, substitute families and residential care approximately have the equal standards of rights' protection, but procedures related to this right implementation are still not clear for social workers.

The other significant difference between Czech and Russian legislation is the limitation of parental rights, and the defining of parents' status in case of child removal – in Czech parents in mostly cases keep their rights and the opportunities to re-establish complete set of rights. Children placed into institutions stay under parents' responsibility partly, that's way the violation of the children's autonomy is reduced. In Russian legislation there are no special guarantees as keeping parents' rights partially for children removed from families and placed into institutions, whose parents lost their rights.

Regulations of services' responsibility

Developed countries demonstrate rather fruitful and long history of regulating services' responsibility. Services' responsibilities provide conditions for taking into account perspectives to further

¹⁵ Schmidt V. Orphan care in Russia Social work and society, 2009

http://www.socwork.net/2009/1/special_issue/schmidt last update 18.06.2010

¹⁶ In the same article of this law parents' responsibilities and child right to be heard are established

reunification of birth family, because in case of over-intervention by services with child, family could be recognized as having more potentials. Crisis intervention requires identification of the services and bodies authorized for the making urgent decision about intervention with families. In different countries social services, courts, prosecution offices, police can be allotted by this function. The legislation identifies frontiers of services' power and responsibility for decisions related to crisis intervention¹⁷. The legislation of the Great Britain, Scandinavian countries and Germany regulates the services responsibility of the shortcoming in efforts on prevention stage. In Czech republic and Russia this direction of legal regulation doesn't present on appropriate level.

Only in point 21 of the Supreme Court of RF plenum assembly No 10 is defined that: "Courts shouldn't set aside facts of out-of-time decisions by Custody and Guardianship commission related to the child removal or parental rights treatment, courts obey to give feedback on such cases by interlocutory order". This recommendation is the single rather weak attempt to establish the system of Commissions activity monitoring and provide the continuity between the stage of prevention work and stage of crisis intervention. This option is not common used by courts because they don't have

clear criteria for evaluation as parental capabilities asocial services' actions.

The order of information collecting about children and young people rights' violation is done in the 120th Federal law About grounds of children's neglect and delinquency prevention, the article 9, point 2 distributes obligations about among various bodies: prosecution office – about violation of rights and freedoms of young people; local authorities and boards of young people affairs – about violation of rights to education, housing, leisure, others, and shortfalls in services and bodies activity focused on prevention neglect and delinquency (in this part it means that these services should monitor themselves, because on local level boards on young people affairs are responsible for the prevention); guardianship commissions - to display young people out of custody or living in family, dangerous for life, health or impede appropriate up-bringing; departments of social protection – to display families need allowance. This division produces problems for the whole evaluation of the family situation – if there is the case of violence of the child this situation would be viewed by prosecution office and police, and other sources of information related to families' issues can be missed. This order shapes the situation when the impact of family background wouldn't be taken into account.

The lack of division between private life and public care prevents the development of legal grounds for services' responsibilities in modern Russia. In the article 9, point 4 of the 120 Federal law About grounds of neglect and delinquency prevention there is the statement equalized degree of

¹⁷ Stein T.J.(1996) The adoption and safe families act: Creating a false dichotomy between parents' and children rights *Families in societies: The journal of contemporary human services*, vol.81, Number 6, p. 586-592

responsibilities of parents and services: Civil servants, parents or legal representatives incur liability for the violation of young people rights, the non-fulfillment or not sufficient fulfillment of obligations related to up-bringing, education or care according to the order of Russian Federation and RF subjects legislation. This statement can be interpreted as the primary obligations of parents, not services – if parents didn't implement their obligations, services are short of resources to provide one's own duties. This position argues the restrictive approach to child removal and parental rights termination in modern Russia.

The total termination of parental rights is not typical for the child care practice in Czech – so the regulation of services' responsibility is called for the improvement of the stage of preventive work, but in Russia gaps of this regulations influence upon the services arbitrariness toward parents and their rights. The institutional design of CPP in Russia is characterised by the unification of the functions – for example Custody and Guardianship Commissions make and implement decisions related to various situations (and not only towards young people, but elderly, people with mental health problems) according to the Law about Custody and Guardians. This wide range of functions limits options for preventive work. In Czech republic the organizational design develops the opposite way – there is the high degree of services' specification and the same time the huge disconnection between them¹⁸. Both situations produce a lot of limitations

for the professionals' reflexivity, understanding limits and possibilities of their positions – all that conditions which provide the development of services' responsibility concept and it's building into practice.

Options of crisis intervention strategies

The analysis of existing experience of intervention with families in different countries identifies several options for specialists in case, when the keeping child in family can't be safe. These options can be classified according to treatment with child, and treatment with parents (see Table 3).

Options of the total strategy to family intervention are formed like the combination of the intervention with child and treatment with parents. For example in Great Britain all options are available and the judge can identify various conjunction of options¹⁹. The presence of several options provides the efficient solving of the dilemma "right to privacy vs. right to be saved". The choice of options can be regulated by court judgment, by prosecutor officer decision or social work decision, in any case social service should present their position related to the most favorable option according to their opinion. The services' opinion becomes the key factor for the actions of other participants.

In some countries the choice of options totally depends on outcomes of family and child assessment, but in others - on the services' action too (like in Great

¹⁸ Rychlík D. (2008) Jak se změnila činnost sociálních pracovníků v sociálně-právní ochraně dětí? Právo a rodinná, 16 05

¹⁹ Dickens J.(2008) Welfare, Law and Managerialism, *Journal of Social Work*, Vol. 8, No. 1, 45-64

Britain, Scandinavian countries). And what is more important such decision making is related not only to children's rights and parents' duties, but services' obligations too. During the process of decision making the responsibility of services are identified through the assessment of services actions before the case appearance and through the working out the plan of action, its' implementation after the moment when the decision has been made. The ECtHR recommends evaluate services' actions (through using the special test for evaluation sufficiency of services efforts before), and fact of actions lack in cases of child removal can be the ground to restrict services²⁰. So in developed countries and in judgments of European court the choice of options depends on previous services' actions' evaluation. This link provides the continuity between preventive work and crisis intervention.

There is the direct tie between the regulations of services' evaluation and the using of diverse options of treatment with parents and children. In countries with well-established tradition to assess the impact of services' actions on crisis appearance judges and other professionals prefer to operate by the variety of options for treatment with children and parents, and vice versa in countries missed the regulation of services' responsibility decision making is subordinated by narrow set of options. Both Russia and Czech Republic can be referred to the second type of countries.

Legal regulations of intervention with families

Legal fundamentals related to the variety of options of intervention with children and families are spelled out in 120 Federal law about grounds of neglect and delinquency prevention (*sistemy profilaktiki beznadzornosti i pravonarusheni nesovershenoletnich*, 1999). This law is based upon the definition "young person in socially insecure situation" which means that "this person is either in inappropriate for adolescent needs circumstances which dangerous to health or in situation not relevant to requirements toward up-bringing in consequence of neglect and lack of care or committed offence/anti-social action". So the law equalizes the situation of neglect and the case of delinquency – and current system of child protection offers similar way of intervention – residential care, for children out of parental care – children homes, for children under 14 committed offence – special boarding schools. Then the law defines "the family in socially insecure situation" like "family with young person in insecure situation and/or family in case when parents (legal representatives) don't implement their obligations related to the young person up-bringing, education, care and/or negatively affect on the young person". So, the understanding of family in needs is totally referred to child needs, that's why parents' personal issues are taken into account only in context of child issues.

²⁰ Annual report 2002, Registry of European court of Human rights, Strasburg, 2003, p. 64-65

Table 3 - Strategies of intervention in crisis situation

Options for the intervention with child	Options for parents
<ul style="list-style-type: none"> • taken from family and placed into institution of residential care (shelter, children's home, boarding school); • taken from family and placed into foster family; • taken from family and placed in relatives' family; • kept in family; • the semi-fostering in some countries is possible when the child can be placed in special centre like day centre, but spend with birth family nights and other forms of mixing residential and family types of placement. 	<ul style="list-style-type: none"> • criminal investigation related to the case of abuse and neglect • treatment of parental rights • temporary limitation of parental rights; • partial limitation of parental rights • abeyance of parental rights; • involuntary treatment – parents may keep their rights only in case of special treatment relevant to the features of case (in case when the child would keep within family it would be family visiting, in case of temporal removal it may be medical treatment, psychotherapy and etc...); • mediation as the three sides process involved child, parents and services • voluntary treatment – that primary signal about unsafe situation for child has failed, but services recommend parents to ask some types of assistance, and in future the(non)-implementation by parents of these recommendation can be viewed as the (dis)advantage • the absence of intervention with parents – for example in some countries the adolescent with deviant behaviour can be placed into special boarding school .

The follow definition from this law, "individual preventive intervention" identifies that the aims of social services relevant to the paternalistic policy profile too: "individual preventive intervention is the system of actions directed to

forehanded identification of young people and families in socially insecure situation, to social-pedagogical rehabilitation and/or prevention of commitment offences by adolescents". The law describes main options of such

intervention focused on placement of the young person or child in relevant residential care centre. The law stresses the involuntary nature of individual preventive intervention, in the article 6: the individual preventive intervention can be implemented on the authority of court ruling, judgment or resolution; resolution of the board of young people affairs, prosecutor, legal investigator or head of internal affairs office; report by head of relevant body (department of family and children affairs, youth affairs and etc – according to the local authority specific) based upon results of bill of complaint examination or other information relevant to the case. The intervention can be begun upon application of child or parent (legal representative or other relative), but the content of intervention doesn't change: mostly it will be placement into residential care institution.

The appropriateness of involuntary intervention established by the law is validated in the article 5 which defines the behaviour patterns of young people given arguments for implementing the restrictive strategy. The set of these patterns is rather wide. Prevention of family crisis when early intervention is possible are not regulated by this law and not included the set of obligatory actions for services, so the main criterion for services efficiency given by post-modern discourse, the efficiency of family destroying prevention, is missed on legal level.

In Czech republic the law about socially-legal protection of children was established in 1999 too (*Zákon o sociálně-právní ochraně dětí*). The main

task of this law according to the first article is the sustentation of various efforts toward surviving family (§1, od. 3). The priority of up-brining in birth family or with relatives correlates with some articles of the Law about family [*Zákon o rodině*, 1999].

The Czech law identifies four target groups for special intervention:

- children transferred from birth families to other people in case of not enough care from birth parents side;
- under age young people in conflict with law and asocial behaviour patterns (neglect their school duties, chemical abusers, etc...)
- ran away from families or legal representatives or institutions;
- under age young people against whom the crime was committed [*Zákon o sociálně-právní ochraně dětí*, 1999, od. 6]

All measures related to intervention with children and families are divided in this law into three options: the general preventive work; timeous identification of children in needs and primary preventive assistance; the monitoring under the children after the placement into institutions and families. The family education, organization of young people leisure time and individual approach to family assistance are established as obligations of federal and local authorities. Primary intervention includes various methods: family conferences, family visiting services, individual counseling with children and parents. The after-crisis intervention is divided in the law into several options

related to the type of the child placement.

The other type of links provided the continuity between stages is the regulation of communication between child and parents on the period of child separation from family. This regulation is referred to the decision about child and parents treatment. The communication between child and parents can be

- prohibited until the court judgment;
- limited by the number and duration of meetings;
- be free, but under the regular service monitoring.

The choice of the child-parents communication regulation is stipulated by the previous choice of intervention with parents and child, and it means that the core meaning of the right to private and family life, the keeping of the tie between children and parents, can be provided only in case of the supporting the variety of intervention' strategy. According to the criterion of children-parents communication the Czech and Russian legislation are quite different. In Russia parents lose all their rights, and communication with the child is extremely limited, but in Czech there is the special form of adoption when the birth parents keep the part of their rights and have chances to restore these rights. So Czech legislation doesn't prohibit the communication, but practically social workers of institutions and local authority don't implement special efforts directed to reunification of families.

Options for intervention with children

The main argument for the justification of the variety of the options for the child is the accepting of the dilemma of two most important rights, right to private and family life and right to safety. The family placement forms like adoption, reunification of the birth family and some form of kinship care better provide the right to private and family life. But well organized residential care, foster care, and custody of non-relatives under the stronger supervision by services better provide the right on health and survival²¹. Family focused forms of placement have more risks in due to limitation of services' access to family, but public care and professional fostering are short of providing autonomy and confidentiality which are important for the child development too. Experts from the UK consider that all forms of child placement can be justified, and the diversity is more reasonable than the priority of some forms²². The variety of child placement options reflects the acceptance by professionals all risks of the dilemma "private life vs. safety".

It is important to stress that in Russian and Czech legislation this idea was not totally accepted. In Russian legislation it stressed that the adoption is the higher-priority among other forms of children placement (article 124, Family code), and in Czech legislation the placement into

²¹ Munro E.R., Ward H. (2008) Balancing parents' and very young children's rights in care proceedings: decision-making in the context of the Human Rights Act 1998 *Child and Family social work*, No 13, pp. 227-234

²² M. Ryburn (1994) *Open adoption: research, theory and practice*, Great Britain, Ashgate publishing

relatives family is viewed as one of the best options in case of impossibility to stay child with birth parents. The preference of "privacy" focused forms of family placement by both legislations doesn't mean that the value of privacy has been totally accepted in these countries – because the number of children placed into institutions is increased in Russia and Czech republic last years, and it means that risks of the violation of child autonomy and limitation of parents' potential to return the child are dominated too. The other reason to doubt in intention of Russian authorities to promote privacy life through supporting adoption is the arguments for adoption given by authorities. Like in the USA many officials consider that adoption is the cheapest decision making for the children out of parental care – instead fostering and residential care adoption according to officials opinion doesn't require special services for children and conditions of child upbringing would be similar with the birth family. But in modern Russia in distinguishing with the USA nobody presents the position that when authorities support adoption they advance the cut of budget on social services for families only - don't think about better providing rights.

In Czech republic the status of foster care is rather contradicting – on the one hand in the legislation this type of care is viewed as the way to minimize the negative impact of residential care on child deprivation²³. On the other hand in

the Conception of family policy the foster care is identified as the option of family placement of that child who couldn't be adopted (on different reasons than in Russia – first of all according to their parents rejection to put off their parental rights). Professional parenting is rather new idea for Czech social work, and this type of public care is not linked with other forms and what is more important with the stage of preventive work with families and the stage of after-crisis care. The definition of foster care (pěstounské péče) is focused on individual and group forms of fostering: sos-kinderdorfs, small children's homes are viewed as the forms of foster care too²⁴.

The division between child placement into public care services or into kinship care is based upon some factors. Firstly, social workers can be managed by the idea to find the option nearest to family placement (like in Czech republic). Secondly, like in Great Britain social workers can choose the placement according to the assessment results of disorder of attachment (if it would be established that the child suffers from such disorder the decision makers would prefer to place into public care institution). Thirdly, in the USA child can be placed into relatives' family if this family demonstrates intention to take this child on custody. The semi-fostering is provided mostly in cases of intervention with families having child

²³ Spešiánová S.(2009) Práva a povinnosti pěstounů při zajištění zdravotní péče o děti

svěřené do pěstounské péče, *Pravo a rodinna*, 10, S.1-6

²⁴ Alena Michalová (2008) Vznik pěstounské rodiny v praxi *Pravo a rodinna* 22 01

with special needs or families from minorities' communities.

The correlation between child age and distribution of different forms of family placement gives the evidence that more than half of children placed into substitute families were older than 7 years old (59,7% from the total number of all placed children) in Russia. But the number of children the same age placed into institutions was more than 1,3 times than number of family placed children. As for the children under 7 years old approximately the same number of children were placed into institutions and substitute families. As for the children under 7 years old they are taken on adoption and guardianship by non-relatives, but the predominant form of family placement for children older 7 years remains the guardianship by relatives – 73,6% from all family placed children of this age were granted to custody by relatives²⁵.

Both countries are distinguished particular negative attitude toward residential care institutions and the same time the dominance of this form of the child placement in comparison with other countries. Placement into institutions in contemporary Russia takes a lot of risks of private life right violation. In part of the child autonomy residential care institutions have the trend to remove children from the institution with better options for education and further job placement into

institutions with limited possibilities until the total impossibility to get the educational needs. Children can be placed into mental health clinic – and according to the opinion of independent experts without sufficient reasons²⁶. In Czech Republic the main negative consequence of the placement into institution is reducing of the child chances to be placed into family²⁷.

Parental rights regulation

The main question referred to parental rights regulation is the question of the balance between parents' and services' responsibility to care for the child. The set of parents' obligations and duties is huge, and the question is "Can parents implement all required duties or not?" and "What duty non-fulfillment means that parents should be limited in their parental rights?". Two different approaches give the answer to these questions. The one, traditional stresses the family duty to fulfill all children needs, because family has the access to state maintenance, benefits, and etc (or because the family is the best environment for the child growth). But other approach stresses the impossibility to meet all child' needs which means that

²⁵ Federal agency Russian Education (2007). *Data about children and adolescents without parental care*, Forma No 103-RIK, Federal state statistic observation, Moscow: Rosobrazovanie

²⁶ The interview with the head of the Department of clinical psychology of The centre of mental health, Russian Academy of medical sciences Sergey Enkilopov, the <http://www.nashi-deti.ru/interviews/10/>, the date of last appeal is 12.03.2009

²⁷ Novotná Vera (2008) Sociální práce s rodinou při poskytování sociálně-právní ochrany dětí Pravo a rodina 1 08

social services are obliged to assist to families²⁸.

On legal level in contemporary Czech Republic the regulation of parental rights is referred to next following forms of the child placement and “the degree” of probability to keep parental rights in future.

So judges and social workers operate by the “repertoire” of parental rights limitations’ measures.

The law identifies three main levels of parental rights limitation:

- abeyance of parental rights (*pozastavení rodičovské zodpovědnosti*);
- circumscription of parental rights (*omezení rodičovské zodpovědnosti*);
- termination of parental rights (*zbavení rodičovské zodpovědnosti*)²⁹. In the Table 4 the description of each forms is done.

Table 4 – Options for parental rights limitation in Czech republic

Form of limitation, grounds for implementation, reference in legislation	Further placement of child or providing children rights
<p>Abeyance of parental rights³⁰ Objective causes (parents’ state of health, necessary absence)</p> <p>The law about the family §34, art. 2, §44 art. 1, §78</p>	<p>The trial under the social services recommendations identifies the temporary guardian for the child (<i>poručník</i>)</p>
<p>Circumscription of parental rights the parent doesn’t implement particular duties (for example related to education of the child) because of either objective causes or internal reasons; there is the irresoluble conflict between child and parents’ interest in particular sphere</p> <p>The law about the family §44 art. 2, §83</p>	<p>The trial under the social services recommendations identifies the custodian (<i>opatrovník</i>), which is responsible for particular sphere of the child rights</p> <p>Judges according to legislation should prefer to give the status of custodian to one of the relatives</p> <p>But in many cases the status of custodian is given to services</p>

²⁸ *Balancing family centered services and child wellbeing* (2001) Ed.: E. Walton, P. Sandau, Beckler, M. Mannes. Columbia University Press New York

²⁹ Nová H. (2008) Rodičovská zodpovědnost v českém právu *Právo a rodina*, no 7, S.19-26

³⁰ The legal regulations of the *abeyance of parental rights* were adopted by Czech legislators from German legislation, and this form doesn’t implement often. The similar norm is done in the 10th decision of the Supreme Court plenary assembly, 1997, but in both countries this form of parental rights regulations is not common used.

<p>Termination of parental rights</p> <p>In parents' actions services and trial identify malicious intent; child abuse (maltreatment of the child); commitment crime against the child or involvement of the child in criminal actions</p> <p>§44 art. 3</p> <p>According to Czech legislation parental rights terminate in a moment when adopters have entered in right of parents (The law About the family, article 44)</p>	<p>Child can be placed into future family of adoption before court decision (with consent of potential adopters)</p> <p>If birth parents reject and there are no grounds for the involuntary termination of rights child can stay in the substitute family or can be returned in the institution</p>
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Indirectly in article 26 (the Law about the family) and trial judgments' experience there are several criteria for evaluation of parents ability to bring up the child: personal characteristics of the parent (understanding reality; ability "to give and to take" in relationship, psychological competencies); attitude of the parents toward the child (vital love, the ability to cope with selfish attitude toward the child); morality and moral norms implemented by parents; respective attitude to other relatives right to participate in child up-bringing; attitude of the child toward parents; parents position related to child sexual identity; educational background; position of other relatives; child age and etc³¹.

It is possible to conclude that the legal grounds of children and parental rights protection in modern Czech Republic

³¹ Jonáková Ir. (2008) Kritéria svěřeni nezletilého dítěte do výchovy *Pravo a rodina*, No12, S.4

distinguishes by significant consistency between crisis intervention' stage and after care intervention. The diversity of parental rights regulations permits to use limitation of parental rights reasonably and keep chances for family re-innovation, reinstatement of parental rights and comeback of the child to family³². The shortage of consistency between preventive intervention stage and crisis treatment limits the development of foster care and family visiting focused services. Only small number of children is placed into foster care centres, and authorities prefer to place children into traditional children's homes³³.

Termination of parental rights in Russia procedures are established by article 70

³² Novotná V. (2008) Novela občanského soudního řádu a spolupráce soudů a orgánů sociálně-právní ochrany dětí při výkonu rozhodnutí o výchově. *Právo a rodina*, No 11, S.1-8

³³ MPSV, statistic data, 2007

of Family code. The order of parental rights termination is trial process with prosecution officer and guardianship commission participation. And the article 71 describes legal consequences of parental rights termination related to the total loss of right to bring up, manage of the child property, and etc.

Courts prefer to terminate parental rights and limit chances of re-establishing of them. The practice shows that the parent lost one's rights has the possibility to get the returning rights application to the court only of one year or more after the decision of the termination. In 2006 only 1470 parents re-established their rights, it is 2,3% from the total number of parent who lost rights for the same period. Some experts consider that Russian courts require too many evidences of abuse and neglect behaviour and don't take enough judgments related to termination of parental rights. But others stress that guardianship commissions oppress families and miss the stage of prevention risk situation³⁴. The number of children whose parents were limited in rights is much smaller than the number of termination of parental rights cases – in 2006 it consisted of 5,3% from the total number of children whose parents lost or were limited in rights.

Upon that the practice of the parental rights limitation couldn't be acknowledged rather efficient, because only 18% of parents limited in their rights had been re-established

afterwards the 6 months. Conditions of rights limitations are absolutely akin to conditions of parental rights treatment – usually parents have limit access for the contact with the child and the implementation of other rights is temporary stopped. So in Russia the regulation of parental rights is extremely limited and focused of restrictive strategy, and the main consequence of that is the meaninglessness of all attempts to advance foster care and family-visiting services as measures within the profile of prevention focused policy.

Conclusion

According to the criterion of child protection policy consistency Czech and Russia have encountered numerous issues of the coherence between preventive work and crisis intervention with families. In the Table 5 the final outline of Czech and Russian current legislation is done. Both countries keep the focus on crisis intervention as main direction of child protection, and the balance between family autonomy and child safety is still hard aim for Czech and looks as impossible mission for Russia. The common issue is the huge lack of services' responsibilities as on stage of preventive work as within crisis. Services are not part of evaluation of previous treatment with families by courts and boards, and the main task of services is formulated as at-time removal child from insecure situation. Services' irresponsibility is aggravated by the shortcomings of contesting

³⁴ Schmidt V. (2008) Shortages of parental obligations implementation: is it the reason to assist or to limit of rights? Access: <http://www.regnum.ru/news/1045617.html>

procedures: there are no special services providing legal aid for parents.

These peculiarities, lack of responsibilities and absence of contesting procedures within strengthen intervention, resonate with overloading of services (in Russia services which are responsible for child protection on crisis stage get the duties referred to issues of custody under incapable adults, and in Czech these services present in court majority of cases related to interests of children placed into institutions). Maybe this combination of factors minimizes the difference in legal regulations within practice: in despite variety of parental rights' limitations in Czech legislation in comparison with Russian law preferred termination of rights, Czech and Russian boards and courts much oftener implement termination than either partial or temporal limitation.

Czech child protection is distinguished from Russian by the order of decision making: in Czech the degree of transparency is higher, and the fair of trial process is provided better. But both countries are suffered from narrow range of placements for children, and courts prefer to choose residential care as the most accessible option. Child safety is more valuable than family autonomy in both countries, but in different ways. Russian child protection could be defined as more aggressive towards *bad* parenting and families' shortcomings,

legal regulations are focused on prevention insecure situations in terms of potential threats from family. Czech approach is more focused on standards and impossibility of family to provide child needs in health care and education. Both countries need to complex renovation of CPP with accent on family autonomy, but with different focuses on child safety: in Russia positive understanding of standards is still missed, and in Czech child right to be heard should be conceptualized. Russian child protection is narrowed down crisis intervention, and in Czech there is the link between crisis intervention and after crisis care, but both countries miss preventive work with birth families, maybe that's why foster care as temporal measure for child placement in case with high expectation on family reunification is not still advanced.

Development of alternatives to residential care as well as primary preventive work with families at risk is not enough for CPP transformation. Czech and Russian cases approve the necessity to embody complex reform directed towards balance between child safety and family autonomy through all stages of intervention with families. And this universal secret of efficient child protection should be solved in different ways in dependence on countries' background and current legal frames.

**Table 5 - Legal fundamentals of crisis intervention with children and families:
Czech and Russia**

Criteria	Czech republic	Russia
Legal order of decision making	For all types of decision making related to child life	Missed for child removal, transfer from institution to institution
Child legal status	Supported by law in different conditions of the child life. But there is the lack of institutions providing the right to be heard – the conflict between existence of norms and lack of its' implementation	Ignored. And there is only one option for the child rights presentation – to have parents as legal representatives, in case of looked-after status the child is extremely limited in right to be heard.
Options for children: the distinguish of public care and family placement	Attempts to distinguish of various forms are implemented	In 2008 the range of forms had been narrowed for the three dominant forms, adoption, custody and residential care (foster care was excluded from the legitimate options by the new Law about custody and guardianship)
Options for parents: the flexible scale of parental rights regulation, regulation of treatment with parents	Flexible range of parents' participation in child life during the period of parental rights limitation	Priority of parental rights termination
Correlation between intervention with child and parents	Moderate level of correlation, the foster care is excluded from the strategy of family reunification	The correlation is failed
Continuity with previous stage, preventive	Missed	Missed

intervention with families		
Continuity with further stage, after crisis care intervention	Presents: services try to provide communication with birth parents and keep formal opportunities for family reunification	Missed

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