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Méndez Principles on Effective Interviewing in social services – perspectives for the Czech Republic and Poland*

Introduction

Based on psychological research, an increasing number of countries and international organizations have decided to adopt a model of interviewing that does not rely on coercive, repressive or otherwise unethical tactics. In 2016, a universal protocol was established to provide a set of standards for interviewing and interrogations preventing the use of coercion and other forms of mistreatment, while ensuring procedural guarantees that should be applied as a legal and political minimum in all interviews and interrogations conducted by law enforcement, military, intelligence personnel or other state authorities with investigative powers¹.

The United Nations Principles on Effective Interviewing for Investigations and Information Gathering, also known as the Méndez Principles², represent an innovative approach to interviewing which focuses on the prevention of

* The paper was supported by the project SGS/3111/ Monitoring in Social Services, conducted at the Silesian University in Opava.

¹ R. Bull, *Improving the interviewing of suspects using the PEACE model: a comprehensive overview*, „Canadian Journal of Criminology and Criminal Justice” 2023, Vol. 65(1), pp. 80–91; A.J. Edwards, *Foreword*, [in:] D. Walsh, R. Bull, I. Areh (eds.), *Routledge international handbook of investigative interviewing and interrogation*, London 2024, pp. xxix–xxx.

² Principles on Effective Interviewing for Investigations and Information Gathering, May 2021, www.interviewingprinciples.com (accessed: 3.08.2024). More on the adoption and the internal structure in D. Solodov, I. Laurinaitytė, *Implementation of the UN's principles on effective*

torture or other forms of mistreatment and abuse of power while combining legal and scientific aspects. The Méndez Principles were developed to improve the effectiveness of state-authorised information acquisition in legal proceedings while observing human rights and commonly recognised procedural safeguards. Although their primary area of application is criminal proceedings, the Méndez Principles can be extended to other legal fields where state officials exercise investigative powers. These include “intelligence, military, administrative authorities, or other persons acting in an official capacity” (Section 8 of the Méndez Principles).

The Méndez Principles promote an inclusive multidisciplinary approach, which integrates law and psychology, emphasizing the acquisition of accurate and reliable information without the use of coercion, psychological manipulation, deception or any other legally questionable interviewing methods. Due to their universal nature, the Principles respect diverse national legislation and policies of individual states. They promote professional development and underscore the importance of mutual trust between the state and its people (Section 7) – the general idea which directly relates to the values set by the European Pillar of Social Rights³ and international standards on social services⁴.

On a national level, Czech standards of care in the field of social services adopted in 2007, focus on providing social care with respect for individual needs, dignity, and the protection of human rights. Parallel to the Méndez Principles, Czech national standards of care in social services highlight the need for continuous professional development and effective communication between social services providers and social service recipients or beneficiaries⁵. In Poland, general standards of social services have been set by the law on social welfare of 2004⁶. The law defines the aims and forms of social services, social assistance and benefits, and the organisation of the national social welfare system. Both legal frameworks – the Méndez Principles and the norms on national social services – emphasize the clarity of conveyed information, the assessment of service quality, institutional accountability, and the assurance of institutional procedures. There are some noticeable differences too,

interviewing and interrogation – perspectives for Poland and Lithuania (COST Action CA22128: IMPLEMENTEZ), „Studia Prawnoustrojowe“ 2024, No. 63, pp. 399–414.

³ European Pillar of Social Rights, 2017, <https://op.europa.eu/webpub/empl/european-pillar-of-social-rights/en/#infographic-main> (accessed: 3.08.2024).

⁴ Social Protection Committee. A Voluntary European Quality Framework for Social Services, SPC/2010/10/8, <https://ec.europa.eu/social/BlobServlet?docId=6140&langId=en> (accessed: 3.08.2024).

⁵ Standardy kvality sociálních služeb, <https://www.mpsv.cz/standardy-kvality-socialnich-sluzeb> (accessed: 3.08.2024).

⁶ Law on social welfare of 12 March 2004 with later amendments (unified text published in the Journal of Law, 2023, section 901).

though. While the Méndez Principles are mainly focused on ethical interviewing and, in more general terms, information gathering, national standards of care focus on care provision. They both intersect, however, in the areas of the protection of human rights, communication, and professional development. Integrating the Méndez Principles in social services can create synergy in ensuring fair, respectful and effective social care.

The paper aims to identify possible applications of the Méndez Principles, their standards, and their recommendations in social services in the Czech Republic and Poland. In particular, the authors review the similarities and differences between the Méndez Principles and national standards of social care and social services. Since the main area of application of the Principles is information gathering, the paper addresses selected practical issues related to client interviews conducted by social service workers. The Méndez Principles are seen as a way to facilitate and optimize information acquisition in various practical situations, including those involving vulnerable individuals and conflict environments. This paper concentrates on the potential applicability of the concepts, standards, and recommendations provided by the Méndez Principles. The interviewing methodology is covered only to a limited extent to reveal possible applications and potential practical benefits. A detailed methodology of investigative interviewing, which includes the recommended interview structure, guidance on the types of questions and their sequence, as well as other noteworthy organizational and tactical details, can be found in the UN's Manual on Investigative Interviewing for Criminal Investigation, adopted in February 2024⁷.

Méndez Principles

The Méndez Principles on Effective Interviewing for Investigations and Information Gathering were developed under the auspices of the United Nations by a group of international experts and officially released in May 2021. The document primarily targets criminal proceedings, although its standards, principles and recommendations can also be applied to other legal fields. For instance, the Méndez Principles are to be followed by immigration officers who conduct interviews with persons of different cultural and religious backgrounds. The Méndez Principles emphasise the importance of paying attention to the

⁷ United Nations. Department of Peace Operations. Office of the High Commissioner for Human Rights Office on Drugs and Crime. Manual on Investigative Interviewing for Criminal Investigation, 1 February 2024, [https://resourcehub01.blob.core.windows.net/\\$web/Policy%20and%20Guidance/corepeacekeepingguidance/Thematic%20Operational%20Activities/Police%20and%20Law%20Enforcement/2024.01%20Manual%20on%20Investigative%20Interviewing%20for%20Criminal%20Investigation%20%282024%29.pdf](https://resourcehub01.blob.core.windows.net/$web/Policy%20and%20Guidance/corepeacekeepingguidance/Thematic%20Operational%20Activities/Police%20and%20Law%20Enforcement/2024.01%20Manual%20on%20Investigative%20Interviewing%20for%20Criminal%20Investigation%20%282024%29.pdf) (accessed: 3.08.2024).

interviewees' vulnerabilities, stating that neglecting cultural differences may lead to traumas that might be difficult to recover from⁸.

The Principles consist of six parts or principles representing interconnected elements of an elaborate system. The first part (the first Principle), *On Foundations*, states that effective interviews and interrogations are guided by ethics, law, and current scientific knowledge. This could be translated as the interviewing being *lege artis*. Knowledge from empirical research, international legal norms, and professional obligations based on values form the basis of effective interviewing methodology. When these basic elements are integrated into practice, they enable interviewers to gather accurate and reliable information while operationalizing human rights. For a properly conducted interview, it is necessary to follow scientifically sound recommendations based on a multidisciplinary approach. It is essential to draw knowledge not only from one discipline but also from other fields, such as the connection of law and psychology⁹. It turns out that manipulating the interviewee often does not lead to the achievement of the interviewers' goals. On the contrary, it often leads to entirely misleading results. The outcome of the interview is then incorrect information or even false admissions. Similar conclusions apply to various suggestive questions. In the interviewing process, it is also necessary to respect the personality of the interviewee because people of different characters naturally react differently to the interviews. Inappropriately chosen interviewing techniques then lead to unreliable and misleading information. The Méndez Principles favour rapport-based interviewing techniques, which offer autonomy to the interviewee about what they say, and what should be the basis for a positive interaction between the interviewer and the interviewee. This could increase the likelihood of collecting accurate information. An interview that is not based on coercion strengthens communication between the interviewer and the interviewee, increases the accuracy and reliability of the testimonies, and reduces the risk of false information. All of this, of course, corresponds to fundamental legal principles such as the right to a fair trial or the presumption of innocence.

Principle 2 – *On Practice* relates to the concept of interviewing as a complex process which aims to gather accurate and reliable information. An interview is, therefore, a process, not a single event, where each part forms an integral part of the whole. It should include thorough preparation, planning,

⁸ In this context, trauma is defined by various organizations and scales, such as the International Statistical Classification of Diseases and Related Health Problems – A. Vredeveltdt, Z. Given-Wilson, A. Memon, *Culture, trauma, and memory in investigative interviews*, „Psychology, Crime & Law” 2023, pp. 1–21.

⁹ Numerous studies showed that the use of psychological pressure is often counterproductive and may lead to memory contamination – G.H. Gudjonsson, J.F. Sigurdsson, A.S. Sigurdardottir, H. Steinthorsson, V.M. Sigurdardottir, *The role of memory distrust in cases of internalised false confession*, „Applied Cognitive Psychology” 2014, Vol. 28, Issue 3, pp. 336–348.

measures to avoid biases and create a non-coercive environment, building and maintaining rapport, applying legal and scientifically based questioning techniques, using active listening, allowing the interviewee to speak freely and completely, constantly evaluating and analysing the acquired information and the interviewing process itself.

Principle 3 – *On Vulnerabilities* aims to protect particularly vulnerable groups of interviewees. The reason for the vulnerability may be age, gender, nationality, mental disability, as well as general communication problems or just belonging to a marginalized socio-economic group (Section 135).

Principle 4 – *On Training* follows the basic idea that effective interviewing can only be conducted by a professional with proper training and experience. Training must include knowledge about avoiding biases, a sufficient understanding of human rights, preparation of a strategic plan and other elements (Section 154).

Principle 5 – *On Accountability* addresses the role of relevant institutions, which should ensure a responsible approach (accountability) in the form of accepting formal regulations that should reflect the principles mentioned, including the possibility of seeking protection from higher-tier institutions and preventing reprisals and retaliatory measures in case of filing a complaint.

The final Principle (*On Implementation*) places great emphasis on the state's obligations including the improvement of the national justice system and generally legal proceedings based on the Méndez Principles and international law standards.

The central point of the Principles is the method of investigative interviewing as an optimal model for information gathering. An interview is defined as a “structured conversation where one person (the “interviewer”) seeks to gather information from another (the “interviewee”) as part of any investigation or intelligence operation”. The objective of the interview is to obtain accurate and reliable information while respecting human rights and observing commonly recognised procedural guarantees. In terms of criminal proceedings, the aim is eliciting facts, not a confession (Section 2). The document promotes a scientifically sound model of ethical interviewing. The assumption is that an ethical interview not only protects human rights but also ultimately leads to obtaining reliable information from interviewees while minimizing the risk of acquiring unreliable information¹⁰. Credibility and trust between the interviewer and the interviewee are crucial, as empathy from the interviewer provides better results¹¹.

¹⁰ I. Deljković, A. Fazlić, *The universal perspective on the ethical approach to interrogating suspects*, „Policija i sigurnost“ 2023, Vol. 32(2), pp. 184–197.

¹¹ D. Akca, C.D. Larivière, J. Eastwood, *Assessing the efficacy of investigative interviewing training courses: a systematic review*, „International Journal of Police Science & Management“ 2021, Vol. 23(1), pp. 73–84; B. Baker-Eck, R. Bull, *Effects of empathy and question types on suspects'*

The Principles are built on the idea of alternating incorrect, unethical and ineffective interviewing practices and introducing a change based on the connection of law with scientific research on interviewing methods. Structuring an interview according to the Principles should lead to better results in terms of information quality and completeness. They aim to aid public authorities, including courts, police, prosecutors, and other state officials, in improving the efficiency of information gathering while ensuring a high level of protection for human dignity and morality. They are expected to contribute to a change in thinking, and the interviewers' mindset by incorporating scientifically approved tactics into training curricula and other educational materials.

The Principles are intended to improve the course of the interviews, the professionalism of the interviewers, and the information value of the interviews themselves (Section 5). All the interviews should be based on established mutual trust since establishing rapport between the interviewee and the interviewer can enormously benefit the investigation by increasing the accuracy of adult eyewitness testimony as well as potentially enhancing the assessment of the information obtained from the suspects¹². Several methods exist for fostering trusting relationships¹³. There are also various training programs, which aim to change both the interviewers' mentality and behaviour to improve their interviewing skills¹⁴.

The Principles target universality, as their authors are aware that each state has different legislation and policies, and therefore, the application of the document may vary. They do not advocate for any specific model but rather promote certain minimum standards. Most of the recommendations are intended for policymakers but do not exclude the use by other entities in contact with information gathering, including, for example, human rights advocates. According to Section 18, states should take all appropriate steps to incorporate the Méndez Principles into domestic law, regulations, training techniques, procedures, and practices. Their use by law enforcement agencies, lawyers, and other state representatives should be encouraged to ensure not only the highest possible protection of all interviewed and interrogated persons but

provision of information in investigative interviews, „International Journal of Police Science & Management” 2022, Vol. 24(4), pp. 406–416.

¹² J.P. Vallano, J.R. Evans, N. Schreiber Compo, J.M. Kieckhaefer, *Rapport-building during witness and suspect interviews: a survey of law enforcement*, „Applied Cognitive Psychology” 2015, Vol. 29(3), pp. 369–380; D. Walsh, R. Bull, *What really is effective in interviews with suspects? A study comparing interviewing skills against interviewing outcomes*, „Legal and Criminological Psychology” 2001, Vol. 15(2), pp. 305–321.

¹³ A. Abbe, S.E. Brandon, *Building and maintaining rapport in investigative interviews*, „Police Practice and Research” 2014, Vol. 15(3), pp. 207–220.

¹⁴ L. Fallon, B. Snook, T. Barron, A. Baker, M. Notte, J. Stephenson, D. Trottier, *Evaluating the Vermont State Police's PEACE model training program: phase 1*, „Psychology, Crime & Law” 2022, Vol. 28(1), pp. 59–81.

also to obtain the most accurate and reliable information. The state commitment also arises from international law (Section 19).

The Méndez Principles' recommendations on interviewing

Despite the unquestionable advances in forensic sciences, personal interviews remain one of the key elements and a fundamental part of modern evidentiary proceedings. Their value lies in the ability to deliver nuanced information and access details that might otherwise be inaccessible. As such, the interviewing methodology deserves special attention to ensure that the acquired information is reliable and ethically obtained.

In social services, administrative decisions should be based on correctly established factual grounds, a goal accomplished through both personal accounts and official documents. The core aim of the Méndez Principles is to improve information gathering conducted by state authorities through an ethical interviewing framework which integrates international standards with research-based interviewing tactics. The Méndez Principles, as it was mentioned previously, do not prioritise any particular interviewing model of investigative interviewing leaving it to the state to follow the preferred one. Nonetheless, there are non-negotiable principles and standards that states are expected to respect regardless of the model they choose.

Among the principles and recommendations applicable to social services, the following are worth mentioning:

- interviewing should be treated as a process, which encompasses all interactions between the information-gathering authorities and persons to be questioned; this begins with the moment an individual is identified as someone from whom an official wants to gather information and continues through to the conduct of the interview and concludes once the interviewer has conducted an assessment of the process and an analysis of the results (Sections 54–57);

- the interviewer should be focused on information-gathering, rather than a drive to generate a confirmation of his assumptions, biases or prejudices, maintaining a flexible rather than linear approach to successfully elicit reliable and accurate accounts (Section 95);

- interviewers should exercise heightened self-awareness to prevent conscious and unconscious preconceived judgment regarding the interviewee's identity, characteristics or background from affecting their questioning and interpretation of the information provided (Section 65);

- preparation and careful planning are the key factors of effective interviewing; each interview requires an interview plan outlining such details as the objectives, specific questions to be asked, mode of recording, timing, loca-

tion of the interview and other persons to be in the room; effective interviews should be limited in time and focused on clear objectives; plans should include an element of flexibility as each interview is different and the interchange will be dynamic (Section 96);

- the interviewer should be using active listening and enabling the interviewee to speak freely and completely (Sections 32, 154);

- interviews should not be excessive in length and be conducted in a non-intimidating, human-rights-compliant environment with attention to privacy and safety; optimal physical conditions for the interviewee, can improve concentration, promote rapport, enhance communication, and facilitate reliable recall (Section 71);

- the interviewer should establish and maintain rapport (Section 154 and others);

- the interviewer should apply lawful and scientifically supported questioning techniques (Sections 57, 154).

Application in social services

Czech Republic

In general, social services are to be provided with the utmost respect for the clients (social assistance recipients) and their personal rights. A fundamental provision is then § 2 par. 2 of the Czech Social Services Act¹⁵, according to which the scope and form of assistance and support provided through social services must preserve the human dignity of individuals. Assistance must be based on individually identified needs, actively engage individuals, support the development of their independence, motivate them towards activities that do not lead to prolonged or deepening unfavourable social situations, and strengthen their social inclusion. Social services must be provided in the interest of individuals and of proper quality, ensuring the consistent observance of human rights and the fundamental freedoms of individuals.

Quality standards for social services recommended by the Ministry of Labour and Social Affairs since 2002 have become legally binding as of January 1, 2007. The criteria for the Standards are specified in Annex No. 2 of Decree No. 505/2006 Coll., the implementing regulation to Act No. 108/2006 Coll.¹⁶, on social services, in its valid wording. The aim of these quality stan-

¹⁵ Social Services Act, https://www.mpsv.cz/documents/20142/372809/Annex_3_social_services_act.pdf/6ca5e9bd-2308-5c5f-b383-bce1d9e09e47 and <https://www.mpsv.cz/standardy-kvality-socialnich-sluzeb> (accessed: 3.08.2024).

¹⁶ Decree No. 505/2006 Coll., https://www.mpsv.cz/documents/20142/372793/vyhlas-ka_505-2006.pdf/bf86c99a-18ed-afb0-9d38-4ab5cf469ddb (accessed: 3.08.2024).

dards is to set the highest possible level of social services. These standards define a total of 15 care standards, which are applied in practice diversely. Providers create conditions for individuals receiving social services to assert their own will in addressing their unfavourable social situations. Providers establish and enforce internal rules to protect individuals from biases and negative assessments that could arise from the provision of social services. In line with this mission, goals, and principles, providers proceed. Providers have written internal rules to prevent situations where there could be a violation of basic human rights and freedoms in connection with the provision of social services, and they follow these rules if such violations occur. Providers have written internal rules defining situations where there may be a conflict of interest between the provider and the individuals receiving social services, including rules for resolving these situations, and they follow these rules. Providers have written internal rules to inform potential users of social services in an understandable manner about the possibilities and conditions of providing social services, and they follow these rules. Providers discuss with potential users of social services their requirements, expectations, and personal goals that could be realized through social services considering their capabilities. For individual planning, providers plan the course of providing social services together with individuals based on their personal goals and capabilities. Providers have written internal rules for receiving and processing complaints from individuals about the quality or manner of providing social services, in a form understandable to individuals, and they follow these rules. Regarding the continuity of provided social services with other available resources, providers support individuals in contacts and relationships with their natural social environment; in case of conflict in these relationships, providers maintain a neutral stance. As for professional development, the provider has a written procedure for the regular evaluation of employees, including the definition, development, and fulfilment of personal professional goals and the need for further professional qualification. The requirement for employees also includes training in communication and client care. The standards also include the environment and conditions for communication, where the provider ensures material, technical, and hygienic conditions appropriate to the type of social service provided and its capacity, the range of individuals, and individually identified needs. Providers provide residential or ambulatory social services in an environment that is dignified and corresponds to the range of individuals and their individually identified needs. The standards also regulate access to emergency and crisis situations. Providers have written definitions of emergency and crisis situations that may arise in connection with the provision of social services and procedures for resolving them. The standards also regulate the improvement of the quality of social services. Providers regularly check and evaluate whether the manner of providing social services is in line with

the defined mission, goals, and principles of social services and the personal goals of individuals. Providers involve employees and other interested individuals, both physical and legal, in the evaluation of provided social services. Providers use complaints about the quality or manner of providing social services as an incentive for the development and improvement of the quality of social services.

For a full understanding of the Méndez Principles, their relationship to the standards of social care is crucial. At first glance, there may seem to be mainly differences between them. However, the goal of this article is to identify not only these differences but especially the areas where they coincide. The Méndez Principles deal with legal aspects in the field of interviews, interrogations, and the prevention of torture or other forms of abuse of power, while the Standards focus on basic, predominantly non-legal principles in providing social services. Both approaches, however, are linked by the protection of individual rights. The Méndez Principles emphasize the provision of accurate and reliable information, while the Standards highlight clearly defined procedures in providing social services, ensuring proper processes. Both approaches emphasize treating individuals as complex beings, with the Standards additionally highlighting the creation of conditions to respect the client's own will. The Méndez Principles also address the consequences of coercive behaviour and seek to prevent it. They also emphasize building and maintaining rapport during interviews and reducing the potential risk of forced treatment. Both approaches also highlight the importance of building and maintaining a good relationship during the provision of social services. Both approaches also emphasize providing information about the conditions of service provision and emphasize the clarity of conveyed information. Both also require institutional assurance, i.e., clearly defined procedures and written internal rules for quality assessment. While the Méndez Principles emphasize continuous professional development, the standards focus mainly on education and neglect support for lifelong learning and continuous professional development. The Principles also address the assessment and resolution of situations of increased vulnerability, which is lacking in the content of the standards. The Méndez Principles specify concrete measures for prevention and reporting, which are not explicitly included in the standard requirements. The Principles mention external oversight and independent monitoring, which is overlooked in standard provisions. The Principles also establish measures for correction and reparation, which are missing in standard requirements.

Communication is key in social services; the Czech Social Services Act addresses the issue of communication in several instances. Section 9 of the Social Services Act emphasizes that when assessing a client's dependency, it is essential to also evaluate the level of communication. The law underscores the importance and need to communicate with clients at a level appropriate

to their intellectual maturity and mental state, thus necessitating a conversation with the client. The Czech Ministry of Labour and Social Affairs has issued a methodology for identifying the needs of social services users¹⁷. This methodology includes procedures for gathering information from clients and determining their role in planning social services, including conducting interviews. However, this methodology is general, and each social facility must adapt it to its requirements; there is no unified guide used by all facilities. The method of communication with the client, including the protection of the client's rights, is part of the social services evaluation system. According to Section 99 of the Social Services Act, the quality of social services is assessed using quality standards, which also evaluate communication with the client and respect for personal rights. The quality standards for social services are a set of criteria defining the level of quality in the provision of social services in terms of personnel and operational security and in the relationships between the provider and individuals. Included is the level of communication, including ensuring confidentiality. The interrogation of a child, in the presence of a social worker, is comparable to the interrogation of a witness, but the child's rights must always be protected. In the family area, Act No. 359/1999 Coll. on the Social and Legal Protection of Children ensures the protection of the child for proper development and upbringing, including standards for protecting the child's rights. These legal regulations are followed by procedural regulations, particularly the Civil Procedure Code and the Act on Special Judicial Proceedings, which regulates the interrogation of a child in civil proceedings; similar legal provisions are also contained in the Criminal Procedure Code. In all these areas, there is room for the application of the Méndez principles. Interviews also take place with applicants for social benefits; the procedure is governed by Act No. 500/2004 Coll., the Administrative Procedure Code, e.g., Section 55. The administrative authority informs the witness before the interview of their right to refuse to testify, their obligation to testify truthfully and not conceal anything and the legal consequences of false or incomplete testimony. The Administrative Procedure Code is also subsidiarity applied in social services. Providing false testimony about, for example, one's financial situation results in the denial of benefits. In the event of a violation of the client's personal rights, such as through improperly conducted interviews, the state is liable for damages.

Poland

In Poland, the law on social welfare of 2004 states that social services support individuals and families in their efforts to meet essential needs and

¹⁷ Identifying the needs of social service users, including user surveys. Ministry of Labour and Social Affairs (Czech Republic), 2014, https://www.mpsv.cz/documents/20142/225517/Zjistovani_potreb.pdf/9168bb8c-c141-68b8-234d-0854dce6ffcf (accessed: 3.08.2024).

enable them to live in conditions that respect human dignity. Social assistance should be tailored to the specific needs of each client, actively involving them in the process. It should also support the development of their independence, encourage participation in activities that help them avoid prolonged or worsening social challenges, and enhance their social inclusion. In that respect, Polish principles of social services correspond to the abovementioned Czech standards in the given field.

Social services or social assistance is defined by the law as a professional activity aimed at helping individuals and families strengthen or regain the ability to function in society by fulfilling appropriate social roles and creating conditions conducive to this goal. Social service personnel intend to prevent difficult life situations by taking action to help individuals and their families become self-sufficient and integrate into the community.

According to the law, the type, the form, and the amount of assistance should be adequate to the circumstances that justify providing social assistance. The needs of the clients should be considered if they align with the goals and capabilities of social services (Article 2). To determine whether these conditions have been satisfied, social workers conduct dedicated inquiries, which include interviews with the clients or families, hence such interviews are called by the law familial and environmental. The interviewers aim to collect reliable and complete information on the conditions of social assistance explicitly mentioned in the law such as the level and sources of income, property status, interfamily and social relations (Article 107). Another source of information is official, issued by competent state bodies and agencies, documents, which can be obtained by a social worker during an authorised inquiry.

It is worth noting that familial interviews are of special importance in terms of evidence proceedings in social services. In fact, the process of proof in such cases is mostly based on written official documents and statements from the parties¹⁸, which makes familial interviews one of the key elements of information gathering and information evaluation in social services. Every decision, following Article 107 § 3 of the Polish Code of Administrative Procedure or CAP for short¹⁹, should be properly justified, indicating the evidence on which the authority based its findings and the reasons for which other evidence was deemed not credible or lacking probative value. Hence, the law on social welfare is quite specific on the way familial interviews should be conducted.

The interviewees are individuals and families who are receiving or applying for social assistance and benefits. Their legal status is comparable with

¹⁸ A. Miruć, *Rola wywiadu środowiskowego w sprawach pomocy społecznej*, [in:] I. Lipowicz, M. Małecka-Lyszczek (eds.), *Ekonomia społeczna. Wykluczenie społeczne*, Kraków 2020, p. 49.

¹⁹ Code of Administrative Procedure of 14 June 1960 with later amendments (unified text published in the *Journal of Law*, 2024, position 572).

the legal status of witnesses in criminal proceedings. Similar to the witnesses in criminal proceedings, they are obliged to provide all the information requested by the interviewer, a social service worker without omitting or distorting relevant facts. Providing false information might be qualified as perjury and prosecuted accordingly (Article 75 CAP). Before issuing the decision on social assistance or benefits, the competent authority is obligated to allow the potential beneficiary to comment on the collected evidential materials and submitted demands (Articles 10, 81 CAP). It is also possible to use the assistance of a lawyer as a legal representative. A refusal to take part in an interview will not, however, result in criminal prosecution, although such a refutation excludes the possibility of establishing relevant facts related to the client's situation. As a result, a social worker can reject the person's application and refuse to award requested social assistance or benefits (Article 106 of the law on social welfare).

An interview should be done by a social service worker upon presentation of his ID card. Another social worker can participate in the interview. The law, however, does not specify the conditions when it is possible as well as the aims of this legal provision. So, it is up to the social worker's supervisor to decide whether such participation is necessary given the circumstances of the interview. The Méndez Principles emphasise the importance of personal rapport building and the interviewer's personal responsibility for the interview. The presence of third parties is seen as a necessary supportive measure given the interviewee's vulnerabilities (legal representatives and persons with specialist training in the case of interviewing minors) or something that originates from binding legal requirements (the presence of a lawyer). So, the lack of clearance in the law in that respect might be an issue that ought to be solved by the legislator. The interview can also be conducted with the assistance of the police. That measure is seen primarily as a guarantee of the personal safety of the interviewer²⁰. Interviewees cannot object to the police presence during the interview since the refusal to take part in such an interview is treated as the refusal to provide social services with the requested information.

Notably, familial interviews show similarities with the definition of the interview that can be found in Section 2 of the Méndez Principles, which also justifies the extrapolation of the Principles to social services. One important difference in the case of familial interviews is that they are not only an instrument of evidence proceedings but also an element of the social service work with an individual and family – actual or potential beneficiaries of social assistance. Hence, the recommendations of the Méndez Principles regarding building and maintaining rapport, question sequences, and a general interview structure might serve as guidance for the interviewers – social service workers.

²⁰ *Policja wesprze pomoc społeczną*, „Rzeczpospolita” 2015, No. 10, p. 5.

Other organizational aspects of familial interviews are covered by the decree of the Polish Minister of Family and Social Policy of 2021²¹. According to the decree, the interview is conducted with the individual or family at their place of residence or stay, on working days and during the working hours of the authorized social service entity, or at another time agreed upon with the individual or family, with the consent of the head of the social service organizational unit. The interview should be done within 14 working days from the day a social service worker recognises its necessity.

The decree does not require audio or video recording of the interviews, since the abovementioned questionnaire is sufficient for the goals of evidence proceedings. It does not, however, prohibit clients from recording the course of familial interviews for their later use in complaint procedures. Noteworthy, the Méndez Principles allow for other forms of record-keeping including written protocols as an alternative to video and audio recordings (Section 129).

The decree provides a template questionnaire containing an extensive list of closed and open-ended questions relevant to the circumstances, upon which the decision to award social assistance or benefits depends. The decree does not specify the interviewing methodology leaving it to social workers and their supervisors. Nonetheless, it is possible to follow the methodology of the investigative interview while treating the questionnaire as a form of a written report, and not as an instruction to follow considering questions, their sequence and forms.

Discussion

The significance of the Méndez Principles is global and cannot be overlooked or reduced solely to criminal proceedings. Instead, they should be seen as fundamental principles for protecting an individual's personality in relation to state institutions, including administrative proceedings and communication within social services. However, these Principles are neither adequately implemented nor sufficiently popularised in the Czech Republic and Poland. According to Section 2 of the Czech Social Services Act, there is an obligation to implement basic principles of personality protection into the legal system. Interviews and conversations with clients, including children and vulnerable family members, are an integral part of providing high-quality social services with respect for personal rights. Social services should be built on respect for the client. In Czechia and Poland, there is an extensive debate on the functioning of social services and how to consider the individual needs of clients

²¹ Decree of the Minister of Family And Social Policy of April 8, 2021, on the familial environmental interview (Journal of Law, 2021, position 893).

and actively involve them, including how to communicate with them²². The Méndez Principles could thus become part of the legislation, either directly or by incorporating their basic principles into the law or at least into a subordinate regulation. This would improve communication with clients and, ultimately, enhance their status and rights.

It is evident that the social care standards adopted in the Czech Republic in 2007 are not entirely perfect and there is talk of a significant revision. Modifying and supplementing them with the Méndez Principles would increase the quality of social care provided to clients. It would be appropriate for the Méndez Principles to become part of the social care standards. The state should also emphasize that these principles are applied to specific internal guidelines in social homes and should be part of the quality assessment of social services. An example of improper application of the Méndez Principles is the case of so-called Informed Consent. According to Section 93 of the Czech Civil Code, except as provided by law, no one may interfere with the integrity of another person without their consent given an understanding of the nature of the intervention and its possible consequences. If someone consents to serious harm, such consent is disregarded unless the intervention is necessary in the interest of the person's life or health. It appears, however, that social service providers do not sufficiently explain and communicate with clients. The Méndez Principles regulate this area and allow for its improvement²³. The role of communication in this area must be strengthened. For example, the essence of informed consent or consent to the capture of a person's likeness requires an explanation of the nature of such an act by the requesting party. There is thus room for educating and developing employees towards better communication with clients, including legislatively anchored oversight.

In the case of Poland, social services might benefit from following the recommendations provided by the Méndez Principles. In general, they can be useful in cultivating harmonious relations with clients. The main area of their implementation is, however, the organisation and the methodology of familial interviews. The investigative interviewing framework protects and advances human rights. It "enables the interviewees to narrate their accounts without interruption before presenting them with any inconsistencies or contradictions between the accounts and other evidence, while applying the continuing efforts to ensure that the interviewees are treated fairly and equally during the process, with particular attention being paid to assess and address the situations

²² J. Kohout, J. Šiška, J. Beadle-Brown, P. Čáslava, Z. Truhlářová, *Measuring the perceived importance of indicators of the quality of social care services*, „Journal of Evidence-Based Social Work” 2022, Vol. 19(3), pp. 367–382.

²³ O. Pavelek, M. Sciskalová, *Monitoring in social services from the elderly client's perspective*, Conference Proceedings. RELIK 2023, <https://relik.vse.cz/2023/download/pdf/680-Pavelek-Ondrej-paper.pdf> (accessed: 3.08.2024).

of heightened vulnerability”²⁴, which is often the case with social services clients. So far, the methodological aspects of familial interviews have not been sufficiently covered by national law, legal doctrine, and literature about social services. How social service personnel conduct familial interviews may significantly impact the outcome, fairness, and reliability of the inquiries and subsequent administrative decisions.

Conclusions

1. The Méndez Principles represent a new and innovative approach to information-gathering activities conducted by state authorities in legal proceedings. They are human rights and ethics-centered and, as practice shows, more effective compared to coercion-based, biased, and non-structured interviewing techniques that can still be seen in many jurisdictions and legal fields.

2. Implementing the Méndez Principles in social services might facilitate the establishment of beneficial, more harmonious relationships with clients by respecting human dignity, diversity, and individual needs, and consequently, improve the effectiveness of information gathering during official interviews.

3. There is an important aspect of the Méndez Principles and their connection to the standards of social services. The Principles bring a new perspective to the field of family interviews, emphasizing ethics, human rights, and scientific knowledge. Their application is not limited solely to criminal proceedings but can be broader, affecting the activities of state officials and other entities. Key points include an emphasis on respect for human dignity, the creation of mutual trust, and the involvement of vulnerable groups. In certain aspects, there is an interconnection of the Méndez Principles with social care standards, especially in the areas of respecting the recipients’ own will, building and maintaining relationships during the provision of social services, providing information about service conditions, and institutional quality assurance. Both approaches are united by the protection of individual rights and an emphasis on professional development. It can be stated that the Méndez Principles and social care standards, although operating in different fields, share common values and goals. Their synergistic use can strengthen the protection of individual rights and improve the quality of provided services. Both approaches represent a valuable tool for creating ethical and human-centred practices in the fields of interrogations and social care.

²⁴ United Nations. Department of Peace Operations, Office of the High Commissioner for Human Rights. Office on Drugs and Crime, *Manual on Investigative Interviewing for Criminal Investigation*, p. 15.

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Summary

Méndez Principles on Effective Interviewing in social services – perspectives for the Czech Republic and Poland

Keywords: social welfare law, human rights, individual dignity, Méndez Principles on Effective Interviewing, social workers, clients, familial interview.

The Principles on Effective Interviewing for Investigations and Information Gathering, also known as the Méndez Principles, present an innovative approach to interviewing, interrogations and the prevention of torture. The Méndez Principles blend legal and scientific elements to enhance the effectiveness of information gathering conducted by state officials while upholding human rights. They can also be extended beyond criminal proceedings to other areas, such as social services, embodying an inclusive multidisciplinary strategy that integrates law and psychology. Aimed to facilitate accurate and complete information acquisition, these universal principles accommodate diverse state legislations. In the Czech Republic, social services adhere to the standards of care established in 2007, which prioritize individual needs and human dignity, in conjunction with the Méndez Principles. In Poland, the standards of social services have been defined by the law on social welfare of 2004, which prioritizes individual rights and dignity and thus adheres to the values of the Méndez Principles. In both countries, national legal standards on social services converge on safeguarding human rights, respecting individual will, and promoting professional development and communication between social service personnel and their clients. The aim of the paper is to explore

the potential application and relevance of the Méndez Principles – originally designed for interviewing and information gathering in investigations and interrogations – to the field of social services in the Czech Republic and Poland. The authors seek to examine how these principles, which emphasize human rights, legal integrity, and psychological insights, can enhance the standards of care and information gathering in social services, ultimately contributing to fairer, more respectful, and effective procedures. The paper investigates the intersections between the Méndez Principles and existing national social service standards, aiming to identify possible synergies and benefits of integrating these principles into social service practices. The authors conclude that there is potential for the implementation of the Méndez Principles in social services, among other areas, with respect to information gathering for decision-making.

Streszczenie

Zasady efektywnego przesłuchania Méndeza w dziedzinie pomocy społecznej – perspektywy dla Republiki Czeskiej i dla Polski

Słowa kluczowe: prawo ubezpieczeń społecznych, prawa człowieka, godność człowieka, zasady efektywnego przesłuchania, pracownicy socjalni, beneficjenci pomocy społecznej, rodzinny wywiad środowiskowy.

Opracowane pod auspicjami ONZ zasady efektywnego przesłuchiwanie, znane również jako zasady Méndeza, promują innowacyjne metody przeprowadzania przesłuchań i wywiadów. Zawarte w nich rekomendacje uwzględniają normy prawa międzynarodowego, powszechnie uznawane gwarancje praw człowieka, jak również najnowsze osiągnięcia nauki i najlepsze praktyki. Poza postępowaniem karnym zasady Méndeza mogą być stosowane w innych dziedzinach działalności organów władzy publicznej, takich jak kontrola granicznej czy regulacja kwestii migracji i azylu. Celem artykułu jest zbadanie możliwości zastosowania zasad Méndeza w sferze pomocy społecznej. Autorzy analizują, w jaki sposób zasady Méndeza mogą usprawnić realizację zadań w tym zakresie, przyczyniając się do bardziej sprawiedliwych i skutecznych procedur. W Czechach pomoc społeczna podlega standardom uchwalonym w 2007 r., które kładą nacisk na uwzględnienie indywidualnych potrzeb i poszanowanie godności człowieka, co w pełni koresponduje z kluczowymi założeniami zasad Méndeza. W Polsce normy prawne w zakresie pomocy społecznej zostały zawarte w ustawie z dnia 12 marca 2004 r. o pomocy społecznej, która priorytetowo traktuje prawa i godność jednostki, wskazuje na konieczność doskonalenia i rozwoju zawodowego, a tym samym również ape-

luje do wartości, na których oparte są zasady Méndeza. Autorzy dochodzą do wniosku, że implementacja zasad Méndeza w dziedzinie pomocy społecznej może ułatwić nawiązywanie korzystnych, bardziej harmonijnych relacji z beneficjentami poprzez poszanowanie godności ludzkiej, uwzględnienie różnorodności i indywidualnych potrzeb, a w konsekwencji poprawić skuteczność całego systemu pomocy społecznej.