

THE CONCEPT OF FAMILY POLICY AND MEASURES INITIATED BY THE MINISTRY OF LABOUR AND SOCIAL AFFAIRS OF THE CZECH REPUBLIC*

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Abstract: The author informs readers about the substance, objectives, and reasons for the emergence of the government's most recent family policy document, 'Pro-Family Package', which contains a series of measures aimed at supporting families with children. The author also examines some problematic areas that are currently hampering the formation and adoption of a comprehensive and effective concept of family policy for the Czech Republic.

The most recent documents outlining the government's objectives and proposals pertaining to support for families with children was adopted by the cabinet of Prime Minister Mirek Topolánek on 19 November 2008 in **Government Resolution No. 1451 on family policy – the Pro-Family Package**. Despite the title of this document, in which seven proposed measures for improving work/life balance, supporting active fatherhood, and supporting family-type substitute care are formulated as a framework law, the cited resolution was adopted by the government as a schedule appended to the documents that were part of the National Concept of Support for Families with Children (hereinafter the 'Concept').

Both the Pro-Family Package and the Concept are very different in form from previous conceptual documents with a similar focus¹⁾. They were drawn up by the Ministry of Labour and Social Affairs of the Czech Republic, which laid special emphasis on formulating the objectives in as much detail as possible and explicitly identifying the steps²⁾ necessary to ensure the feasibility of their implementation and fulfilment within an established time frame, identified as the electoral term of the Government³⁾. Compared to the National Concept for Family Policy adopted in Government Resolution No. 1305 on 12 October 2005, the result of this effort was a more narrowly profiled⁴⁾ 36-page Concept focusing on the issue of supporting families with dependent children.

The Concept concentrated on four key areas of support for families with children from the perspective of their needs: creating adequate socio-economic conditions that families can function in; improving the quality of family relations and strengthening parental responsibilities; supporting families with special needs; and engaging the regions and municipalities in family policy. It charts the situation of families in the designated areas and focuses on identi-

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¹⁾The Action Plan in Support of Families with Children for 2006–2009, adopted in Government Resolution No. 854 of 12 July 2006, and especially the National Concept of Family Policy, adopted in Government Resolution No. 1305 of 12 October 2005.

²⁾The Concept does not make do with just establishing rough general objectives, such as 'improving people's ability to combine work, family, and personal life', but also identifies specific problems, where a fixed-term assignment is then formulated in such a way that its outcome would be the adoption of a specific legislative or non-legislative measure that would directly respond to the given problem.

³⁾ I.e. the Topolánek Government.

⁴⁾ That is, in terms of its subject focus.

fyng the key problems therein. The core part of the Concept is a chapter that discusses basic areas of support as they relate to the needs of families with children and the current objectives and direction of family policy. It also outlines and explains the reasons for the steps that the family policy will strive to take. The closing, and to some degree key, chapter in the Concept contains a set of explicitly defined proposals for legislative and non-legislative measures laid out in response to the objectives presented in the introduction to the Concept. The legislative measures were taken up in the Pro-Family Package.

The Pro-Family Package, which received considerable media attention, proposes the following measures to help improve work/life balance: a) the introduction of the institution of mutual parental assistance; b) support for commercial childcare services through a revision of the hygienic, spatial, and qualification requirements for running this type of business; c) the introduction of non-commercial childcare services – the institution of the mini-school; d) the introduction of tax advantages for employers that provide or facilitate childcare for their employees; e) the introduction of deductions on social security premiums and the state employment policy contributions. The Package also proposed introducing a paternity allowance to promote active fatherhood, and with the objective of directing the financial resources allotted to substitute childcare into the sphere of family-type substitute care, it proposed granting foster guardians caring for children in foster-care facilities entitlement to remuneration in the form of a foster-care allowance, to be provided according to the terms laid out in Act No. 117/1995 Coll., on State Social Support, as amended.

The Package’s proposed measures to support childcare services make no provisions for an increase in the capacity of preschools.⁵⁾ The reason is that preschools usually fall under the authority of the municipalities, and the government has no way of ordering the municipalities to increase preschool capacity, and the municipalities themselves tend to be reluctant to do so.⁶⁾ Another reason this option was not pursued is that increasing the capacity of preschools would constitute an escalation of public expenditures and an additional burden on the state budget. Consequently, the proposals relating to childcare services are directed at finding alternative, non-institutional solutions that primarily involve the use of private resources and minimise the burden on public budgets. According to the Pro-Family Package, such alternative solutions include involving parents in caring for other people’s children, engaging the private and non-profit sector to expand the supply of childcare services and doing so by formulating clear rules governing the provision of such care, establishing minimum hygiene and qualification requirements for the operation of care services, and finally, with regard to activating employers, introducing tax allowances.

Probably the most widely discussed measure designed to support care for preschool-age children is the proposal to establish the institution of registered providers of mutual parental assistance. The goal of this measure is to come up with a clearly defined operational framework within which, in conformity with the legal code, a registered physical person with at least one child up to the age of 7 can provide care full time, on a regular basis, from their own home and for a limited fee for at most four children up to the age of 7 (including the care-provider’s child/ren). Provision of the service (care for pre-school age children) is not subject to the terms of the Trade Licensing Act (No. 455/1991 Coll.), as amended. Instead, the proposal would authorise a registered provider to receive a maximum fee of 5000 CzK per child monthly in return for the service of providing childcare and the provider of the service is not required to pay income tax as a physical person on that income. A registered provider is also not required to pay social security premiums, state employment policy contributions, or even health insurance premiums. The total net monthly income of a physical person engaged in the

⁵⁾ A large part of the criticism of the Pro-Family Policy was actually levelled at the absence of this measure.

⁶⁾ IV, Rapid Survey 3/2008.

provision of this service could thus be as much as 15 000 CzK. It is also proposed that the parents of children placed in the care of a registered provider could use the parental allowance to pay for this care.

This proposed measure derives from the practice of mutual assistance that some parents already use to deal with the problem of the shortage of care services for preschool-age children, so that for various periods of time and under agreed conditions they care informally for each other's children. Implementation of this proposal required the introduction of new legislation, but it is intended to establish the foundations for the legal provision of remunerated care for children other than one's own for a fee; that is, to activate potential providers of this informal form of childcare, who could provide the given service without fear of being penalised for running an unauthorised business in the 'grey economy'. The assumption is that the actual conditions of the care provided will be agreed by the contracting parties in the arrangement and parents are expected to be the ones to check into and inspect the service they are leaving their child in⁷⁾.

The Pro-Family Package also proposes expanding the supply of childcare services by simplifying the hygienic and spatial requirements for operating a childcare business for just a small number of children. It also proposes amending the qualifications requirements for running a regulated trade in the category of 'Day-care for Children up to the Age of Three'⁸⁾. Under this measure, the premises used to provide the service of care, as a regulated or unregulated trade, defined as activity no. 72 'Out of School Provision of Care and Education, Courses, Training, and Teaching Activities', for a maximum of 4 children at one time (including the provider's own child up to the age of 7) would not be subject to the same hygiene requirements as those set out generally in By-law No. 410/2005 Coll. on Hygiene Standards for the Premises and Services of Facilities Providing Care and Education for Children and Youth, as amended (hereinafter the 'By-law on Hygiene Standards for Care Premises'), but rather would be subject 'just' to requirements proportionate to the smaller number of children. While these requirements should ensure that the needs of children are met, they should at the same time facilitate the development of this type of business. The professional qualifications required to perform this regulated trade should be broadened to allow individuals wishing to provide this service to demonstrate their qualifications with a requalification certificate or another document testifying to their professional qualifications⁹⁾.

The adoption of new legislation is also assumed in the third proposal to support childcare services for preschool-age children provided on a non-commercial basis with the introduction of the 'mini-school'. According to this proposal, mini-schools could be set up for a maximum of 4 children between the ages of 6 months and 7 years (again the number of children includes the childcare provider's own children). The hygienic and spatial requirements for mini-schools would be adapted to reflect the smaller number of children and essentially be similar to ordinary household facilities. The proposal envisions this as a service that would usually be provided by the employer of a parent at the parent's workplace or some other appropriate and accessible location, or provided by non-profit subjects, the municipalities, or

⁷⁾In this regard the bill envisaged that parents considering use of such a service would be provided with an information brochure (manual) at the registered location informing them of the nature of the service provided, of their rights and obligations, of the responsibilities arising from the provision of the service, and drawing attention to other factors that should be taken into account when making the decision of whether or not to place one's child in the provider's care.

⁸⁾According to Schedule No. 2 in the Trade Licensing Act No. 455/1991 Coll., as amended.

⁹⁾The bill envisioned the introduction of a course of adequate duration that would focus specially on caring for children in substitute care. In preparing the bill, consideration was also given to the possible positive effect of the new qualification legislation on helping to address the situation of women over the age of ⁵⁰ who are at bigger risk of unemployment. By obtaining this qualification these women would have an opportunity to do business in this field, as the proposed amendment to the hygienic requirements would pose an obstacle to setting up such a service.

the regions, which, according to reg. no.  35 par. 2 Act No. 128/2000 Coll. on the Municipalities, as amended, and reg. no.  1 par. 4 Act No. 129/2000 Coll. on the Regions, as amended, are required under their independent powers to cater to the needs of their citizens and to do so using the organisational components of the state. In the case where the employer covers the costs of setting up and running the mini-school for its employees' children the costs would be tax deductible.

Further to the measures supporting childcare services, the Pro-Family Package also proposes amending the Income Tax Act so that the expenses an employer incurs in arranging childcare for its employees also be categorised among tax deductible costs. These include expenditures incurred from operating a separate health-care facility – nurseries, services providing care and education¹⁰⁾ in conformity with the By-law on Hygiene Standards for Care Premises, mini-schools – and the employer's contribution to the provision of childcare for the child of an employee by another subject or employer¹¹⁾.

Another measure in the Pro-Family Package is directed at supporting part-time employment for parents with children up to the age of 10 and other people defined as hard-to-employ in the labour market¹²⁾. The proposal is that employers that offer part-time employment, i.e. employment in which the employee's work hours amount at most to 80% of the established number of hours in the working week, can claim a deduction of up to 1500 CzK in the calendar month in which for the whole month the given conditions are met. It should be noted that in order to assess the effects of the measure after a certain trial period the Pro-Family Package proposes limiting the effective duration of this measure to a period of three years and then, based on the results, either terminating or extending the effective duration of the measure.

The measure to introduce a new health-insurance benefit, the paternity allowance¹³⁾, is aimed at encouraging active fatherhood by granting financial support to fathers who opt to temporarily interrupt their employment in order to care for a newborn child either alone or (usually) together with the mother¹⁴⁾. The paternity allowance would be provided for a period of one week on the condition that the insured person take this leave within the first six weeks of the child's life or within the first six weeks from the time the child in care that replaces the care of parents.^{15, 16)} The parental allowance is conceived as a health-insurance benefit and

¹⁰⁾ Typically, a private facility established as an unregulated trade, no. 72, 'Out of School Care and Education, Organising Courses, Training, Teaching Activity', and as a regulated trade, 'Day Care for Children up to the Age of 3', often somewhat inaccurately designated as private nurseries and private preschools.

¹¹⁾ Current regulations conform to the Income Tax Act No. 586/1992 Coll., as amended, wherein expenditures incurred by employers in the provision of care for the preschool-age children of their employees are only deductible if the employers incur them from operating their own preschools in conformity with Act No. 561/2004 Coll. on Preschool, Basic, Secondary, and Higher Education (the Education Act), as amended. If the expenditures go to covering the cost of placing an employee's child in preschool or some other childcare facility for preschool-age children run by a subject other than the employer are not tax deductible. If the employer provides the employee with a (monetary) contribution on top of wages or salary to cover the costs connected with placing the employee's children in preschools or facilities for preschool-age children run by subjects other than the employer, this contribution is only tax deductible if this employee entitlement is entrenched in a collective agreement, internal regulation, or work or other contract.

¹²⁾ Alongside employees caring for children up to the age of 10 this also applies to employees who are disabled or over the age of 55, or who is caring personally for another person dependent on Level I-IV assistance, and for this reason is registered with the municipal authority with extended powers or who is a student enrolled full time in secondary or higher education

¹³⁾ This is sometimes referred to in the media erroneously as the introduction of paternity leave.

¹⁴⁾ Given the fact that men are already able to take parental leave after the birth of a child together with the mother's maternity leave, the introduction of a new benefit would de facto assign it a status that corresponds to the way so-called paternity leave functions in a number of EU countries.

¹⁵⁾ In such a case only if the child is placed in care substituting parental care by the age of 7.

¹⁶⁾ Determined with a view to the purpose of the paternity allowance, which is to support paternal care of a newborn child, and in conformity with the enactment of terms in  32 par. 1e) of the Health Insurance Act No. 187/2006 Coll., as amended, which stipulates that after the six-week period following the birth of a child the father of the child or the husband of the mother of the child can alternate with the child's mother in collecting the maternity allowance.

consequently is calculated the same way as the financial allowance paid to men on maternity leave. The amount of the paternity allowance per calendar day is proposed as 70% of the daily assessment base.

The last measure in the Pro-Family Package is aimed at regulating the financing of foster care in facilities designed to provide foster care, which represents a specific type of substitute family care¹⁷⁾. In conformity with Act No. 359/1999 Coll. on the Social and Legal Protection of Children, as amended, the financing of the operation of these facilities and the costs connected with the provision of foster care is to a large extent left to the institutors of the facility. The Act also places relatively high demands on the professionalism of foster guardians and on the professional and material arrangements for the provision of care. The proposal to grant foster guardians in facilities entitlement to remuneration in the form of a foster-care benefit under the terms set out in Act No. 117/1995 Coll. on State Social Support, as amended, is intended to reduce the incongruity between the demands in the act and the real means of the institutors and finally is intended to establish a level of stability for facilities engaged in the provision of foster care.

The Pro-Family Package was intended to be the fulfilment of the Topolánek Government's policy agenda, particularly its declared objective of supporting the development of childcare services for families with children aged 4 and under, including care provided by a non-parental person, strengthening the role of fathers in caring for children, promoting more opportunities for flexible working hours, and motivating employers to employ parents raising children. The fate of the Pro-Family Package thus to some extent reflects the fate of the last Government. Despite the effort to come up with measures in the Pro-Family Package that would support the kind of childcare services that would not add to the burden on the state budget, costs were the reason why the draft wording of the bill composed by the ministries were not submitted to the current Government for debate as envisaged in the above-cited Government Resolution No. 1451¹⁸⁾. Thus, the Fischer Government dealt with the documents 'only' in relation to its adoption of an opinion on a private member's bill put forth by Petr Nečas and Michaela Šojdrová to publish a law supporting families with children and amending some acts¹⁹⁾. The Government adopted a negative opinion on that bill, which it expressed in an addendum to Government Resolution No. 834 of 29 June 2009²⁰⁾.

From the Pro-Family Package's design and the character of its proposed measures it follows that although it focuses intensively, for instance, on the area of work/life balance, it does not contain a comprehensive, compendious conceptual solution to any individual family pol-

¹⁷⁾ As of the end of 2007 a total of 55 such facilities, including SOS Children's Villages, were operating in the Czech Republic

¹⁸⁾ The resolution tasked the then Deputy Prime Minister and Minister of Labour and Social Affairs to draw up a bill on registered providers of mutual parental assistance and on mini-schools, a bill to amend Act No. 589/1992 Coll. on Social Security Premiums and State Employment Policy Contributions, a bill to amend Act No. 187/2006 Coll. on Health Insurance, a bill to amend Act No. 359/1999 Coll. on the Social and Legal Protection of Children, and a bill to amend Act No. 117/1995 Coll. on State Social Support, and together with the bill to amend the Trade Licensing Act No. 455/1991 Coll. drawn up by the Ministry of Industry and Trade and the bill to amend the Income Tax Act No. 586/1992 Coll. drawn up by the Ministry of Finance, to submit them with the Ministry of Industry and Trade and the Ministry of Finance to the Government for debate by 19 April 2009.

¹⁹⁾ Parliamentary Statute no. 863, which contains the draft wording of the proposals for the Pro-Family Package, was submitted on 28 May 2009 to the Chamber of Deputies of the Parliament of the Czech Republic and is now in its first reading.

²⁰⁾ The reason for the negative position taken is 'the increase in mandatory expenditures and especially the substantial decrease in state budget revenue following the adoption of the act as a whole, whilst the Government considers the impact of the submitted bill on the state budget stated in the explanatory report is considerably underestimated'. (The estimate of the total impact of the proposed legislation on the state budget is estimated in the document as a maximum of 2.5 milliard CzK annually, of which 0.5 milliard annually would go to paternity leave, 1.9 milliard CzK to the insurance deductions, and 0.1 milliard CzK to the measures supporting foster guardians and other measures.) The Government also issued comments on the proposed legislation for introducing mutual parental assistance and mini-schools.

icy issues. Despite this fact and the criticism of the orientation of the material as a whole and at its individual legislative proposals or parts thereof, as voiced by part of the professional, political, and lay public when the contents of the Pro-Family Package were made public, the Package nonetheless represents the most complexly conceived undertaking by the government to date that explicitly deals with support for families with children²¹⁾.

The form²²⁾ of the document and the difficult process involved in its preparation²³⁾ reflect two problematic factors that complicate the formulation of effective family policy measures. First, the Ministry of Labour and Social Affairs is not endowed with the necessary authority for it to be able to coordinate the formulation of a concept and/or other measures of family policy. Second, the expert competence of this central organ of state administration is insufficient for it to formulate a concept and/or family policy measures on its own, as, given the nature of the family policy agenda, the requisite areas of expertise fall under many other ministries²⁴⁾.

The Ministry of Labour and Social Affairs derives its authority to coordinate the creation of family policy from clause § 9 of Act No. 2/1969 Coll. on the Establishment of Ministries and Other Central Bodies of the State Administration of the Czech Republic, as amended (hereinafter the ‘Competences Act’), which stipulates that: ‘... [it] is the central body of state administration [responsible] for care of the family and children’. The relative vagueness of this clause has in the past already led to disagreements over the exact scope of competence of individual ministries and it does not give the Ministry of Labour and Social Affairs much room to consistently assert its authority at the level of state administration as the coordinator of the concept of family policy. The National Concept of Support for Families with Children responds to this defect with a measure to amend the Competences Act so that it explicitly establishes the role of the Ministry of Labour and Social Affairs as coordinator in the formation and implementation of family policy, wherein it would also change its name to the Ministry of Labour, Social Affairs, and the Family.

A solution to this lack of competence in a way that would also establish a clear political mandate to formulate a family policy concept and/or measures across the government would then be to establish a Government Council for Family Policy (or the Family), which would be made up of ministers from selected departments and would be chaired by the Ministry of Labour and Social Affairs or, to emphasise the inter-ministerial character, the Prime Minister. This would create a body with the remit to delegate analytical and conceptual assignments to individual ministries according to their competencies. An unquestionable advantage of a body set up in this way is that it would represent an explicit expression at the central level of state administration of its will to tackle a specific task and prevent fundamental splits of opinion between individual departments over solutions to the given family policy tasks. This would significantly reduce the risk of material prepared by the government subsequently failing to pass or being substantially amended owing to the incompatible views of individual ministries. The body’s expertise would be supported by the opportunity to invite groups of external experts set up ad hoc to work on specific tasks.²⁵⁾ It can be assumed that the role of

²¹⁾ Just as information I should add that converting the legislative intents into draft legislation required a new set of rules be drawn up on the institution of mutual parental assistance and mini-schools, and the introduction of amendments of varying scope to other legislation.

²²⁾ It was de facto a combination of the non-legislative text of the concept and the legislative intent of the proposed legislative amendments *sui generis*.

²³⁾ Given the nature of the measures it was necessary to establish close cooperation between the submitter – the Ministry of Labour and Social Affairs – a number of other ministries, in particular the ministries of health, finance, and industry and trade.

²⁴⁾ At the very least the Ministry of Health, the Ministry of Education, Youth and Sport, the Ministry of Finance, the Ministry of Justice, the Ministry of Industry and Trade, the Ministry for Regional Development, and some of the agendas over which the Office of the Government exercises responsibility

²⁵⁾ This refers to experts from outside the central bodies of state administration.

the Technical Department of the Ministry of Labour and Social Affairs²⁶⁾ would in such a case shift and become more organisational, including the task of securing source materials, in relation to the Council and its working groups. With respect to previous experiences with formulating concepts and their oftentimes confused implementation in practice, I believe that without establishing the type of body described above it will be difficult in the future to formulate a good-quality and comprehensive concept of state family policy in the Czech Republic.

However, it should be added that even the adoption of both of the steps outlined above would not solve another crucial problem in the Czech family policy concept, namely, the absence of continuity. At least a basic political agreement on the focus of family policy and the direction that should be taken in support of families is the primary precondition for the success of even the very best formulated and adopted measures. In the above light it is almost impossible to give a specific account of the particulars of Czech family policy, a fact that became apparent more than ever before after the fall of the Government. While here and there it is possible to identify individual measures of greater or lesser importance in the area of benefits or tax support for families, it is hardly possible to speak of any system of conceptually adopted measures with a uniform objective.

Despite this gloomy concluding comment on the 'haziness' of Czech family policy, allow me to close this article on a more positive note. Over at least the past five years it has been possible to observe a shift at the level of political parties and state administration towards accepting the view that it is necessary to support so-called functioning families²⁷⁾. It is perhaps not too optimistic to believe that the Czech Republic has now taken a couple of small steps on a long path, at the end of which lies a clearly defined and relatively continuous family policy.

The article expresses solely the personal opinion of the author.

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²⁶⁾ At present this function is held by the Family Policy Section in the Department of Family Policy and Social Systems.

²⁷⁾ This not very correct term refers to families that are not in difficult social circumstances. This shift in perception is important also given the reduction in social support for families that occurred in the Czech Republic in the 1990s.