

# National Family Report

## (abridged version)

Ministry of Labour and Social Affairs of the Czech Republic  
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## **I. Family policy in the Czech Republic**

### **I. 1. The family and its role in society from a state perspective**

Finding an appropriate definition of the term family is not only difficult given the various areas in which this term is used, but also due to its changing value base in relation to the socio-cultural environment of the given society. In individual scientific disciplines and their specific branches, the definition of this term thus differs according to the methodological procedures used (which are variable in themselves), the area of research and conceptual mechanisms. It is therefore impossible to speak of a single, fixed, generally accepted definition of the term family, but rather of the individual aspects and variations of this term, as reflected in various scientific disciplines.

In its broadest sense, family is seen as a unit of diverse constellations encompassing the type of life that includes cohabitation between at least two generations of children and parents, is of a permanent/enduring nature and embodies strong intergenerational ties and intra-generational solidarity. In this interpretation, the family, as a social unit, united on the basis of intergenerational ties between family members, is in essence, an unchanging social institution that exists and is socially recognised in every cultural environment. Other specific attributes of family considered to be essential characteristics differ according to socio-cultural environment and concrete forms of family cohabitation present in the time and environment.

In today's society, attempts to find the broadest possible definition of family are sometimes evident; one that is relevant for all forms of cohabitation between two or more people, disregarding the intergenerational element, the presence of children or institutional ties. Given the possibility of defining family for political purposes, it appears essential to define the individual, socially relevant functions of the family. For it is the area in which the family provides society with expensive and difficult to replace services that must become one of the determining elements for the definition of family in relation to other forms of human cohabitation in small social groups. In this sense, the basic functions of the family are reproduction, socialisation, socio-economic and regeneration. Sometimes, this is also said to include the creation of human capital through the preparation of children to lead full lives in society, where the creation of human capital is the almost exclusive domain of the family, whose role in this area is irreplaceable. In other forms of cohabitation between parents and children, a good upbringing is only possible if the relationship manages to successfully imitate a stable family environment that meets all of the child's needs and develops the child's ability to orient in the world of both sexes.

Naturally, it is not objectively possible to determine the importance of the individual functions listed above in relation to the definition, understanding and use of the term family. Preference depends on concrete ethical and political views, as well as on the field from which the family is viewed, whether this is sociology, psychology, statistics or demography. Despite this however, the basic functions of the family in relation to society as a whole, can be considered as an essential component of the definition of the term family for its use in the public sector.

Given its basic biological and functional characteristics, the family in the European and Czech environment can, in its broadest sense, be seen as a social unit whose constituent feature is the cohabitation of at least two directly related generations (parent-child) and whose secondary features are the performance of basic family functions, with a desirable but not essential, legislative-institutional basis in society. In exceptional cases, family relations can be based on legal institutions not based on biological parentage (e.g. adoption). It must be emphasised that this form of family is not restricted to two-generation cohabitation, but also includes multiple generation forms of family cohabitation. Attention must also be devoted to this issue in relation to current demographic changes and discussion of forms of intergenerational solidarity.

In the narrower sense, the natural nuclear family, which is the predominant form of cohabitation in the Czech Republic, can be seen as an institutionally structured community founded on parental and marital relationships as its two basic relationship lines, which is based on family law. Besides which, marital cohabitation, whose main role is to create a family and raise children under Czech law, envisages this basic type of family.

The broader, biological function related definition of the term family can be used when demographically describing heterogeneous forms of family life based on any form of cohabitation between two people of opposite sexes with children. However, in formulating its family policy concept, the state has to choose which forms of partner relationships it considers most appropriate. In this context, it must be realised that a family based on marriage meets all of the family's socialising, economic and regeneration functions in relation to the stability of its partnership union. However, the state must naturally also respect other forms of cohabitation between partners with children (to whom state assistance must also be directed in relation to children raised). However, it has to be realised that these informal types of cohabitation create much more pressure on state budget resources and are supported from these resources to a much greater degree in comparison to marital families. According to the principle of responsibility, the state should give people the freedom to decide the form of cohabitation they wish to live in, but at the same time for them to bear responsibility for their decision. Equally, in making its decision on preferences in family policy, the state should not overlook the major role played by the development of alternative forms of cohabitation as an important component of population regression. In view of these facts, the narrower legislative-institutional definition of the family, based on marital and parental relationships, should be determinative for state family policy.

## **I. 2. Societal structural apathy in relation to families**

The post-industrial age and the rise of the social state have created an environment that greatly disadvantages the family and life in families over other forms of existence. The importance of children in intergenerational solidarity, as an investment for material security in old age, has been reduced by the social welfare system and pension insurance, which have eliminated direct dependence on children. The importance of children to parents has shifted to an emotional level, which has reduced the direct material need for the presence of children in families and in contrast, has enabled children to be replaced by substitutes that give emotional satisfaction.

Despite the unchanged structural importance of families with children for a functional society, based on the family's irreplaceable or difficult to replace functions, the shift in the material importance of children from direct material security (relationship between the child ↔ parent) to indirect security (economically active population ↔ retirement age population) was not compensated by a change in society and the state's approach to families. The creation of human capital and other functions performed by the family are not materially or financially rewarded, which, with the loss of the direct material and financial benefit of children, significantly disadvantages families with children in contrast to the rest of the population.

At the same time, the growing emphasis on the role of the individual in society has led to a fall in the value placed on the family as the natural basic component of the social unit. Despite its unquestionable importance to society, raising children is seen as a consequence of the parents' own decision and preference, not as an activity that is of benefit to all. The decision to have or not to have children is considered as the parents' personal choice, in which society has no influence or preference.

Naturally, in this situation alternative forms of life without children appear materially much more advantageous. At the moment when all activities in society are geared towards the individual and not the family, and where the family is seen as a group of individuals, discrimination arises for one form of life over all others. Social indifference to whether children are brought up by an individual or not, together with the rising cost of raising children and other factors (efforts to significantly increase the family's standard of living, women's emancipation and increasing education and qualifications), often leads to a need to employ both parents, without preference given to home care for the child by one of the parents or an effective solution to the question of various forms of day care by persons other than the parent (e.g. based on the model of other European states). At the same time, the number of family members is not taken into account in the electoral system, which has raised discussion on this issue in many European states.

This situation, where the family form of life is comparatively disadvantageous to life without children, relates to structural changes in modern society and as such cannot be fully overcome (cf. Wingen 2001, p. 63nn). However, this is not a favourable situation in the long-term, as its direct consequence is a fall in the birth rate and even a decline in population. At the same time, the growing costs associated with the performance of the family's natural functions are increasing demand on the substitute performance of these functions by the state. Both these consequences, reflected in regressive population trends and the gradual rise in substitute functions by the state with a subsequent additional tax burden, form the basis for the formulation of a set of measures designed to reinforce the family's place in society and provide families with compensation for the costs of the performance of their functions or "a reward" for this performance. The state must try to eliminate this structural apathy towards family life and reinforce intergenerational solidarity in families and society as a whole.

### **I. 3. Basis of family policy**

At a time of structural disadvantage for family life over other forms of existence, public interest in family support becomes a natural stimulus for the formulation of family policy. Despite the diversity of the definition of this term, which is based on the sociology of the family, family policy can be seen as a set of activities and measures by the state (or public authorities), consciously leading to recognition and support for the performance of the family's functions in society, including financial and non-financial compensation for costs expended in the performance of these functions, while at the same time defining social forms to which these measures apply. However these measures cannot be simply confined to population and social policy. Population policy only applies to the family's reproduction role, while socio-political measures are not primarily directed at institutional family support, but at support for concrete families and their members at a time of social need. Family policy can therefore be seen as a complex family support system that does not give preference to any one family function (e.g. population), but strengthens the family's ability to fulfil all of its natural functions and their further development.

The long-term societal objective of family policy is to provide institutional support for healthy, functional families and support for people to start families. The specific definition of the main family functions supported however differs in relation to socio-economic and population factors and socio-cultural conditions. The population aspect of family policy in particular, is strongly dependent on external factors. In the case of countries with growing populations, pro-family measures are primarily concentrated on support for the creation of human capital in the natural family environment, while in countries with falling populations, family policy is increasingly motivated by attempts at pro-population measures which are primarily centred on the family's reproductive role.

It is this consideration of the natural functions of the family and their importance for society that forms the enduring basis of state policy in relation to families. The objective should be to create the sort of environment where family life is not disadvantaged in comparison to other forms of existence and which, at the same time, provides conditions for the quality performance of the family's functions in their natural environment. At the moment that the performance of family functions ceases to be directly compensated by their object – the child, the state, representing society, must step in and accept the role of a compensatory or rewarding element, for in the post-industrial age it is the state that benefits from the natural functions of the family the most. For this reason, apart from social and intergenerational solidarity, there is also a need for legislative and institutional regulations on solidarity between childless groups of the population and families, which is a requirement for any family policy in itself.

A characteristic component of family policy is the cross-sectional nature of its agenda, which affects all fields of social policy and a series of other political areas. This particularly relates to tax policy, education, healthcare, housing, transport, refugee and immigration policy and last but not least, a series of regional and municipal policy instruments. All these policies directly affect family life, while at the same time their measures can be adapted to the needs of the family.

Every integral family policy must be based on certain ideological and ethical foundations determined by the values shared by the socio-cultural environment in

which they are applied on the one hand and the concrete views of political representatives on the other. The aforesaid value-culture based ethical criteria form the permanent base for the negotiations of state administration units, municipalities and civic associations in the family sphere. Their source are the traditions of European humanism and respect for humankind, human dignity and freedom, the tradition of social and intergenerational solidarity and last but not least, the legacy of the Christian concept in which the family is the basic unit of society. Naturally concrete approaches based on these timeless values change over time in relation to various socio-economic and cultural factors. In the twentieth century, under the influence of a state-collectivist and culturally individualistic view of social reality, there was a major change in the role of general ethical foundations for the formulation of state measures relating to the family. These changes influenced the political approach to family policy, establishing an individualising and atomising approach centred on the individual. The question that needs to be answered is, what approach will be determinative in defining the target group in the state's future approach to family policy.

#### **I. 4. Types of family policy**

Family policy systems can be based on varying combinations of different types of family support, main intervention measures and differing accentuations of expected results. The diverse types of family policy also depend on their differing value base, cultural traditions and political culture in various ethnologic environments. Despite this however, it can be said there are four basic types of family policy in Europe in relation to the basic forms of the social state and socio-cultural specifics of individual regions. The so-called German model, characteristic for the central European environment, is typified by its considerable generosity to families, especially in the social and tax area, and institutional family support. Like the German model, the French model is also based on a high degree of economic intervention by the state in favour of the family. At the same time, it places emphasis on balancing family and employment, represented by the so-called dual role model in its highest form (family and work, carried out by one parent at the same time). The Anglo-Saxon model is based on the traditional liberal concept of the relationship between the state, society and the individual. The family is considered as a private area, which rules out intervention by the state. Family support is therefore included as part of social assistance, which is the backbone of the British social security system. The so-called Scandinavian model is characterised by a traditional orientation towards gender equality (ibid. with the introduction of paternal leave here in the form of so-called paternal days) and equal opportunity in employment. Based on a comparative investigation of financial transfers to families however, economic intervention in favour of families is relatively lower in comparison to other models. This model is also typified by a focus in family policy on individual family members.

Apart from these models, various interim forms currently exist in European Union countries that combine family policy instruments based on various systems. In most cases these variously combine a pro-family infrastructure system (ecological intervention) with financial family support (economic intervention). Despite this however, individual family policy models and their forms of combination cannot explain demographic and population trends in individual states. Notwithstanding differing population and family policies and the value implications of understanding

their relationship, these differences are caused by a complex combination of various factors dependent on cultural models, lifestyles, value orientation, religious beliefs, immigration potential, etc. For this reason, it is not uncommon for the population curves of countries with identical family policy models to be very different.

### **I. 5. Family autonomy and the role of the state**

The fact that family policy is, in essence, based on public authority intervention in this private area, necessarily leads to the question of the legitimacy of such intervention in family life. Financial and non-financial family support is often an instrument that can influence certain decisions in this highly private sphere. This is why it is also sometimes the subject of certain rejection, which is particularly typical for the Anglo-Saxon environment. Despite this however, based on majority opinion reflected in individual family policy approaches in Europe, it is possible to combine the principle of family support with the principle of respecting family autonomy and self-sufficiency. The emphasis is principally placed on “protecting” the family, reinforcing its self-sufficiency through the compensation of certain costs and the creation of maximum freedom to decide on matters relating to family life. The family’s benefit to society lies in the autonomous performance of its natural family functions in the normal family environment. Thus any form of support should not create a bond of dependence of the family on the state, but should in fact, reinforce the family’s self-sufficiency and independence. And it is here that family policy differs from purely population policy.

Excessive state intervention into the family sphere would disrupt family autonomy and be in conflict with the principles of family policy. The family must thus retain chief responsibility for raising its children and the manner in which they will be raised, as well as choosing the right balance between gainful employment and individual childcare at home. The state thus gives parents the space to make a free choice in various situations and, despite expressing certain preferences, should not directly influence this choice.

Naturally family autonomy does not mean independence from legislative norms or the general framework defining freedoms. The state must intervene whenever there is evidence of breaches of human rights in families, e.g. in cases of domestic violence or child abuse. Family policy however is primarily a policy supporting the institution of the family as such. For this reason, it places emphasis on maintaining and reinforcing internal family solidarity, including intergenerational ties and parental influence, for it is such trends that lead to a weakening of this solidarity and reinforcement of intra-generational relations between members of the same generation at the expense of intergenerational relations, that are so destructive to family life. In contrast, a self-sufficient family is the basis for a continually developing society, which is essential to the existence of the democratic order.

### **I. 6. Development of family policy in the Czech Republic**

In the period prior to 1948, explicit family support did not play a major role in political thinking, which was largely due to the relatively favourable population trend and the continuing traditional model of the family not yet seriously threatened by structural social changes. However the idea of assisting families in difficult life situations originated at a much earlier date in the Czech environment. For example, it can be said that the type of nursery school in this country is based on a concept developed by Marie Palacká-Riegerová, wife of noted Czech politician, František Ladislav Rieger.

The communist dictatorship's rise to power more than fifty years ago, significantly affected the naturally developing Czech society. At a political level, Czech family development in 1948 – 1989 was marked by an ongoing trend of state intervention in all private areas of human life. Yet in family behaviour, the communist regime promoted the model of a double income family, where both parents were gainfully employed and provided suitable conditions for the realisation of this model (child day-care facilities, etc.). The traditional functions of the family – raising children, socialisation, etc. – were gradually taken over by the totalitarian state, which largely strove to restrict the scope of the family's activities to its biological reproductive function. Yet despite this institutional pressure, the family remained a place of intergenerational solidarity and mutual assistance.

Totalitarian family policy was led by purely economic (women's employment) and population objectives (birth rate support). Its purpose was to weaken family ties, eliminate natural family functions and in point of fact, restrict the importance of the family in society to a hybrid form of family that simply functioned as an environment for the realisation of basic biological needs. Thus the quite extensive system of direct financial assistance for families (so-called "*social assistance for families with children*") was geared towards this purpose with, among other things, clear preference for both parents to be economically active over the provision of childcare at home. Despite a clearly evident rise in birth rate however, the policy based on the above principles (fortunately not fully realised to a large extent) led to such serious changes negatively influencing social development that, in the 1980's, the first indications of the changes brought about by this trend began to emerge, though still only at research level.

After the fall of the totalitarian regime, the term „family policy“ appeared in various conceptual documents in the early phase of the post-November period, of which the *Scenario for Social Reform* released in 1990 deserves mention, which devoted an entire chapter to family policy. The objective of social reforms was to move away from the purely population objective of family policy and to emphasise irreplaceable family functions. It has to be said however that family policy in the social reforms concept at the beginning of the 1990's was largely centred on the social protection of the family through financial transfers.

Throughout the 1990's, the concept of the social welfare safety net was the basic principle of social policy. Analogous to this trend, family support was centred on assistance for low-income families. The outcome of this approach was the social reform of the mid 1990's, with social welfare as a separate pillar of family allowances. Family support was strongly individualised and its decisive criteria became the social solidarity of high-income families with low-income ones. In contrast to neighbouring

countries in central Europe, which were developing integral family policy systems focusing on complex family support in the sense of rewards for performance at the time, the view of family policy as an individual form of social security or concrete social assistance continued to prevail and be reinforced in the Czech Republic. What is more, the term itself gradually disappeared from official government documents, although it remained part of some political party programmes. Only in recent years can family policy be said to have experienced a certain revival as a separate topic for political deliberation.

In contrast, in the non-profit sector, attention devoted to the family issue continued to rise throughout the 1990's. A whole series of organisations specialising in family support arose, which work with numerous international family research institutions.

### **I. 7. Institutional backing for family policy in the Czech Republic**

The formulation of a complex family policy concept falls within the competencies of the Ministry of Labour and Social Affairs of the Czech Republic, which set up the Family Policy and Social Work Division within its organisational structure for this very purpose. This division is made up of two units, the Socio-Legal Child Protection Department and the Family Policy Department. It is the Family Policy Department that is responsible for the preparation of concept material for discussion with other ministries and for monitoring developments in legislative and non-legislative measures affecting the conditions of family life in the Czech Republic.

In the broader sense of the word however, the problem of families also falls within the competencies of certain other central state administration units dealing with areas directly related to families. Principally this includes the Ministries of Health, Education, Youth and Sports, Local Development, Internal Affairs and Justice. However the impact of policies by these ministries on families is rarely reflected in their organisational structures, as was the case with the Ministry of Health of the Czech Republic, which set up a separate Mother and Child Department. In general, it can be said that the immediate impact of many policies on families is not reflected in the institutional organisation of relevant central state administration bodies and very often not even in their activities. Similarly, because the issue of families is not part of the direct codified competencies of these ministries, this agenda is not adequately covered by relevant ministry personnel.

Until recently, the issue of gender equality had been in a similar position, however due to European Union priorities in this area, this has become an area of increased interest. Today, this area has institutional backing through a separate unit at the Ministry of Labour and Social Affairs, while the implementation of equal opportunity policy is secured by at least one part time employee within each ministry. Apart from this, the gender equality agenda has also been delegated to the Government Council for Equal Opportunity, which is chaired by a female member of parliament and whose vice-chairman is the Deputy Minister of Labour and Social Affairs. Despite its cross-sectional and multidisciplinary nature however, family policy does not currently have a similar system of institutional backing, despite the fact that it is closely related to the issue of gender equality.

The multidisciplinary nature of family policy has often led to considerations of its own

separate institutional backing. A similar practice exists in a number of European countries that set up separate family ministries in the past, which are also entrusted with certain other cross-sectional agenda (consumer protection, the problem of children and adolescents, etc.). The advantage of this solution is undoubtedly raising awareness of the importance of the family and the state's efforts to support families in society, while at the same time providing a comprehensive view of this issue, unburdened by a single ministry approach. A disadvantage is being cut off from certain important family policy instruments in the social area, which can be overcome by simply transferring the majority of social security competencies (e.g. family allowances) to the ministry responsible for family support. In general however, it can be said that, more than institutional solutions, general political will is required to build a coherent family policy.

In regions and municipalities, the family issue usually falls within the competencies of the social affairs and healthcare departments. Substitute family care is the responsibility of the socio-legal child protection bodies of regional and municipal authorities. However individual conceptual activities relating to family support are largely dependent on the political will and priorities of regional and municipal political bodies.

It can be said that the current state of institutional backing is not satisfactory and reflects the lack of attention devoted to families in the public sphere. Explicit family policy measures are largely centred on financial support, while other instruments of a non-financial nature are more or less overlooked. This is also reflected in the low or complete lack of emphasis placed on the issue of family support by most central authorities, including ministries, which was also evident during the preparation of this report. An even more evident deficit can be seen at regional and municipal level. A detailed analysis of how the issue of family is reflected in the conscious activities of public administration institutions whose activities have a direct impact on family life and function, is given in Part III of the National Family Report.

## **II. Socio-demographic synthesis of family conditions in the Czech Republic**

### **II. 1. Population trends**

In the 1990's there were major changes in demographic processes reflecting current changes in the Czech family. From the perspective of the beginning of family life, there was a fall in marriage rates for both first time and repeat marriages. Marriage was deferred by the younger generation to a later age, with its partial substitution by the expanding phenomenon of de facto relationships. 2003 saw what was historically the lowest number of marriages (just under 49 thousand). According to data in 2002, only 66% of men and 72% of women would enter into marriage, at an average age of 29.7 and 27.2 respectively. According to data from the beginning of the 1990's however, at the given marriage rates up to 90% of men and 95% of women would have entered into marriage, at an average age of 24 and 22 respectively. These changes in marriage rates among young people are reflected in both the higher number of singles in the under 30 year age bracket and the mutual relationship to reproductive behaviour, as having children, similar to marriage, is deferred until a higher age.

The 1990's also saw a continuing rise in the divorce rate that began during the Second World War. The amendment of the Family Act of 1998 temporarily disrupted this trend in 1999, but this was probably more a suspension in divorce proceedings due to new legal procedures than a reflection of stricter divorce conditions. In 2003, 32,824 couples were divorced, which corresponds to a 48% divorce rate, i.e. if this divorce rate were to be maintained, almost half of all marriages would end in divorce. Among the main causes given for divorce are differences in disposition, views and interests. However new legislation allows so-called negotiated divorces, i.e. if the couple reaches an agreement, the cause need not be ascertained. The percentage of divorces between couples with under age children fell during the 1990's (1990: 72 %, 2002: 64 %). Where divorcing couples had under aged children, in most cases this was an only child (2002: 37 % of all marriages, i.e.. 58 % of divorcing couples with children); circa every fourth divorcing couple had two children. More than 340 thousand children lost one of their parents through divorce during the 1990's.

The most significant and widely discussed fall was in birth rate and fertility. The 1990's saw the historically largest fall in the number of children born per year (the least in 1999: less than 90 thousand) and average number of children per woman of reproductive age. The current fertility rate of 1.18 children per woman (2003) is one of the lowest in the world. At the beginning of the 1990's, this indicator was still at 1.9. This major fall in fertility was, like marriage rates, due to a deferral in having children until a higher age: the current age of first time mothers is 25-26, while 10 years ago women first gave birth at an average age of 22-23. With the lower numbers of married women and lower numbers of children born in marriage, and as a result of more tolerance for alternative forms of family life (de facto relationships, single mothers, etc.), there has been a significant increase in the percentage of children born outside of marriage, rising from under 10% at the turn of the 80's and 90's, to more than 25 %. This „modern“ trend is currently more evident among women with lower education. Despite deferral until a higher age, women with university educations currently still prefer traditional forms of family life, i.e. marriage and the birth of children in wedlock.

A positive trend in recent years is a major fall in the number of abortions (from 109 thousand in 1990 to 31 thousand in 2002). At the turn of the 80's and 90's, more than 40% of pregnancies ended in abortion, while only 23% of pregnancies were aborted in 2002. Most (more than 80 %) of abortions are performed using the vacuum aspiration method (so-called mini abortion). Abortion trends are a reflection of more conscious family planning and more responsible sexual behaviour, combined with the more frequent use of contraceptive devices. On the other hand, there is still a group of women in the Czech population that undergoes abortions repeatedly and considers the procedure as „ex post“ contraception. According to data from 2002, only 56% of women would place abortion first. Although the probability of a woman undergoing her first abortion fell in the 1990's, the probability of her undergoing further abortions still remains high.

## **II. 2. Changes in family life**

### **Forms of family life**

These trends in family behaviour were reflected in the structure of family households. In 2001 the number of complete families fell in comparison to 1991 (from 2,613 thousand to 2,334 thousand) as a result of a fall in the number of such families with dependant children (from 1,396 thousand to 1,091 thousand). The highest fall was recorded in the percentage of people living in complete families up to the age of 30 in connection to lower marriage rates, which was not adequately compensated by higher numbers of de facto couples. In contrast, there was an increase in the number of couples among seniors, as a result of the lower risk of being widowed. The deferral of marriage was evident in all age categories, but was more evident among university graduates.

The number of de facto couples rose from 85 thousand in 1991 to 125 thousand in 2001. From the perspective of complete family structure, there was a clear rise in the number of de facto couples in primarily the under 30 year age bracket. However even in this population, the number of these relationships did not fully compensate the fall in the number of legal marriages. Compared to West European countries, the Czech Republic has the lowest number of de facto couples among singles, even in the youngest age groups. From the perspective of education, the number of de facto couples has risen among young people with secondary and tertiary education, although the highest number of de facto couples continues to be among people with basic education. According to census results however, de facto couples do not currently represent an equivalent alternative to traditional marriage from the perspective of reproduction. According to sampling research, marriages closed after prior cohabitation were relatively common among married couples under 36 years of age. While marriage is still often associated with pregnancy, the percentage of childless de facto couples is more than double compared to married couples. Couples most often decided to get married on the basis of their satisfactory financial situation or the wish to have children in wedlock. De facto couples on the other hand, show a preference for cohabitation outside of marriage, primarily to try living together and no need to hurry marriage due to the current absence of children or the hedonistic desire to enjoy life without commitment.

An increased number of incomplete families were noted in 2001 in comparison to 1991 (from 434 thousand to 576 thousand) largely as a result of the increased number of incomplete families with dependant children (343 thousand in 2001 compared to 254 thousand in 1991). Most incomplete families with dependant children in 1991 and 2001 had one child (circa two thirds), with three or more children living in just under 6% of incomplete families. The rate at which incomplete families arose in relation to the marital status and age of the head of the household, was generally higher in 2001 than in 1991.

The number of census households of individuals rose between 1991 and 2001 (from 1,090 thousand to 1,276 thousand). Although the number and percentage of census households made up of young, single individuals rose in 2001 in comparison to 1991, if taken in relation to the overall population of singles that could have made up these households, the situation did not change significantly. Divorced men set up

households of individuals more often than women, however in higher age brackets (55-59 or higher) the numbers of households of divorced and widowed women predominate.

### **Changes in internal family relationships**

Relationships between partners within families and, in the extended family sense between generations, change according to developments in social and economic conditions, demographic processes and cultural changes, including the gradual infiltration of influences from other cultures and customs. In the value orientations studied, family and parentage continue to hold a privileged position irrespective of age, education or other characteristics, although young people do not see significant differences between legalised partnerships through marriage and de facto couples more often than the older generation. The fall in the importance given to the legitimacy and institutionalisation of the partner relationship is related to changes in the positions of men and women, thanks to the falling economic dependence of women on their husbands as a result of higher education and women's continually high employment rates, as well as an overall reinforcement of individualism and social atomisation.

Changes in relationships within families are mutually connected to changes in the roles of its members both within and outside of the family. Although marriage values do not significantly compete with people's professional ambitions, there is a growing need to balance family and employment. With women's increasing employment rates in the second half of the 20<sup>th</sup> century and growing employer demands on performance in recent years, there is a growing need to effectively reconcile women's family and professional roles, while for most men, the dilemma of work and family poses practically no problem. Despite a predomination of families with two economically active parents, women are still expected to bear the greater share of household chores together with employment, while men are primarily expected to financially secure their family and if necessary assist in ensuring its "everyday operation". The discrepancy between declared demands for an equal division of household chores between partners and the naturally complementary role of men and women predominating in real life is well known.

However the values and normative content of motherhood and fatherhood are also changing and as a result so is the position of the mother and father in raising children, deciding on their number and their upbringing and future life. Even the status of the child in the family is changing. Contributing factors include cultural and social changes and legislation governing family law, socio-legal child protection and children's rights.

With regard to intergenerational relations, research confirms the closeness and high standard of these relations, their so-called functional solidarity and willingness to provide mutual assistance within the context of the extended family. At the same time however, a trend towards the greater independence of individual generations is also evident, beginning with separate living between nuclear families and adult individuals and the small degree to which assistance is requested from children or parents unless the situation acutely dictates the need. The cohabitation of older parents with

their children's families in one household is not very common overall; this form is more common in the case of widowed or divorced mothers. Intergenerational support within the family is reciprocal, but differentiated. While financial assistance is more frequent from the older generation to the middle generation (from grandparents to parents and grandchildren), practical assistance is more often provided in the opposite direction when required.

Ongoing attention needs to be devoted to dysfunctional families, which can generally be seen as families where certain basic family functions are not fulfilled (or fulfilled unsatisfactorily) and where there are serious functional problems seriously jeopardising the family as a whole and above all the children's development. Changes in the economic function of the family during the 1990's and today are briefly characterised by the following facts. The percentage of children with income per capita in the 1<sup>st</sup> income quintile rose from 29% in 1998 to 47% in 2000 and 2002. The number of families with dependant children registered as socially needy, increased in 1996-2002 by 24 %, however cases of extreme poverty are rare.

Outside the economic sphere, the most frequent factors found to jeopardise family function include lower education combined with lower socio-cultural levels, unemployment (one of the partners) and the possible immaturity of the parents. From the perspective of raising children, dysfunctional effects include the social immaturity and inability of the parents to adapt, as well as excessive ambitions placed on the child or oneself (parents overly career oriented). With regard to developments in recent years, research on problem families has shown some of the following trends: increasing numbers of problem kids coming from well situated families, on discovery of deviations in upbringing, children do not receive social assistance in time or individual phases are not linked; excesses in children and adolescent behaviour are becoming increasingly serious, with the rising aggressiveness and criminal nature of children's and adolescents' actions.

A long-term trait of dysfunctional family behaviour in the Czech population is the high divorce rate. Nothing has been able to change this, not even the social and economic changes of the 1990's or at the beginning of this century. Although the official reasons for the disintegration of marriages given during divorce proceedings have not change significantly, the actual reasons are not sufficiently well known to be able to prepare a system of effective preventative measures to reduce the divorce rate.

Securing children and their upbringing within the family is a complex task involving various levels of intervention and a broad spectrum of participants. Apart from possible financial assistance, parents also need services (social, health, etc) to help them cope with the raising and securing function of the family, as well as conditions to help them balance their work and family roles.

We can also speak of a specific family dysfunction in cases of family violence. This is the repeated physical, psychological or sexual abuse of one or more family member. Most often this involves violence between partners, where the woman is the victim in the majority of cases, but frequent victims are also children and seniors, while physically or mentally disabled family members are also at greater risk. In violence against the two main social groups at risk (women and children), violent acts perpetrated within the family by someone close or a family member, are very

common and in many ways, more common than violence perpetrated by someone unknown.

A recent investigation of violence against women found that almost 38% of women had experienced some form of violence from their partner at some point in their lives, taking a broad range of behaviour into consideration. 41% of women who had experienced such violence, had felt their lives were threatened during the incident. Yet very few women have the need or courage to report such violence to the police in general, and even less in cases of domestic violence. Children primarily suffer violence in the family as victims, but also as witnesses. People close to the child often underestimate or hide the matter. All forms of violence against children take place almost entirely within the family and the perpetrators are predominantly the child's parents.

With regard to violence against older family members, this usually involves neglect, but cases of abuse by children and grandchildren have been recorded. Characteristic cases involve inadequate care of family members who are no longer able to look after themselves, where the reason may be both an unwillingness to provide proper care, but also an inability or lack of strength or knowledge to provide such care. The perpetrator of such violence or poor treatment within the home environment can be the partner, sibling, children, close friend, grandchildren or lay care provider.

### **II. 3. Socio-economic situation of Czech families**

In 2002 the net annual per capita income in wage earners' households exceeded 96 thousand crowns. Childless households however had a much higher income (circa 138 thousand crowns) than families with children, even up to 1.7 times higher. These incomes rose both nominally and in real terms in 1996 to 2002, although the incomes of households without children rose relatively more quickly. In both types of household however, work income continued to play a major role, forming on average 82% of total net income. In 2002, circa 12 % was social income and 6% other income.

Data on family account statistics showing lower income in households with dependant children than in households without children, relates to household members and it is therefore necessary to define household structure, which is significantly different in households with children and households without. In brief, households with children have approximately twice as many family members as households without children – 3.51 and 1.74 respectively. The average number of economically active members is roughly the same in both types of household. In childless households however this represents almost 90% of all members, while in families with children only 45%. In recent years the average number of economically active individuals has fallen and this relatively more quickly than the overall size of households. What is more, in families with children, the number of children on average already exceeds the number of economically active family members (1.62 to 1.59 respectively).

Household composition is primarily reflected in the structure of its social income. While in childless households almost two thirds of social income is made up of pensions, in families with children social welfare benefits dominate. However both

these percentages fell in the given households in comparison to 1996, discernibly more in families with children (relative percentage of pensions in childless households fell from 65.1 % in 1996 to 63.1 % in 2002, while the percentage of social welfare benefits in families with children fell from 60.4 % to 53.4 %). On the other hand, both types of household saw a major rise in unemployment benefits per capita.

The importance of individual social welfare benefits for families with dependant children however, changed relatively in the given six year period. The basic benefit–child allowance – only rose absolutely 1.2 times and even fell relatively from 52.0% to 46.5%. Similarly, the importance of the social allowance fell (from 14.4 % to 11.2 %). The relative fall in the above benefits was compensated by a rise in both the parental allowance, and primarily, the payment of higher amounts in other benefits.

The income structure of households is also dependant on the economic activity of its members. In families with one economically active member (with one or two children), work income comprises 70% of the total income, while two economically active members contribute almost 90% to the family budget through income from employment. The relatively lower work income in families with one economically active member is supplemented by other, primarily social income. Social income in families with one economically active member is dominated by social welfare benefits, while in families with two economically active members sickness insurance benefits gain importance, though social welfare benefits also continue to play an important role in these families with children.

The socio-economic situation of families with children and minimum income is significantly different to that of wage earners' families with children. In 2002 the net per capita income of low-income families was circa 43 thousand crowns, which corresponds to 53% of the income of wage earners' families. Work income represented "only" 55% of all income in low-income families, with social income making up to 38%. This structure is greatly influenced by household composition, as the number of economically active individuals in these families is evidently lower (0.92 in comparison to 1.59 in wage earners' families) and, in contrast, the number of dependant children is higher (1.95 to 1.62 respectively).

The main source of social income for low-income families is social welfare benefits, despite the fact that their relative percentage fell from 80% to 71% in 1996 to 2002. Their importance also grows in relation to the number of children, from 64 % for families with one child to 82% for families with three children. Parental allowance is the most important benefit for single child families (58% of social welfare benefits), while in families with two children there is a significant rise in the relative percentage of social allowance (from 7% to 22%) and child allowance (from 24% to 36%). In families with three children the relative rise in child allowance and social allowance continues, while, in contrast, there is a fall in parental allowance, though at a slower pace.

### **III. Family support in the Czech Republic**

In view of the fact that the Czech Republic does not currently have a uniform, coordinated family policy system at central state administration level, family support measures are proposed and implemented within the specific competencies of

individual departments, according to government and ministerial priorities. The result however, is little or no reciprocal information, as there is no joint system for monitoring the status of family policy. A no less serious problem, is also the frequent contradiction of certain measures or their repetition and overlap. This particularly applies to family policy instruments shared by several departments.

From a perspective of policy as a system of objectives, measures and institutions, family policy can be regarded as part of several main public administration areas, which are concurrently also the main instruments of family policy. At central state administration level this primarily relates to tax policy, social policy, employment policy, housing policy, education and youth related policy, the healthcare sector, refugee and immigration policy and to a lesser degree, certain other sectors. Within this context, a whole range of family support measures can be realised, although their typology may differ in relation to their objectives, the manner of their realisation and areas in which they are realised. For the purposes of this report these measures are divided into individual chapters according to their targeted objectives. The first chapter of Part III (Legal basis of family life) looks at the issue of family law as the primary legislative instrument of family policy; the second chapter looks at financial family support in the area of tax policy, social security benefits and other forms of assistance. The third chapter deals with social services as another social security instrument affecting family life. Chapter four deals with the specific issue of measures to support the reconciliation of family and professional roles, which partially falls under employment policy, but also other state administration sectors. This is followed by chapters on family policy aspects of education, health and housing policy. The final two sections are concerned with the question of regional family policy and family policy in the European Union to the degree they affect this Report.

### **III. 1. Legal basis of family life**

#### **Family law in the Czech Republic**

Czech family law is based on the traditions of several legal systems, primarily Roman and Canon law. In its modern form, it is a continuation of the codification of civil law at the beginning of the 19<sup>th</sup> century. Its form today is determined by a series of current legislation, in particular, Act no. 94/1963 Coll., on families, as amended, Act no. 40/1964 Coll. of the Civil Code, as amended and the relatively new Act no. 359/1999 Coll., on socio-legal child protection, as amended. However other legislation also applies to the area of family relations to a limited degree. The general legislative framework of Czech family law was hitherto derived from the period of the codification of civil law in the 1960's, although it has been significantly amended since the fall of the totalitarian regime in response to political changes and changes in the view of family and internal family relations.

From the perspective of family support, current family law can be regarded as satisfactory, despite possible discussion on the success of certain recent amendments of Act no. 94/1963 Coll., on families, as amended. A certain deficit is particularly apparent in the area of legislation on cohabitation, with no legislation governing family living, analogous to that of other European countries. Individual problems in socio-legal child protection should be resolved by the upcoming amendment of Act no. 359/1999 Coll., on socio-legal child protection.

The question of the future of family law remains in relation to its upcoming recodification and inclusion in an integral civil law package. The step itself can be regarded as being right, for it not only follows central European, but also Czech provincial law traditions. A more problematic aspect however, will be amendments to the content of family law, on which in-depth expert and political discussion is to be held.

### **Criminal law family protection system**

Current criminal law legislation on family protection is an integral system responding to various sources of threat to families. Although this system carries out its functions well, this does not mean there is no need to look for new ways for its further improvement. Intensive discussions are underway on effective methods to battle the sinister phenomenon of domestic violence, especially in effectively protecting victims from continued or repeat attacks by the assailant. Inspiration can be found for example in the Austrian model for the protection of the victims of domestic violence, which allows the institute of a restraining order against the assailant, prohibiting entry into the family home. One way to simplify the detection of criminal activities threatening families may be to expand the duty of reporting incidents as part of an amendment of legislation governing the crime of a failure to report criminal activity. Another subject of consideration is the question of stricter criminal sanctions for the most serious, socially damaging crimes, while respecting the principle of the economics of criminal repression and suitability of sentencing. A series of major changes should also come about as a result of the government's upcoming recodification of criminal substantive law in the form of a new Criminal Code. International document requirements should, for example, be met by new comprehensive legislation on child trafficking, which, irrespective of the signs of corruption, should affect all forms of across the border and domestic traffic. In the area of criminal procedural law, important trends include increasing protection of the injured party's interests, in the spirit of which it is possible to consider strengthening the injured party's position with the addition of certain other rights such as, the right to seek compensation for moral damages in adhesion proceedings.

### **Legal principles of the substitute family system**

In view of the continuing fall in the ability of married couples to conceive children naturally, interest in mediation has grown enormously, especially in adoption. This form of substitute family care primarily satisfies the need of married couples to bring up a child as a fulfilment of their mutual cohabitation. Most applicants for mediated adoption have exhausted all other possibilities for conceiving their own child offered by current levels of medical knowledge. Some applicants have not taken advantage of this option for religious or ethical reasons or have their own children and wish to bring up someone else's children in the desire to help another child or find a sibling for their own child. Equally, applicants whose own children have grown and who still have a need to care for someone are not uncommon. Often these are good, tolerant adoptive or foster parents as their expectations have already been fulfilled by their own children, in whose upbringing these applicants have years of experience. In

some cases however, the expectations of these applicants have not been realised, whereby they may place excessive demands on the child entrusted to their care.

A preference for satisfying material needs (career, own home, etc) over starting a family and applicants' hopes brought about by continually improving in vitro fertilisation methods, mean that continually older couples are applying for mediated adoption. From the data used to decide whether to include applicants in the register of applicants for mediated adoption or foster care, it is apparent that the age of the majority of applicants for their first child is around 40. Although this age does not subjectively pose a problem for applicants (who are healthy and in good physical condition, have achieved certain legal recognition, etc), in the case of applicants for infants, this age is marginal in relation to the parents' prospects of providing care until the child is of age. A large number of applicants exceed this age and wish to adopt infants at a time when they are 50 years of age. More and more often, applicants for adoption include couples where one partner (usually the male) is much older, often as much as 60 years of age or more.

Generally applicants for adoption are interested in children as young as possible, with a good medical prognosis and children, who it can be relatively certain, do not have damaged intellect.

On the other hand, there are sometimes delays in court proceedings in the case of children suitable for adoption, where the so-called legal release of these children can be a question of many months. For this reason, the mediated adoption system often receives older children who are of less interest to applicants. There are also rising numbers of children from ethnically different backgrounds and children with various stigma – drug or alcohol dependent parents, parents with psychological illnesses, HIV positive parents, parents with venereal diseases, etc. At the same time there are also increasing numbers of children with physical and mental disabilities, who despite being legally available, are very difficult to place in substitute families. Similarly, there are rising numbers of children suitable for adoption in higher age categories, who are of less interest to applicants.

In foster care, there is a growing downward trend of interest by applicants. Foster care is often seen as a substitute for adoption. There is growing interest in very young children and children whose biological parents can be assumed will not be interested in maintaining contact. Children suitable for foster care are children with medical or social handicaps, whose parents were relieved of parental responsibility.

Children in higher age categories (school age or higher) are often very difficult to place in substitute family care. Some non-government non-profit organisations support changes that would allow these children to stay with family, even if only for a short period. This model is based on the presence of professionally qualified care providers, who, together with social workers, would work with the biological family in an attempt to return the child to its original family. A condition would be to ensure professional counselling and assistance 24 hours a day. In view of the fact that this system has not yet been theoretically or methodologically developed, all relevant factors would have to be carefully taken into consideration during its realisation.

### **III. 2. Financial family support**

Direct financial measures targeted directly at families in the form of transfers or advantages can be divided according to various criteria (institutional backing, sources of financing, etc). Based on their nature, these are primarily direct transfers provided in the form of social security benefits, tax measures favouring families and various types of discounts and advantages designed with a view to family life.

Within the social security system, social welfare and its benefits are the primary source of family support; this includes: child allowance, social allowance, transport allowance, parental allowance, provision allowance, foster care benefits, birth allowance, funeral allowance. Of particular importance for the majority of families with children are the child allowance, parental allowance and social allowance. The structure and purpose of these three benefits is the subject of frequent discussion at expert and political level.

With child allowance, the subject of debate is its target, which transforms the nature of the benefit into a financial transfer assisting low and middle-income families. In contrast, in most EU countries, this allowance is conceived as the main benefit supporting the family as such, irrespective of the family's income situation. In the Czech Republic it is partly social assistance in nature, which does not permit it to be seen as a benefit recognising the family's role in raising children and as compensation for the performance of this natural family function. Another widely discussed problem is the planned introduction of tax advantages for children (tax deductions) as part of the 2<sup>nd</sup> phase of public finance reforms. This measure introduces an additional "child allowance" paid on the basis of the parent's gainful employment. In this context, the question arises, if and how this change will be reflected in the system of social welfare benefits and especially in the child allowance structure.

With regard to parental allowance, the subject of discussion is how to combine entitlement to this benefit with gainful employment. While, until recently, the benefit structure was designed to reward all-day parental childcare, thereby rewarding "work in the family" in raising children, from 1 January 2004, the parental allowance can also be used as a benefit to secure personal, all-day childcare by another person. This system is therefore neutral in relation to the value placed on parental care and care provided by a person other than the parent. While on the one hand this creates a broader base for the future application of childcare at home by a person other than the parent, it does not favour those parents who decide to provide all-day care for their children without gainful employment in any way. This creates a vacuum in the system of rewarding parents who bring up and care for their children from an early age. A related problem is also the need for a control mechanism to ensure the provision of proper personal, all-day childcare by persons other than the parent.

The social allowance has the nature of a classic means tested benefit intended for socially disadvantaged, low-income families with children, who do not necessarily have to be entitled to social welfare benefits. It is most often paid to families with one economically active parent and single parent families. In the event of the change in structure of the child allowance to an across the board benefit, the role of the social allowance would change and this benefit would become the central support

instrument for low-income families with children living above the poverty line. In the past there were discussions on the possible transfer of the social allowance into the social welfare system, however due to a number of problematic consequences, this idea was abandoned.

Apart from social welfare, the family is also supported by a system of social benefits provided to families in social need or families in specific social situations. In view of the fact that these benefits are mostly provided to low-income families, they are usually related to income and entitlement is based on an examination of the family's financial situation. The primary purpose of these benefits is not therefore to support the family as such, but to provide assistance to socially disadvantaged groups within the population. A major change in the social welfare system is currently planned as part of the new law on material need, which will redefine basic criteria for assistance in times of material need.

The third pillar of social security – social insurance – also includes certain types of benefits linked to specific social events associated with family life. Its purpose, in the event of such an event (though not necessarily an unfavourable one), which leads to a short-term or extended loss of income, is to provide corresponding compensation to help balance the resulting income inequality. Within the framework of sickness benefits, payments related to family life include financial assistance during maternity, compensatory benefits during maternity and pregnancy and support in caring for a family member. Within the framework of pension insurance, probate benefits paid to survivors in the event of the death of a family member (husband, wife, parent, dependant child)) have the unquestionable nature of family support. The old age pension system primarily reflects family life with the inclusion of recognised substitute insurance periods for periods of childcare and the lower retirement age of women in relation to the number of children raised.

Within the framework of tax policy, the only current form of explicit family support is standard deductions from the tax base that allow a reduction in the tax base and thereby the amount paid by the taxpayer to the state. The first of these is a tax deduction for dependant children, the second a deduction, or non-taxable sum claimable for the taxpayer's wife (husband). In the case of both these standard deductions of course, there is a direct correlation between income and the amount of the tax advantage.

The 2<sup>nd</sup> phase of public finance reforms should bring fundamental changes in the family support tax system. For couples with at least one dependant child, joint tax returns will be introduced (with calculation of tax on the combined tax base of both partners). This measure will lead to an alleviation of tax progression in families where the income of both partners is very different. A major benefit can especially be expected in families where one of the parents is responsible for all-day childcare. Another major change will be the introduction of tax advantages for children, which will replace current deductions for dependant children. This new tax „discount“ will be accompanied by a tax bonus for taxpayers whose overall tax payment is less than the amount of this benefit. By its nature this will therefore become a sort of child allowance paid to economically active parents. A similar type of tax benefit also exists in a number of EU countries, where however, it is accompanied by a parallel

measure in the social security sector, as the introduction of this benefit will mean a fundamental change in financial family support.

Apart from social security and tax policy, the family is also financially supported through a system of family discounts and advantages. In the transport sector discounts on pupil and student fares need mention, which will be introduced on public transport from September 2004. These will be determined by Ministry of Finance assessment. Within the state controlled rail system, no direct family related discounts are provided, however, there is a group discount available for 5 people travelling together, of which up to 2 can be adults. In the area of cultural facilities managed by the state, the system of family discounts is uncoordinated and varied. Some institutions do not provide family discounts at all, some provide discounts to families with a limited number of children, while others offer families discounts irrespective of the number of children. The degree of family support provided through discounts is entirely dependant on the decision of management at individual institutions or their subsidiary branches.

### **III. 3. Social services for families**

In recent years there have been major changes in the area of social services in general, especially in the approach to social service users and in the social work methods used. This applies to both the problem of social services in general, as well as social services targeted at family support.

The main purpose of social services is an endeavour to help people in unfavourable social situations remain equal members of society and utilise its natural resources. In view of current developments in priority, continually greater emphasis is placed on the development and support of social services centred on the provision of assistance to families, as it is they who facilitate and often directly allow the client to remain in his/her natural family environment.

Over the last fifteen years, a broad spectrum of social services exceeding the bounds set by legislation have been developed in the Czech Republic. Legislative norms only govern a narrow section, primarily relating to systems of institutional care. New, innovative services have been introduced thanks to both inspiration from abroad, as well as spontaneously in response to current needs. Development primarily takes place in the non-government organisation sector.

Social services directly aimed at the family as their target group include counselling, early care, respite care, personal assistance, day care centres, community care services and their modern variations, refugee centres, crisis assistance, homes and boarding houses (however family support is not a criterion for the division of different types of social services, thus it is not possible to unequivocally specify "pro-family" social services). For the most part, these are modern, innovative services whose providers are largely represented by non-profit organisations. However, the very fact that these are relatively new types of services, also currently poses a series of problems. These are based on the fact that these services are not yet sufficiently covered by legislation. A long-term preference for in-patient facilities has resulted in a general shortage of field services to support life in the home environment. For these reasons, these important services are less readily available.

A number of other problems connected to the support and existence of social services for families are due to general deficits in the social services sector. This has to be said is largely a consequence of the transfer of founding competencies to regions and municipalities, with a resulting inequality between regions in relation to service provision (availability, citizens' information on services). This problem is also closely related to the as yet unresolved question of how social services will be financed in relation to public administration reforms.

The Ministry of Labour and Social Affairs CZ is currently preparing a specification of the Social Services Act, whose objective is to create an integral, quality legislative framework to support the development, quality and accessibility of social services. Once this bill is passed, there should be a major improvement and clarification in the situation regarding the provision of social services and especially in facilitating the development of services aimed at supporting the user's personal growth and independence and ability to stay in his/her natural, i.e. usually, family environment.

### **III. 4. Family and employment**

Despite numerous cases of shared parental responsibility between both parents, childcare is still considered to be the women's province to a large degree. As motherhood limits a woman's chances on the labour market to a certain extent, growing interest in professional self-realisation by women-mothers (especially in some professions) is a contributing factor to the falling birth rate. The percentage of unemployed women has been constantly higher since 1990 than the percentage of unemployed men-fathers, where on average women remain registered as unemployed for longer than men. Those considered most disadvantaged on the labour market are women with children of preschool age, older mothers, mothers returning from maternity leave, single mothers and people with low education or medical disabilities in general.

The ability to balance work and family is primarily reinforced by flexible forms of employment. Major, modern types of work organisation include modification of working hours, shift work, part time employment, employment for specific periods, work at home, work by agreement, as well as overtime and asocial working hours. However these options are not offered by Czech employers enough, nor massively requested by parents.

Men and women in the Czech Republic do not take the option of part time employment very often (in 2002 only 8% of all employed women, 2% men). The lack of attraction of part time employment lies in, among other things, the poor overall wages. Many people would give preference to flexible working hours or other forms of work flexibility. Another way of balancing family and professional life that existing in Czech labour law is work at home (especially in connection with computer technology), which is not directly dependent on the employer's work conditions or on set working hours.

One of the key instruments in compatibility is maternity and parental leave. Maternity leave in the Czech Republic (28 weeks) is one of the longest in Europe. According to current legislation the father can only take maternity leave in exceptional cases.

Based on the upcoming amendment of the Sickness Insurance Act, the father will be able to take maternity leave instead of the mother from 6 weeks after the birth of the child, or, he and the mother will be able to alternate. In connection with efforts to strengthen the man's role in the family, there are also discussions of the possible introduction of the institute of paternal leave, parallel with maternity leave.

The institute of parental leave for fathers was introduced in Czech legislation in 1990, but truly equal conditions for both parents were not introduced until January 2001. However the ability to take parental leave did not lead men to take advantage of this right even then. The number of men receiving parental allowance in comparison to women still remains negligible (in 2001 there was 0.77 % men among recipients of this allowance, in 2003 0.99 %). The main reason why men decide to take parental leave today is their poorer economic standing in comparison their wives. A change in conditions was offered by the amendment of the Social Welfare Act, effective from January 2004. Today, the parent on parental leave can carry out gainful employment without restriction, provided he/she secures proper, personal, all-day childcare by another adult person, although he/she can only place the child in a preschool facility for a maximum of 5 days a month. A difficult obstacle to overcome for parents collecting parental allowance until the child reaches 4 years of age is the fact that parental leave is only possible until the child reaches the age of 3.

Traditionally in the Czech Republic, employed parents are offered assistance in the form of preschool childcare facilities. In 2003 there were around 60 nurseries in the Czech Republic. In the last decade, there has been an overall decline in the importance of these facilities in relation to the extension of parental leave and society's preference for individual parental childcare. The state currently supports this declining trend in relation to the child's welfare. However the problem of implementing Lisbon Process priorities remains, under which 33% of all children aged 0-3 should be in childcare facilities by 2010. This goal is in conflict with current policy, which is focused on family support and oriented by the child's welfare. Apart from nurseries, parents with children aged between 1.5-3 also use the services of private maternity centres (in 2003, more than 150). In the 2002/03 school year, there were 5,552 nursery schools in the Czech Republic. Although nursery school attendance is not mandatory, the number of children attending continues to be high. Almost the entire population of 5 year olds (95% in 2002/2003) and just under 80 % of the 3 year old population attends nursery school. Almost a quarter of children under 3 also attend nursery. In 2002/2003, 39% of 1<sup>st</sup> level primary school pupils attended after-school centres and 10% of 2<sup>nd</sup> level primary school pupils attended school clubs.

Reasons listed by sampling respondents for an inability to balance family and work responsibilities were complications in assistance from grandparents, the unavailability of suitable childcare facilities and the unavailability of paid persons to assist with childcare or other family members. On the other hand, it has to be said that according to recent research carried out in the EU, parents in the Czech Republic, like those in other central and eastern European countries, prefer measures of a financial nature in family policy, while support for parental and maternity leave and measures related to family and work compatibility are lower on the list of priorities in contrast to west European countries.

### **III. 5. Family and education**

The relationship between the family and education system in every country is one of the fundamental monitored criteria of society's educational development on the one hand and support for the institution of family and its related values on the other. It is the dynamics of this relationship between the family and school, or the state education system, that is typical for the central European cultural-political region, where the state traditionally plays an important role not only in education in the narrower sense of the word, but also in nurturing relevant values.

On the one hand there is a demonstrable rise in the number of children whose family background suffers from various types and degrees of deficiency, which the school can correct to a certain degree through the use of suitable methods. On the other hand, it is evident that nurturing and preference for certain value criteria can also be a source of misunderstanding and even conflict between the teacher or school and pupil's family. The role of the pedagogue and school in compensating for the disadvantages caused by a disrupted or poor quality family environment is often emphasised in many areas.

It is hoped that the growing importance of the pupil's parents' participation in defining the organisational aspects and content of education and upbringing will lead to an avoidance of value conflicts between the school and the family, which is a trend typical not only for the Czech Republic, but in essence all European countries. The primary importance of parental responsibility in raising children continues to be emphasised, while various forms of parental participation in the education system are designed to help achieve this objective.

Similarly to other European countries, the education system in the Czech Republic is divided into basic categories: preschool, primary education, secondary education, tertiary education and adult education. Naturally the degree to which these school categories affect family life differs, as does the parents' opportunity to influence the organisation and content of what is taught at these types of schools.

In preschool education, the role of nurseries, as an element of therapeutic-preventative care, has fallen dramatically in the last decade (see previous chapter). In contrast, there has been no major change in the representation of nursery schools in the preschool education system. Today, around 85% of children attend nursery schools.

In primary education, the family is directly involved in the school, with the parents' participation in the content and form of education based on the Czech Republic's commitments in the area of human rights. On this basis, the current wording of the Education Act recognises the parents' right to information on the results and course of their children's education. Another important entitlement for parents is their right to take part in the activities of autonomous school bodies, i.e. so called school boards. A widely discussed issue in relation to the parents' right to secure their children's upbringing and education in accordance with their own religious and philosophical beliefs is the issue of home education, permitted since 1998. In the current wording of the Education Act, this type of education is included among exceptional ways of fulfilling mandatory school attendance.

With regard to actual educational content relating to the family issue, we can primarily point out the subject of family education which is now taught at some second level primary schools and secondary schools, either as a separate subject or as part of civil education. This subject is also included in the new man and society teaching module based on the proposed Ministry of Education, Youth and Sports' general education programme. The issue of family relations is one of the preferred areas of family education and the importance of this subject is likely to continue to grow in relation to the proposed preparation of children and adolescents for harmonic married life.

A problem that has hit families with children hard is the closure of many schools due to their low attendance and relatively high operating costs. This situation has had highly negative consequences especially in sparsely populated regions with poor transport infrastructure, where children are often forced to attend schools far away from their homes.

### **III. 6. Family and health**

Aspects of family support in the area of healthcare are reflected in a whole series of areas. From the perspective of healthcare policy, the state of the family is an important element in the health of the entire population, both in the area of prevention (largely thanks to its influence on the lifestyle of the individual), as well as in the area of treatment. The problem of improving lifestyle, including modelling family lifestyles, is covered in a whole series of documents approved by the government in recent years, especially the long-term programme for improving the lifestyle of the population in the Czech Republic, Health for the 21<sup>st</sup> Century.

Here, the family plays an important role, especially in the area of improving the health of the child population. The healthy development of children and adolescents is closely linked to a harmonic family background. Apart from stagnating numbers of common diseases and child mortality rates in the last decade, there has been a major rise in the negative consequences of changes in the lifestyle of the child population, with a rising number of children threatened by the syndrome of dangerous behaviour in adolescence.

In the Czech Republic, the provision of primary healthcare is in the hands of individual paediatricians – medical practitioners specialising in the care of children and adolescents. Today, paediatrics employs a well established system of uniform preventative examinations designed to monitor the child's overall development. Endangered and chronically ill children are classified into dispensary groups, in which the child's physician and relevant specialists closely monitor each child. Despite this well developed primary care system, shortcomings remain in the submission of reports by medical practitioners specialising in the care of children and adolescents in cases of suspected child abuse. Equally it can be said there is a lack of mutual information and procedural coordination between various experts and non-government, non-profit organisations in this area for the realisation of interdisciplinary cooperation in the fight against child abuse.

A special area where the family plays an important role is anti-drug prevention

programmes, not only those targeted at children and adolescents, but also at their family members. Equally, family therapy is supported as an important part of anti-drug policy integration programmes. Despite this however, there are still certain deficits in the inclusion of families in the comprehensive anti-drug policy framework.

Of special importance in healthcare services from the perspective of family support are systems of home care, care for the elderly, children's hospital care and children's therapeutic-preventative care facilities. The development of home care is currently supported as an instrument for the effective utilisation of public health insurance funds. Strengthening integrated community care and a linear rise in the number of home care providers are expected in connection with the restructuring of the hospital bed fund within the healthcare system. This trend also supports the reintegration of the patient into the family, which is not only beneficial for the psychological health of the patient, but for the healthy development of the entire family.

The healthcare of seniors is of growing importance in view of current demographic trends and is based on several fundamental concept documents. Current objectives include: the development of primary integrated community care and cooperation between social and healthcare services, where certain deficits are currently evident, a systematic solution for the care of chronic patients requiring demanding care, the development of home care for seniors, support for the establishment of short stay hospitals for patients with dementia and support for the development of palliative care.

In children's hospital care, the Ministry of Health is preparing an optimisation of healthcare in all types of children's hospital facilities. There are persisting deficiencies in the utilisation of the children's hospital bed fund, the needs of child patients are not sufficiently respected and there is a lack of communication between personnel, the child patient and his/her family. Many facilities are still not able or willing to accept child patients with an attending family member. The process of optimising children's hospital beds must therefore be linked to a process of accreditation and the introduction of standards not only for therapeutic care, but also standards based on the upcoming "Healthy Hospital" and "Healthy Environment for Children" programme.

Therapeutic-preventative children's care facilities include infant care centres, children's homes and nurseries. The importance of nurseries in family life has fallen significantly in the last decade as was mentioned in Chapter III.4. Upcoming legislation on healthcare and healthcare facilities no longer envisages the existence of nurseries as healthcare facilities. In this context however, it has to be said that there is the possibility of establishing non-healthcare facilities on the basis of a trade licence to „*provide day care for children up to the age of 3*“ pursuant to Act no. 455/1991 Coll., on trade businesses, as amended.

It is unquestionable that the role of the family is particularly irreplaceable in the area of promoting a healthy lifestyle and protecting the child and adolescent from dangerous behaviour. Support in public healthcare however is only possible within the framework of a complex, multidisciplinary solution in collaboration with individual departments able to take part (Ministry of Health, Ministry of Labour and Social Affairs, Ministry of Education, Youth and Sports, Ministry of Internal Affairs). It

is this absence of an integral conceptual approach incorporated into family policy that prevents multilevel family support not only in healthcare, but also in all other areas.

### **III. 7. Family and housing**

The question of housing plays an important role in a person's life. Having a place to live is one of the basic human needs and the chance to have one's own place to live is considered an important factor influencing decision making in individual phases of life, especially when deciding to start a family. Of course it cannot be claimed that having a place of one's own automatically leads to someone starting a family or the decision to have children. Yet despite this, housing policy is an important instrument for the support of young low and middle income families.

It cannot be said there is a shortage of housing in the Czech Republic across the board, but that this is more of a regional dissonance between the demand for housing in economically attractive locations and the supply of available housing in these regions. In housing for families with children, a typical characteristic is the greater representation of these families in the area of cooperative housing, with relatively smaller living space per member of the household. The rental housing sector is also much more important for low and middle-income families than for other groups in society, where these properties are often the first place these families can call their own. Overall, young low and middle income families and families with dependant children often live in lower quality housing than other groups of the population.

The formulation of housing policy in the Czech Republic is in the competency of the Ministry of Local Development CZ, while three other central institutions also have the ability to significantly influence the operation of the housing market and impact of state interventions: the Ministry of Finance, the State Housing Development Fund and the Ministry of Labour and Social Affairs. This "institutional fragmentation", which is not very common in other developed countries, which has been pointed out since the beginning of the 1990's, is reflected in differing views, further accentuated by deficits in mutual communication and prioritisation of own specific views leading to a discordant approach and insufficient links between measures in the area of housing policy.

In 2004 the Ministry for Local Development announced four programmes: a programme supporting the development of rental housing units and technical infrastructure, a programme for the development of subsidised housing units, a programme of financial support for the repair of faults in prefabricated housing developments and a programme for the regeneration of prefabricated housing estates. State Housing Development Fund resources can also be used to provide qualified loans to cover part of the costs of the construction of housing units by persons under the age of 36. The Fund also provides subsidies for the development of rental housing units for specific income groups and the programme „Prefab“, which is targeted at financing the complex repair of residential properties built using prefab technology. Another programme is also low interest municipal loans from State Housing Development Fund resources for the repair and modernisation of the housing fund. The Ministry of Finance is responsible for the direction and coordination of support for building savings programmes in the form of state

contributions and tax concessions relating to the area of housing finance. An important instrument influencing the housing market within the competencies of the Ministry of Finance is rent regulation, which is a widely discussed issue in political, expert and lay circles. Housing policy instruments belonging to the Ministry of Labour and Social Affairs include housing allowance as one of the benefits available under the social welfare system. Households with low incomes can also apply for social security benefits to help pay housing costs in accordance with Act no. 482/1991 Coll., on social need, as amended.

Of all the above housing policy instruments/programmes, the programme for the development of rental housing units has had the most positive impact on the availability of housing for young low or middle income families with dependant children, though only in relation to municipal activities, which can affect the effectiveness of the programme by setting criteria and, to a certain extent (due to low average amounts saved), through state support for building savings programmes. In contrast, the current situation in the rental housing sector poses a problem for young families entering the housing market, especially in the case of housing units whose rent is set according to a previously determined maximum rental base (the so-called regulated rent sector). For new households, housing with “regulated” rent is becoming difficult to find. Although some young people with low incomes can still acquire housing units with this type of rent in various ways, a large number of young people entering the housing market for the first time will not be able to acquire such housing. They are then forced to look for other housing options with market rent, which is many times higher in comparison to regulated rent and often poses a subjective or objective barrier to young people starting a family.

It can be said however that most housing policy instruments/programmes do not seem to represent a major form of assistance for the higher financial accessibility of housing for young people with low and middle incomes, nor specific support for families with children as such. Family support is not the explicit objective of any of the current housing policy programmes. Some in fact actually disadvantage families, which has serious consequences for population behaviour. In view of the fact that housing policy should be one of the most important instruments of family policy, it can be said there are fundamental deficits in this area that can only be rectified by a new conceptual understanding of housing policy that takes into account the needs of the family with children.

### **III. 8. Families with specific assistance needs**

There are a large number of families in the Czech Republic who require increased support from society due to the various disadvantages they face. In this chapter such families include families with a disabled family member, families with seniors, immigrant families and Romany families.

The problem of support for families with a disabled family member coincides to a large degree with the problem of support for people with disabilities as such, for example, in building a barrier free society, eliminating the unemployment of the disabled, etc. Some forms of financial support are targeted at assisting the families of people with disabilities (special allowance for the care of a relative or other person, as well as other financial and material benefits), together with social services

facilitating the provision of care for a person with a disability in his/her home environment. There are currently certain deficits in both these areas, which should be addressed in the upcoming legislative amendment bill (Social Services Act and amendment of Act no. 100/1988 Coll., on social security, as amended). Greater attention to the issue of the disabled is also reflected in the newly passed Employment Act and upcoming legislation on legal means for protection against discrimination and on equal treatment.

A special case in families with a disabled family member, are families with a disabled child. Certain types of social services are targeted at providing support– early care, respite care, day care centres, etc. Here too, inadequate legislation needs to be pointed out, especially in relation to new, innovative social services, poor access to services in some regions and the problem of ensuring the quality of service provision (all the more as these services are primarily provided by non-government, non-profit organisations). Other deficits are evident in the area of educating children with disabilities and their integration into schools. A positive aspect in the area of social security, is the extension of parental allowance until the child reaches 7 years of age, while a parent caring for a disabled child after this age is entitled to the allowance for the care of a relative or other person.

Another type of family deserving increased assistance from society, are families with senior members and the families of seniors. In view of current demographic trends and the increasing number of these families, this issue is of growing importance. Support for family life and care provision by the family are therefore an essential element in this context as part of state policy on seniors. Among the main problems of the senior population is the high risk of social exclusion, combined not only with a shortage of finances, but also the isolation of seniors, seniors falling behind in the technological development of society, etc. Not just pension reforms, but other steps leading to the resolution of these problems are essential requisites in preparations for the future aging of the population.

Apart from this, other specific problems associated with caring for seniors by their family that partially fall within the sphere of family policy can be defined. Like in the case of people with disabilities, it can be said there are certain deficits in the current structure of the allowance for the care of a relative or other person (e.g. the restriction on gainful employment during the provision of this care). Within the social services framework there is a prevailing problem with the placement of seniors who are no longer able to look after themselves into institutional care and the low use of field social services (professional community care services, home care, day care centres, etc.). This situation is largely due to the high psychological and professional demands placed on the person responsible for the care of such a person. A serious problem in the life of a senior with family is also the current situation regarding the availability of housing.

Another specific type of family requiring increased assistance are immigrant families. These families' lives are marked by an absence of the extended family (who usually remain in their country of origin) and major socio-cultural differences reflected in different approaches regarding the standing of women or children's upbringing, and last but not least, the language barrier and a general ignorance of local life and customs.

The main support instrument for the families of foreigners primarily lies in legislation on the reunification of families, which is based on the Czech Republic's international commitments. The reunification of families is targeted directly at supporting the institution of the family, not just individuals. Despite this there are distinct deficits in the current wording of the law in the very area of family reunification, which have been pointed out in the Integration of Foreigners concept. Among other things, the reason for residence is not sufficiently differentiated from the right to family reunification and the reunification of families is usually treated as a separate reason for residence or as a condition authorising the foreigner to change to another residence regime. The existence of a different regime for the reunification of families with a Czech family member and families with just foreigners is also inappropriate from the perspective of legislation on family reunification. Current legislation thus needs certain changes in relation to the greater protection of family life in relation to foreigners. Some of these changes however have already been included in Act no. 221/2003 Coll., on the interim protection of foreigners, as amended, which includes separate provisions on the reunification of families in accordance with European Union trends. On the other hand, the definition of a family member is significantly broader in this Act than in Act no. 326/1999 Coll., on the residence of foreigners, as amended and exceeds the usual boundaries of European law with a broad interpretation of the family, which includes de facto relationships.

Other legislative and non-legislative instruments for the assistance of foreigners are not directly targeted at families as an integral social group, but nevertheless help family life in various ways, whether this be in the integration of foreigners or in the broader framework of education, healthcare and social policy. Here it is possible to point out general deficits in family support and protection present in these areas, caused by a minimal consideration of family life in conceptual and legislative activities.

Romany families are among the types of family within the ethnic minority in the Czech Republic who are strongly at risk of social exclusion. The Romany family differs from other families in certain demographic specifics, foremost a high birth rate and therefore a large children's population and in contrast, a relatively higher mortality rate and low senior population. The problems that Romany families face are of a completely different nature to the problems of other families. It can be said there is a high incidence of socio-pathological phenomena, including very high youth criminality, a poorer quality of life endangering the health of individuals, a low level of education and high unemployment leading to the dependence of most Romany families on the social security system. This situation also leads to the frequent placement of children into institutional care due to the poor care or indifference of the parents and other relatives.

The full integration of Romany families into Czech society will be a long-term process. This is helped by the gradual “extrication” of individual families and family lines from the traditional way of Romany life, while at the same time respecting their identity and solidarity. The government’s political efforts in relation to the Romany community are targeted at the elimination of external and internal barriers preventing the integration of members of the Romany community into society. These efforts primarily relate to the elimination of all forms of discrimination and major handicaps in education and qualification. A pivotal step is to move closer to the education structure of the rest of society, which would prevent an accumulation of more of the handicaps already mentioned. For this reason it is essential to support collaboration between schools, other institutions in the public and civil sector, Romany representatives and advisors and Romany families. Effective support and assistance to Romany parents in the care, guidance and upbringing of their children helps children acquire essential social habits and creates a positive relationship to education and the educational institutions of main stream society. Apart from the expansion of current preparatory classes and the involvement of Romany assistants, there is a need to introduce further accompanying social measures.

### **III. 9. Family support at regional and municipal level**

While the state can establish general conditions within family policy, primarily through legislative acts or concrete financial programmes, the implementation of concrete family support measures is best carried out at municipal body level. In public administration reform, a whole series of hitherto state competencies were transferred to the separate competencies of regions and municipalities. Within this framework, regions and municipalities are responsible for *„the overall development of their region and the needs of their citizens “* (§2, paragraph 2 of Act no. 128/2000 Coll., on municipalities; § 1, paragraph 4 of Act no. 129/2000 Coll., on regions, as amended). Under current legislation, municipal bodies are given a wide range of opportunities for their own initiatives within their own family policies, focusing on concrete measures in housing, social, transport, cultural and other relevant areas, where the municipality or region can act within its own competencies. Despite this, the importance of regional and municipal family policy is largely underestimated in the Czech environment. Individual measures are carried out in an uncoordinated manner, with no uniform conceptual element. It is impossible to talk of a coherent regional and municipal family policy. The concept of family support currently differs widely in individual regions and municipalities and is dependent on the concrete approaches of individuals. The absence of a state family policy and family policy discourse has had a negative impact on the awareness and benefit of such a policy at municipal level.

The main measures in regional and municipal family policy are realised in the area of social services and housing policy. Based on concrete approaches and preferences, various infrastructure systems of further pro-family services (not just social) are built in cooperation with the non-profit sector (e.g. maternity centres, etc.). Municipal competencies also include support for family discounts and other forms of advantages for families with children, not just in municipal facilities. Despite this however, more extensive family support at regional and municipal level is hindered by a lack of awareness of the possibilities for complex measures of a non-financial nature. The shift in the perception of family development as beneficial to the life, culture and economic growth of the municipality is very slow. This is reflected for example, in the still inadequate provision of a wide range of services (not just social) for families with children or the inadequate promotion of family issues at regional and local level. Although cooperation between many municipalities/regions, non-profit organisations and other subjects supporting family activities is better, here too certain deficits remain.

Institutional backing for family support is unsatisfactory at regional and municipal level. Separate family departments only exist in exceptional cases and where these exist, their competencies are often restricted to the area of socio-legal child protection and social services for families. Undoubtedly a whole series of problems, especially those faced by the regions as part of public administration reform, also play their part.

Ways and possibilities of implementing regional and municipal family policy should also be evaluated in the context of the given public administration body's competencies, their economic possibilities and historic (administrative) traditions and customs, including citizens' interest in public life and their involvement in public matters. Although current legislation governing the autonomous competencies of regions and municipalities formally offers a wide range of opportunities for the overall development of a system to care for the region and the needs of its citizens, with the general shortage of public resources and the danger of the increasing indebtedness of public budgets, no suitable programme base for a consensual division of competencies between regions and municipalities based on their real possibilities has been developed to date (not just in relation to family policy or family support). Regional competencies in the area of family policy should be adequately based on financial possibilities for their utilisation.

### **III. 10. Family policy and the concept of family in the European Union**

Despite the fact that, in accordance with the principle of subsidiarity, the area of family policy does not fall within the European Union's exclusive or shared competencies, and therefore remains in the exclusive competency of member states, numerous legislative norms passed at European level directly affect family life and this within various European policies. Evidence of the current importance of the family is also borne by relevant articles on the protection of the family and family life included in the EU Charter of Basic Rights. In this context, there has been a certain stabilisation in the definition of terms relating to the family, which is a process that deserves greater attention on the part of individual member states in relation to their national legislations.

Measures directly affecting the family and family life, as well as society, can primarily be seen in the area of social policy, including the related free market policy (free movement of people and labour) and refugee and immigration policy. In connection with the expansion of the European Union's competencies in the area of social policy, the issue of family has received greater attention since the 1980's at both European Commission and European Parliament level. European Parliament resolutions however sometimes affect areas that hitherto fell within the competencies of sovereign states. In secondary legislation documents, the issue of family appears in connection with the general objectives of EU social policy, which are reflected in primary legislation and conceptual documents of a socio-political nature. Yet individual norms with an impact on the family relate to free market legislation and the related issue of equal opportunity. In documents directly related to the free market, the main measures of family support remain those included in Council Directives 1612/68/EC and 1408/71/EC, which include articles on the application of rules for the free movement of workers, including entitlement to social security for the families of these workers. In contrast, in recent decades ever more room has opened for steps directly targeted at the family in the area of gender equality support in relation to the concept of „*Gender Mainstreaming*“. Legislative documents in this area also relate to the model of family and work compatibility, for example in relation to caring for a child of preschool age.

Apart from social policy, certain other areas in the European Union's competencies, also relate to the issue of family. This primarily includes the sphere of refugee and immigration policy, which is an area where legislative harmonisation closely relates to the family. In accordance with international law and human rights codifications, foreigners from third countries should be guaranteed the right to the family reunification, which is the subject of joint legislation in European law.

In recent years, talk of the harmonisation of family law in the European Union has been heard more and more often. It has to be said here however that family law is an area that constitutes part of the national identity of individual EU member states to a large degree. In view of differences in its form and general foundations, based on religious and cultural traditions, it is not possible to count on such harmonisation, even setting aside its conflict with the principle of subsidiarity.

In connection with the growing attention devoted to the family at community level, there is a need to look at the normative interpretation of family in European law. At present, this interpretation is primarily based on secondary legislation in the sphere of free market and refugee and immigration policy and the rulings of the European Court of Justice in connection to these areas in European law. All these cases relate to a form normatively defining a family member for the purposes of social security and the reunification of worker or immigrant families. Current treatment is characterised by a traditional interpretation of the family based on marriage. The European Court of Justice has also respected this interpretation in its rulings to date. On the other hand, it can be said that in recent years there have been concerted efforts to expand the interpretation of family to include new forms of cohabitation based on relationships other than marriage. This pressure is evident at European Parliament and European Commission level and has manifested itself in a discussion of legislative documents governing the definition of a family member in the area of

the free movement of persons and labour and refugee and immigration policy. In the first case, in new Council Directive 2004/38/EC, the term family member was expanded to include registered partners, provided that the host nation recognised such a partnership as the equivalent of family. In the second case (new Council Directive 2003/86/EC on the reunification of the families of immigrants), although the object of the norm remains the nuclear family of husband and wife and dependant children, the directive acknowledges the existence of family relationships between de facto couples or registered partnerships, to which member states can apply the measures contained in this normative document. It has to be said however that following its approval by the Council on 22 September 2003, a motion for its invalidation was submitted to the European Court of Justice by the European Parliament in December 2003, due, among other things, to its alleged restrictive definition of family limited to the European model of the nuclear, marital family.