

GOVERNMENT SOCIAL PROGRAMMES TASKED WITH FULFILLING THE OBLIGATION OF PUBLIC AUTHORITIES TO PROVIDE SPECIAL ASSISTANCE TO WOMEN BEFORE AND AFTER CHILDBIRTH

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ABSTRACT

In Article 71(2) of the Constitution of the Republic of Poland of 2 April 1997, the Polish legislator addresses the mother's right to special assistance from public authorities before and after childbirth. However, the legislator did not concretise the forms and scope of this assistance to the mother but referred in this respect to the law.

The development of social programmes took place, especially in the middle of the second decade of the 21st century. The social pro-family programmes are implemented at different levels of public authority, including state and local government. This is a realisation of the constitutional obligation of public authorities to provide assistance while also facilitating the support and distribution of financial resources earmarked for this purpose.

The programmes have clearly had a positive impact on the financial situation of families, especially those with many children and who have been on the so-called 'poverty line' for many years.

KEYWORDS

child
Constitution
mother
social programmes

1. Introduction

In Article 71(2) of the Constitution of the Republic of Poland of 2 April 1997, the Polish legislator addresses the mother's right to special assistance from public authorities before and after childbirth. However, the legislator did not concretise the forms and scope of assistance to the mother before and after childbirth but referred in this respect

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to the law. The phrase 'a law' as indicated in the singular, does not necessarily refer to a single statute according to the jurisprudence of the Constitutional Tribunal and the views of representatives of the doctrine. On the contrary, the essence of the formula 'shall be determined by a law', which appears in many provisions of the Constitution, is first and foremost an indication of the rank of the normative act in which the issues in question are to be regulated. This also applies to the assistance provided by public authorities to the mother before and after childbirth. The lack of a single comprehensive law regulating these issues in Poland does not mean that the recommendation of the legislator² is not implemented. However, it is of key importance to state that:

the ordinary legislator has a wide discretion in specifying such assistance, both in terms of the choice of measures and in defining the scope of individual benefits. Nor is there any obstacle to the legislator differentiating the scope and forms of assistance depending on the material and social situation of the mother, as long as the general requirements deriving from the principle of equality are met. Finally, there is no obstacle to the legislator changing (also to the detriment of the mother) the scope of the aid, in particular if this is due to the public finance situation. Of course, vested rights must be respected, so the margin of interference in the benefits to which women who are already pregnant or who have already given birth are entitled is much narrower.³

In the context of the title issue, attention should also be drawn to the content of Article 68(3) of the Constitution of the Republic of Poland, in which the legislator formulated the obligation of public authorities to provide special health care to children, pregnant women, persons with disabilities and the elderly.⁴ As noted by the Constitutional Court, 'special health care *ex definitione* goes beyond the sphere of ordinary, universal health care, so it should be intensified, more intensive or more specialised, i.e. adapted to the specific needs characteristic of a given group of subjects'.⁵

This provision is an exception to the principle of equality in citizens' access to publicly financed health care services referred to in Article 68(2) of the Constitution. Nevertheless, supra-standard, privileged health care for, *inter alia*, pregnant women and children is understandable.⁶ In the opinion of the Constitutional Tribunal, the indicated subjects have, for obvious reasons, an increased need for health care services.⁷

Similarly, as in the case of Article 71(2) of the Constitution, the legislator did not indicate the forms and means of providing special health care but limited the definition to 'special health care', taking into account the recipients preferences in terms of receiving health care services preferences.

This article discusses the most important legal solutions of statutory rank, through which public authorities implement their constitutional obligation to provide special assistance to the mother before and after childbirth. A review of the programmes will

2 | Szczepaniak-Sienniak, 2015, p. 103.

3 | Garlicki and Derlatka, 2016.

4 | Dercz, 2016.

5 | Judgment of the Constitutional Tribunal of 22 July 2008, ref. no. K 24/07, Dz.U. 2008 no. 138 item 874.

6 | Dercz, 2016.

7 | Judgment of the Constitutional Tribunal of 22 July 2008, ref. no. K 24/07, Dz.U. 2008 no. 138 item 874.

make it possible to answer questions about the quality of the state's family policy in this area, to indicate the strengths and weaknesses of the system and, possibly, to formulate postulates *de lege ferenda*. Given the framework of this study and the fact that it is based on the norm stemming from Article 71(2) of the Constitution of the Republic of Poland and not Article 68, legal solutions concerning children with disabilities have not been included. These will be addressed in a separate study by the author.⁸

It follows from the provisions of the Constitution of the Republic of Poland that the purpose of all actions taken by the state to protect the family should be to create such conditions for its existence that it can fully perform the functions ascribed to it.⁹ Today, one of the main instruments of family policy is direct cash benefits provided for families. In recent years, several new monetary benefits for families have been introduced in Poland, primarily aimed at improving the material situation of large families.¹⁰

2. Family 500+ / Family 800+ programmes¹¹

The Family 500+ programme has been in force since 1 April 2016 and aims to improve the material situation of families. It is a monetary child-rearing benefit, the purpose of which is to partially cover expenses related to raising a child, including childcare and meeting the child's living needs. The funds are tax-free, do not count as income when determining entitlement to benefits from other support schemes and are exempt from bailiff enforcement. This is why the programme is referred to as the financial foundation of family support.¹²

According to data from April 2023, provided by the Ministry of Family and Social Policy, more than 6.5 million children benefit from the programme, and the cost of this support in 2023 amounted to PLN 40.2 billion.¹³ Since the programme's inception, more than PLN 223 billion has gone to families.¹⁴ Minister Marlena Małag stressed that:

We all need to understand that the welfare and security of Polish families is our common interest. There can be no future and no development if we do not invest in what is most important—in human capital, in the future of future generations. We understand this, we have changed social policy, and the symbolic beginning of these changes was the introduction of the Family 500+ programme.¹⁵

It should be noted that the programme is aimed at families with dependent children up to the age of 18. In 2016–2019, the benefit was available for each second and subsequent child regardless of family income, and for the first child if the income criterion was met. As of July 2019, the programme applies in a modified form, in that the benefit is available

8 | Mendecka, 2021, pp. 82–96.

9 | Maziarczuk, 2020, p. 60.

10 | Feja-Paszkiewicz, 2020, pp. 182–195.

11 | Ministry of Family, Labour and Social Policy, 2021.

12 | Gajewicz, 2018, pp. 76–86.

13 | Szarfenberg, 2016.

14 | Ministry of Family and Social Policy, 2021.

15 | Herbut, 2023.

for each child regardless of the income earned by the family. The marital status of the parents is irrelevant, which means that married parents, parents in informal relationships and single parents all receive the benefit.

In the case of divorced parents, entitlement to child benefit depends on the child custody arrangement. If the child resides exclusively with one parent, and the child's maintenance is the responsibility of that parent, then only that parent is entitled to child benefit. However, if a court has established alternating custody with both divorced, separated or non-cohabiting parents sharing custody for comparable and recurring periods, each parent is entitled to half of the benefit, which is typically PLN 250 per month.

Those eligible to apply for and receive the benefit include the child's mother or father; the child's *de facto* guardian (i.e. the person who takes care of the child and who has applied to the guardianship court to adopt the child), provided the child cohabits with and is dependent on the mother, father or factual guardian; the legal guardian of the child; directors of social welfare homes; foster families; persons running family-type children's homes and directors of care and educational institutions, regional care and therapeutic institutions and intervention pre-adoption centres. It should also be clarified that, in accordance with the act, the benefit is available to both Polish citizens and foreigners who meet the conditions indicated in the legislation.

As of 1 January 2022, the entity responsible for the implementation of the programme is the Social Insurance Institution (Zakład Ubezpieczeń Społecznych). Its task is to accept applications for child benefit, and then process and disburse this benefit. In addition, the voivode¹⁶ holds powers regarding child benefit in relation to the Republic of Poland's participation in the coordination of social security systems when individuals move between countries of the European Union, the European Economic Area, the Swiss Confederation and the United Kingdom of Great Britain and Ireland.¹⁷

Until 31 May 2022, these tasks were carried out by existing authorities: municipalities handled matters of child benefit districts handled matters of upbringing allowances for children in foster care, and voivodes addressed matters requiring decisions related to the coordination of social security systems. Until the end of 2023, the benefit amount was PLN 500.00, and from 1 January 2024, the amount has been increased to PLN 800.00 and is paid once a month. The right to the upbringing benefit is determined for an annual benefit period lasting from 1 June to 31 May of the following calendar year.

The application for the benefit can only be submitted online via the PUE ZUS portal, the Ministry of the Family *Emp@tia* portal or electronic banking. However, it is important to be aware of the deadlines in order to receive the funds for the entire period. Notably, the entire procedure is conducted electronically, and in the case of granting a benefit, no decision is required, and the funds are paid out to the bank account number indicated in the application.

16 | Administrative body in Poland. The voivode is a representative of the Council of Ministers in the voivodship and the head of the combined government administration in the voivodship. The organizational and legal position of the voivode is regulated by the Constitution of the Republic of Poland of 2 April 1997 (Article 152) and the Act of 23 January 2009 on the Voivode and Government Administration in the Voivodship (Dz.U. of 2023, item 190).

17 | See Article 16 of the Act of 11 February 2016 on State Aid in Upbringing of Children (Dz.U. of 2016, item 195).

The legal basis that determines the conditions for granting the benefit in question is the Act of 11 February 2016 on State Aid in Upbringing of Children,¹⁸ the Act of 17 September 2021 amending the Act on State Aid in Upbringing of Children and certain other acts¹⁹ and the Act of 7 July 2023 amending the Act on State Aid in Upbringing of Children.²⁰ Pursuant to the amendments introduced by the Act of 2023, payment of the accrued upbringing benefit in the amount resulting from the amendments introduced by Article 5(1) of the Act amended by Article 1 in the wording adopted by the Act shall be made by 29 February 2024 with compensation as of 1 January 2024.²¹

It should be emphasised that the Family 800+ programme plays a key role in realising important objectives of the state's family policy, notably by significantly boosting the birth rate, reducing poverty – especially among children – and serving as an investment in the family.²²

3. The 'Good Start' programme²³

The Good Start programme is a social programme that has been in force since July 2018. As indicated by the Ministry of Education, it is another component of the government's comprehensive and long-term family policy.²⁴ This programme aims to equalise the educational opportunities of children regardless of the cultural, social and material capital of their families. It is a cash benefit, which is a form of school uniform, independent of the 500+ benefit. The funds are tax-free, are not subject to seizure by a bailiff and do not count towards income when determining entitlement to benefits from other support schemes. Moreover, it is granted regardless of the family's earned income.

The programme is aimed at children studying at school until they reach the age of 20. The Good Start benefit does not apply to children attending kindergarten or completing annual kindergarten preparation in kindergarten pre-school in, and does not cover university students. In 2019, a change was introduced, which meant that pupils at post-secondary schools or adult schools could also benefit from the programme.²⁵

A parent can apply for the Good Start scheme if the child resides in a joint household with him or her. However, where alternating custody has been established by court decision, each parent is entitled to half the benefit. An application may also be filed by the child's actual guardian – someone who actually takes care of the child and has filed an application with the court for adoption – or the child's legal guardian to whom the court has entrusted custody. Additionally, a student, who is an adult pupil and who is not dependent on his or her parents either due to the parents death or established alimony, may file an application. In the case of children in foster care, the application is submitted by the

18 | Dz. U. of 2023, item 810.

19 | Dz. U. of 2021, item 1981.

20 | Dz. U. of 2023 item 1565.

21 | Sejm of the Republic of Poland, Ninth Legislature, Paper No. 3413, p. 2.

22 | Resztak, 2019, p. 87.

23 | Ministry of Family, Labour and Social Policy, 2019a.

24 | Ministry of Education, 2023.

25 | Mrozek, Pawka-Nowak and Rączka, 2018.

foster family, the person in charge of a children's home, directors of foster care centres, and regional foster care centres or learners who are independent persons.²⁶

As in the case of the 500+ benefit, the entity responsible for receiving applications for the Good Start benefit, processing them and granting and disbursing this benefit is the Social Insurance Institution (Zakład Ubezpieczeń Społecznych). The benefit from the Good Start programme is PLN 300.00, which is paid once a year for each child at the start of the school year, by transfer to the bank account number indicated in the application.²⁷

The procedure for granting the benefit in question is conducted electronically, which means that an application – as for any other benefit – can be submitted online via the Emp@tia information and service portal at <https://empatia.mpips.gov.pl/>, as well as via e-banking or the PUE ZUS portal.

The conditions for acquiring the right to the benefit and the rules for granting and paying this benefit are set out in the Ordinance of the Council of Ministers of 15 June 2021 which includes detailed conditions for the implementation of the Good Start programme²⁸ and the Act of 15 April 2021 amending the Act on family support and the system of foster care.²⁹ It should be noted that in the light of the provisions of the above-mentioned regulation, the establishment of the right to the Good Start benefit and its payment take place within 2 months from the date of the application with documents. In the case of applications for establishing the right to the benefit, applications submitted with documents in July or August will be paid out no later than 30 September.

Applications to establish the right to the Good Start benefit are accepted from 1 August to 30 November of a given year and, in the case of applications submitted electronically, from 1 July to 30 November of a given year. Applications submitted after the deadline are left without consideration.³⁰ The Good Start programme, as one of the government's programmes of support for families with children aims to equalise children's educational opportunities regardless of family income or social capital, covering both minors growing up in a family and those in foster care.

4. Family Care Capital³¹

The Family Care Capital, introduced in 2022, is a new benefit for families. It is one of the elements of Prime Minister Mateusz Morawiecki's 'Polish Deal' programme, relating to the section on 'Family and home at the centre of life'. As we read on the website of the Ministry of Family and Social Policy, it is an additional support instrument designed to facilitate the combination of parenthood and work, and reduce poverty among families with children. It is an investment in the family and its purpose is to strengthen social human capital.³² According to the Act, the purpose of the Family Care Capital is to par-

26 | Laskowska-Hulisz and Bodio, 2023.

27 | Mrozek, Pawka-Nowak and Rączka, 2018.

28 | Dz. U. of 2021, item 1092.

29 | Dz. U. of 2021, item 1006.

30 | Ossowska-Salamonowicz, 2019, p. 336.

31 | Ministry of Family, Labour and Social Policy, 2022.

32 | Ministry of Family, Labour and Social Policy, 2022.

tially cover the expenses of raising a child, including childcare and meeting the child's living needs.³³

The Family Care Capital is not enforceable, is not taxable and does not count as income. The benefit is available for each second and subsequent child in the family aged from the first day of the month in which the child turns 12 months old until the last day of the month in which the child turns 35 months old.

The persons entitled to apply for the benefit are either the mother or the father or the person who has adopted the child and has applied to the guardianship court to initiate adoption proceedings. The marital status of the parents is irrelevant, which means that married parents, parents in informal relationships and single parents are eligible to receive the benefit. Importantly, the age of the first child and the situation where the first child has died are also irrelevant.

As in the case of the benefits discussed above, the entity authorised to accept applications for the Family Care Capital, process them and grant and pay the benefit is the Social Insurance Institution (Zakład Ubezpieczeń Społecznych). In addition, the voivode holds powers regarding child benefit in relation to the Republic of Poland's participation in the coordination of social security systems when individuals move between countries of the European Union, the European Economic Area, the Swiss Confederation and the United Kingdom of Great Britain and Ireland³⁴.

A benefit of either PLN 500 or PLN 1,000 is paid monthly per child in the family, but the total cannot exceed PLN 12,000.00. It is up to the applicants to decide in what amount and over what period, i.e. 24 months or 12 months, the capital will be paid out. The procedure for granting the benefit is conducted electronically, which means that an application – as in the case of other benefits – can be submitted online via the Emp@tia information and service portal at <https://empatia.mpips.gov.pl/>, via electronic banking or the PUE ZUS portal. In the case of a capital award, a decision is not required.

The legal basis is the Act of 17 November 2021 on the Family Care Capital.³⁵ It is important to note that this benefit is available regardless of the parent's earned income. The funds for parents serve as support to make it easier to combine parenthood with work.

5. 'Toddler+' programme³⁶

The Toddler+ programme is a continuation in a revised format of the Toddler Programme, which was first implemented in 2012. The programme aims to develop childcare places. It is aimed specifically at municipalities where such care is not currently available. It will enable and facilitate access to this care in order to help parents and especially mothers return to the labour market.³⁷ Between 2012 and 2021, the programme organised

33 | Article 4 of the Act of 17 November 2021 on the Family Care Capital (Dz. U. of 2021, item 2270, as amended).

34 | Pietrzak, 2022.

35 | Dz. U. of 2021, item 2270, as amended.

36 | Ministry of Family, Labour and Social Policy, 2023a.

37 | Gajewski, 2014.

calls for grant applications for measures to develop childcare infrastructure for children up to the age of three, i.e. crèches, children's clubs and day carers.

The new version is a long-term programme running from 2022 to 2029. The programme has a uniform financing system, and the same rules are applicable for the whole of Poland. Moreover, the formal requirements for establishments are more flexible; for example, there is the possibility to extend the period of the project, and it is not necessary to have a title deed of the property intended for the project, etc. A budget of PLN 5.5 billion has been planned for the implementation of this programme.³⁸

However, the entity responsible for the implementation of the programme is the provincial governor with jurisdiction over the location of the municipality where the care will be provided. Municipalities are entitled to submit an application. Applications may be submitted by other entities, for example by the county. In such cases, the applications are directed to the relevant provincial offices. The entire process is carried out electronically.

The legal basis for the programme is the Act of 4 February 2011 on care of children up to the age of three.³⁹ This Act introduced changes in the organisation of crèches and also made it possible to create other forms of care for children up to the age of three. Crèches are now an element of social policy conducted by the Ministry of Family and Social Policy, and not an institution functioning within the health system, as was the case years ago.⁴⁰

It should be noted that funding can be used to create care places in crèches, children's clubs and day carers, including places for children with disabilities or who require special care.⁴¹

6. Care for children up to the age of three⁴²

Caring for a child up to the age of three requires special expertise and resources. To ensure that parents can be sure that their children are well cared for and have the opportunity to benefit from such care, regulations on how such care should be provided have been drawn up. Currently, the forms of care for children up to the age of three are the crèche, the children's club, the day care centre and the nanny.

However, the most important element directly supporting families is the subsidisation of the fees for a child's enrollment in a crèche, children's club or day care provider. The support was introduced in November 2021 by the government as part of the Polish Deal. Subsidies are available to parents, legal guardians, and other persons entrusted by a court with the care of a child, (including persons who are not Polish citizens) for a child attending a crèche, a children's club or day care and who are not using the Family Care Capital.

The subsidy is transferred to the bank account of an establishment running a crèche, a children's club, employing a day care worker, or the bank account of a day care worker

38 | Ministry of Family, Labour and Social Policy, 2023a.

39 | Dz. U. No. 45, item 235, as amended.

40 | Rościszewska-Woźniak, 2012, p. 7.

41 | Olszewski, 2019.

42 | Ministry of Family, Labour and Social Policy, 2018a.

running their own business for the purpose of reducing the parent's fee for the child's stay. The amount of the subsidy is a maximum of PLN 400.⁴³

As in the case of the previously discussed benefits, the Social Insurance Institution (ZUS) is responsible for accepting applications for funding, processing them and transferring funds. The application can only be submitted online, via the PUE ZUS portal, the Emp@tia portal or electronic banking.⁴⁴

The legal basis for the benefit is the Act of 17 November 2021 on Family Care Capital,⁴⁵ the Act of 4 February 2011 on the care of children up to the age of three,⁴⁶ the Regulation of the Minister of Labour and Social Policy of 10 July 2014 on the sanitary requirements to be met by the premises in which a crèche or a children's club is to be run,⁴⁷ and the Regulation of the Minister of Labour and Social Policy of 25 March 2011 on the training requirements for a carer in a crèche or a children's club or day carer.⁴⁸

It should be noted that of all the childcare facilities for children up to the age of three currently operating in Poland, almost 80% belong to the private sector. They are run by natural persons, limited liability companies or civil partnerships. Despite the fact that these institutions operate in municipalities, not all municipalities decide to subsidise them.⁴⁹

This is probably due to the fact that the delegation norm of Article 60(2) of the Act on the care of children up to the age of three is too general in nature, which may cause a number of interpretative doubts regarding the competencies of the municipal decision-making body and the executive body, which are expressed in supervisory and judicial rulings, the regulatory directive used in Article 60(2) of the Act in the form of the phrase: 'principles of determining subsidies' is interpreted *sensu stricto* by the majority of supervisory authorities and courts, which has the effect of 'prohibiting' the municipal council from specifying in the resolution any conditions (prerequisites) for granting a nursery subsidy.⁵⁰

7. Family benefits⁵¹

Family benefits are monies paid once certain criteria are met. They depend on the family's income and the situation in which the family finds itself.⁵² Among the benefits currently in place is the family allowance, which is intended to partially cover a child's living expenses. The amount of the allowance depends on the age of the children (PLN 95.00 for a child up to the age of 5; PLN 124.00 for a child over five up to the age of 18; PLN 135.00 for a child over 18 up to the age of 24).

43 | Olszewski, 2019.

44 | Olszewski, 2019.

45 | Dz. U. of 2021, item 2270, as amended.

46 | Dz. U. of 2022, item 1324, 1383.

47 | Dz. U. of 2014, item 925.

48 | Dz. U. of 2023, item 1998.

49 | Ostrowska, 2022, p.62.

50 | Ibid.

51 | Ministry of Family, Labour and Social Policy, 2018b.

52 | Makarowicz, 2005, p. 35.

The right to the family allowance is vested in the parents, one of the parents or the child's legal guardian; the child's de facto guardian (a person who actually cares for the child, if they have applied to a family court for adoption of the child); a learner (an adult learner who is not dependent on his/her parents due to their death or due to a court decision or court settlement establishing the right to alimony from their side).⁵³ Obtaining the benefit depends, *inter alia*, on meeting an income criterion. The benefit is available if the average monthly family income or the income of a learner does not exceed PLN 674.00. Since 1 January 2016, the so-called 'zloty for zloty' mechanism has been in force when determining the family income for entitlement to family benefits and allowances.

Another benefit is a family allowance supplement, which can only be claimed by a person entitled to a family allowance.⁵⁴ A number of allowances are provided, including an allowance for the beginning of the school year, of which an amount of PLN 100, is due once a year; an allowance of PLN 193.00 per month per child for single parents, but no more than PLN 386.00 for all children. However, it is due if a child maintenance payment has not been ordered for the child from the child's other parent because they are deceased; the child's father is unknown or an action to establish maintenance from the other parent has been dismissed. A person receiving a family allowance is also entitled to a one-off childbirth supplement of PLN 1,000. However, to receive the supplement, one must be under medical care no later than in the 10th week of pregnancy.⁵⁵

An allowance for raising a child in a large family amounts to PLN 95.00 per month and is granted for the third and further children entitled to family allowance. Family allowance recipients may also receive an allowance for childcare during parental leave of PLN 400, however, in this case, a number of exclusions apply. There is also an allowance for taking up education in a school outside the place of residence in the amount of PLN 69.00, which is paid for 10 months in a given school year.

Parents may also benefit from a one-off childbirth allowance or parental benefit. This allowance amounts to a one-off payment of PLN 1,000. The benefit depends on an income criterion, and an application for the allowance should be submitted within 12 months of the child's birth. The parental benefit of PLN 1,000 is available to persons caring for a child who, due to their professional situation, cannot benefit from maternity allowance or maternity pay. This support can be used, for example, by the unemployed, students or those working on a contract for work. It does not depend on an income criterion, and it is paid for 52 weeks in the case of the birth, adoption or custody of one child, 65 weeks in the case of multiple births or adoption or custody of two children, 67 weeks in the case of three children or 69 weeks in the case of four children and 71 weeks for five or more children.

Regarding family benefits, the Act of 28 November 2003 on family benefits,⁵⁶ which has been amended several times, is in force. This Act expands the list of income sources that qualify as family income for eligibility for family benefits. It also introduces measures to streamline the administration of child-rearing and family benefits by voivodes as part of the coordination of social security systems.⁵⁷ The legal basis is the Regulation

53 | Rozbicka-Ostrowska, 2015.

54 | Durasiewicz, 2014, p. 102.

55 | Szczepaniak-Sienniak, 2015, p. 103.

56 | Dz. U. of 2023, item 390, as amended.

57 | Cendrowicz, 2022, p. 39.

of the Minister of Family and Social Policy of 6 July 2023 on the manner and procedure in cases for granting family benefits and the scope of information to be included in the application and declarations for determining the right to family benefits.⁵⁸ the Regulation of the Council of Ministers of 13 August 2021 concerning the amount of family income or learner income constituting the basis for applying for family allowance and special care allowance, the amount of family benefits and the amount of allowance for a carer,⁵⁹ the Announcement of the Minister of Family and Social Policy of 1 November 2022 on the amount of nursing benefit in 2023,⁶⁰ the Announcement of the Minister of Family and Social Policy of 13 November 2023 on the amount of nursing benefit in 2024,⁶¹ Ordinance of the Minister of Health of 14 September 2010 on the form of medical care for a pregnant woman entitling her to an allowance for childbirth and the form of a certificate confirming remaining under such care, the Ordinance of the Minister of the Family, Labour and Social Policy of 28 September 2017 on material and financial reports regarding the implementation of tasks in the field of carers' allowances,⁶² the Regulation of the Minister of the Family, Labour and Social Policy of 28 September 2017 on material and financial reports on the performance of tasks in the field of guardian's allowances,⁶³ the Act of 4 April 2014 on the establishment and payment of benefits for guardians of a child,⁶⁴ the Announcement of the Minister of the Family and Social Policy of 28 July 2023 on the amount of income for the year 2022 from activities subject to taxation on the basis of the provisions on lump-sum income tax from some incomes generated by natural persons,⁶⁵ and the Announcement of the President of the Polish Central Statistical Office of 21 September 2023 on the amount of average labour income on individual farms per hectare in 2022.⁶⁶

8. Parental leave and benefits related to parenthood

Parental leave and benefits are governed by a number of legal norms and rules that make it easier for parents to have children, ensure a quick return to work, and then combine parenthood with work.⁶⁷ The forms of benefits and leave currently enjoyed by parents are maternity leave, leave in case of hospitalisation of a newborn child, reduced maternity leave, parental leave, working during parental leave, employment after returning from parental leave, parental leave, working during parental leave, paternity leave, flexible working schedules, employment relationship protection, as well as benefits related to the birth or upbringing of children.⁶⁸

58 | Dz. U. of 2023, item 1340.

59 | Dz. U. of 2021, item 1481.

60 | M.P. of 2022, item 1070.

61 | M.P. of 2023, item 1224.

62 | Dz. U. of 2017, item 1811.

63 | Dz. U. of 2017, item 1810.

64 | Dz. U. of 2020, item 1297, as amended.

65 | M.P. of 2023, item 775.

66 | M. P. of 2023 item 1030.

67 | Maniewska, 2024.

68 | Stecko, 2017, pp. 59–68.

The legal basis for the leave and benefits granted above is Articles 180(1), 182, 183, 186, 187, 188 of the Labour Code Act of 26 June 1974, Articles 8, 29, 31 of the Act of 25 June 1999 on monetary benefits from social insurance in the event of sickness and maternity, and Articles 53(1), 54, 55(1) of the Act of 28 November 2014 on Law on Civil Status Records.

It is worth noting that the regulation introduced in 2013 relating to parental leave as part of family-friendly policies is a response to the demographic problem that has been growing for many years.⁶⁹ To improve working conditions for employees who are parents or guardians, the legislator has introduced a number of changes to make it easier for them to reconcile work and family life. For example, according to the changes introduced in 2023, the total length of parental leave is now up to 41 days in the case of the birth of one child in a single birth or up to 43 weeks in the case of a multiple birth. A parent may also take unpaid care leave of 5 days once a year.⁷⁰

The State also protects the employment stability of an employee returning from parental leave. The employer may not terminate the employment of an employee whose position has been terminated, but should offer an equivalent position or another position, but one that corresponds to the employee's qualifications. The same applies to the financial situation of the employee returning to work, as it should not change to his/her disadvantage, regardless of whether he/she returns to his/her previous position or an equivalent one.

9. The Alimony Fund⁷¹

The Alimony Fund offers a benefit to persons who meet the conditions set out in the Act. Obtaining the benefit depends on an income criterion. It is paid upon application and for the benefit period, i.e. from 1 October to 30 September of the following calendar year.⁷²

With regard to benefits under the Alimony Fund, the Act of 7 September 2007 on Assistance to Persons Entitled to Alimony is in force,⁷³ the Announcement of the Minister of Family and Social Policy of 19 January 2023 on the amount of income criterion entitling to alimony fund benefits from 1 October 2023,⁷⁴ the Ordinance of the Minister of Family and Social Policy of 7 July 2023 on the manner and course of proceedings, the manner of determining income and the scope of information to be included in the application, certificates and declarations in cases concerning the establishment of the right to alimony fund benefits,⁷⁵ the Ordinance of the Minister of Labour and Social Policy of 23 March 2011 on the template of the alimony interview questionnaire and the template of the alimony debtor's asset declaration,⁷⁶ the Ordinance of the Minister of Family, Labour and Social Policy of 28 September 2017 on material and financial reports on the

69 | Majchrzak, 2015, p. 46.

70 | Czerniak-Swędzioł, 2016, pp. 49–62.

71 | Ministry of Family, Labour and Social Policy, 2019b.

72 | Durda, Mrozek and Pawka-Nowak, 2021.

73 | Dz. U. of 2023, item 581, as amended.

74 | M. P. of 2023, item 121.

75 | Dz. U. of 2023, item 1341.

76 | Dz. U. No. 73 item 395.

implementation of tasks provided for in the Act on Assistance to Persons Entitled to Alimony,⁷⁷ the Announcement of the Minister of Family and Social Policy of 29 July 2022 on the amount of income for the year 2021 from activities subject to taxation on the basis of the provisions on lump-sum income tax from some incomes generated by natural persons,⁷⁸ and the Announcement of the President of the Polish Central Statistical Office of 22 September 2023 on the amount of average labour income on individual farms per hectare in 2022.⁷⁹

Importantly, 'the granting of a benefit is not tantamount to assuming responsibility for the maintenance debtor or replacing him in the performance of his duty adequately to the needs of the person entitled to maintenance'.⁸⁰

In light of Article 27(1) of the 2007 Act, the maintenance debtor shall reimburse claims in the amount of the benefits paid from the maintenance fund, together with statutory interest for late payment, to the creditor's competent authority. This is due to the payment of benefits from the fund by this very authority. The revenue thus obtained by the municipality of the creditor's competent authority shall be used in particular to cover the costs of actions taken by local government bodies against maintenance debtors in order to force them to fulfil their alimony obligation.⁸¹

10. Pro-life programme

Based on the Act of 4 November 2016 on support for pregnant women and families, known as the 'Pro-life' Act, a comprehensive support programme for families was developed and adopted by the resolution of the Council of Ministers of 20 December 2016.⁸²

The legislator's aim is to comprehensively regulate support for pregnant women and families, with particular emphasis on women experiencing complicated pregnancies, obstetric failure, and children diagnosed with severe, irreversible disabilities or incurable life-threatening conditions arising during the prenatal period of the child's development or during childbirth.⁸³

The 'Pro-life' programme includes 31 planned actions, organized into six priority areas. One of the elements of the programme is a one-off benefit for parents who have a child born with a disability. The amount of the benefit is PLN 4 000.00.⁸⁴ In addition, the parents of such children are provided with, among other things, palliative, hospice and respite care.

The NIK (The Polish Supreme Audit Office) report shows that between 2017 and 2020, the programme was used to a small extent, but in 2023, the programme's funding was increased, and new activities were introduced. More money has been provided for institutions that prepare children with developmental problems to start school. In 2017,

77 | Dz. U. of 2017, item 1812.

78 | M. P. of 2022, item 726.

79 | M. P. of 2022, item 913.

80 | Sierpowska, 2022, p. 192.

81 | Mazurek, 2008, pp. 1–8.

82 | Ministry of Family, Labour and Social Policy, 2019c.

83 | Godlewska-Bujok, 2023, pp. 11–26.

84 | Kobak, 2021, pp. 26–39.

at the beginning of the programme, this amount was PLN 47 million, in 2022, it was more than PLN 97 million, and between 2024 and 2026, it will be PLN 110 million per year. In many districts, for example, Tarnów, Niemodlin and Poznań, comprehensive support for child development, offered mainly by pedagogical and psychological counselling centres, has already started. Therefore, it is worth knowing who can benefit from it and on what terms while remembering that a child with a disability certificate is also entitled to other rights.⁸⁵

The aforementioned issues are regulated in detail by the Act of 4 November 2016 on support for pregnant women and families Pro-life⁸⁶ and Resolution No. 160 of the Council of Ministers of 20 December 2016 on the programme of comprehensive support for families Pro-life.⁸⁷

11. Mother 4+ programme

The Mother 4+ Parental Supplementary Benefit is intended for people who, because they are bringing up at least four children, are unable to take up gainful employment or have given up such employment, and today live on the poverty line without being entitled to benefits even at the minimum level.⁸⁸ The Parental Supplementary Benefit is primarily intended to provide such families with the basic necessities of life.⁸⁹ Currently, the benefit amount is PLN 1,100 and, importantly, it will be subject to valorisation. In order to receive the benefit, an interested person must submit a relevant application to ZUS or KRUS.

The provisions defining the rules for granting and paying the benefit can be found in the Act of 31 January 2019 on Parental Supplementary Benefit. The benefit applies to persons covered by the general insurance system, as well as those who receive an agricultural pension benefit. The Parental Supplementary Benefit is available to a mother who has given birth to and raised at least four children and, in the event of the death of the child's mother or the abandonment of the children by the mother, to a father who has raised at least four children. The provision is a special non-contributory benefit, which will only supplement or substitute the risk of old age. The benefit can be claimed by persons of at least 60 years of age for women and 65 years of age for men.⁹⁰

12. Conclusions

Special support from public authorities for mothers before and after the birth of her child is regulated through various statutory legal acts.⁹¹ The development of these social

85 | Dązbłaż, 2022.

86 | Dz. U. of 2020, item 1329.

87 | M. P. item. 1250.

88 | Kumor-Jezińska, 2021, pp. 487–496.

89 | Ministry of Family, Labour and Social Policy, 2019d.

90 | Ministry of Agriculture and Rural Development, 2019.

91 | Garlicki and Derlatka, 2016.

programmes took place especially in the middle of the second decade of the 21st century, related on the one hand, to the change of the political majority in power in the state, and, on the other hand, from the perception of demographic problems that began to occur in Poland. Unfortunately, despite a number of financial programmes – including the flagship Family 500+ programme – it has not been possible to reverse demographic trends in the country, as confirmed by the latest data on the so-called negative rate of natural increase. The fundamental problem in Poland is still the low fertility rate. Over the long term, a declining birth rate could reduce the working-age population, posing risks to the stability of public finances, the labour market, the pension system and the social programmes supporting families, mothers and fertility. Therefore, a key objective of these benefits is also to strengthen the demographic potential.⁹²

It should be noted that the programmes presented in this research paper have clearly had a positive impact on the financial situation of families, especially those with many children and those who have been on the poverty line for many years. However, the positive assessment of the number and variety of programmes supporting not only mothers before and after childbirth, but especially families deserves criticism due to the lack of a single normative act (law) that would comprehensively regulate the titular issues. This is not about directly implementing the directive from Article 71(2) of the Constitution of the Republic of Poland (the law in the singular), but primarily about ensuring transparency, consistency and, above all, easy access to the presented programmes – especially for people with limited knowledge (often less educated members of society) about them.⁹³

The specified social pro-family programmes are implemented at different levels of public authority, including both the state and local government. This approach fulfils the constitutional obligation of public authorities (state and local government) to help, and also better organises the support and distribution of financial resources earmarked for this purpose.

The above analysis shows that most of the pro-family and social programmes were introduced between 2015 and 2023. Compared to the 2007-2014 period, not only did the number of these programmes, but several benefits were also enhanced, including a rise in the minimum wage and the introduction of family-friendly measures in the labour law, such as maternity and parental leave. Additionally, mention should be made of anti-violence measures, which are also intended to support safe motherhood⁹⁴. However, it should be pointed out that these measures have not contributed to an increase in fertility⁹⁵. Therefore, further work is needed to develop demographic policy, including family-friendly initiatives in housing, tax exemptions and support for private property, for example, following the Hungarian model.⁹⁶

Strengthening non-financial assistance, in the form of better access to family doctors and gynaecologists, and psychological and psychiatric assistance both before and after the birth of a child should also be advocated.⁹⁷

92 | Kucharski, 2020, pp. 68–74.

93 | Florczak-Wątor, 2023.

94 | Act of 30 April 2020 on amending the Act - Code of Civil Procedure and certain other acts, Dz.U. 2020 item 956; Act of 9 March 2023 on amending the Act on counteracting domestic violence and some other acts, Dz.U. 2023 item 535.

95 | Witkowska, 2023.

96 | Zdulski, 2016, pp. 383–385.

97 | Feja-Paszkiewicz, 2019.

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