



## **Family rights and family policy in Poland**

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## Introduction

The last parliamentary elections in Poland, held on October 25<sup>th</sup> 2015, have deeply changed the political climate. For the first time since 1989, one election committee<sup>1</sup> obtained an absolute majority in Parliament clearing the way for the largest opposition party, Law and Justice (*Prawo i Sprawiedliwość*), to form a one-party government. This occurred just few months after the victory of its candidate Andrzej Duda in the presidential election on May 24<sup>th</sup>. It is also the first time since the fall of communism that the left-wing party failed to gain any representation in the Parliament. After eight years in office of the governing coalition formed by Civic Platform (*Platforma Obywatelska*) and Polish People's Party (*Polskie Stronnictwo Ludowe*), a new political landscape has been drawn, allowing a number of possible changes inspired by the Catholic social teaching, particularly in favor of strengthening family rights and in the field of human life protection.

Nowadays, the situation is dynamic. The new government conducted by Beata Szydło tries to realize the most important promises announced in the election campaign, however the opposition criticizes the quick changes. The political climate is tense because of the Constitutional Tribunal (*Trybunał Konstytucyjny*) crisis, which began with the amending of Constitutional Tribunal Act in June 2015, and with the appointment of five new judges by the Civic Platform instead of three whose nine-year terms had to expire before the election in October 2015. The dispute concerns the composition of the Constitutional Tribunal, the non-publication of decisions rendered by the Constitutional Tribunal, as well as the review of the law on the Constitutional Tribunal and its impact on the effectiveness of constitutional review of new legislation. Due to numerous political and legal controversies of that conflict, it will not analyse it in this report. However, it is important to stress that despite the opposition's criticism, the current Polish government is strongly supported by the public. In August 2016, Law and Justice remains the leader in the ranking, with the support of 41% of favorable opinion.<sup>2</sup>

It seems that the most important reason for that support of the governing party is its family policy. "*Poles appreciate especially the fulfilment of electoral promises, such as the Family 500+ program started in April 2016, which provides financial support for families with children in order to increase the number of childbirths.*"<sup>3</sup> Indeed, Poland has one of the lowest Total Fertility Rates (TFR) in the world and is facing to depopulation, which could have a negative influence on the economy in the coming decades. The need of a comprehensive family policy in the situation of deep demographic crisis was emphasized by numerous non-government organizations, as well as a better protection of the constitutional values relating to marriage being a union of a man and a woman, family, motherhood and parenthood (art. 18 and art. 71 of the Polish Constitution). This report aims to give an objective picture and the reasons for the new family policy in Poland.

Family happiness, next to good health, is consistently endorsed by the majority of Poles as one of the most important values in their life.<sup>4</sup> The family is also the object of particular

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<sup>1</sup> On the list of the election committee of Law and Justice there were the representatives of some other centre-right and right-wing parties: Solidary Poland (*Solidarna Polska*), Poland Together United Right (*Polska Razem Zjednoczona Prawica*), Right Wing of the Republic (*Prawica Rzeczypospolitej*), Catholic-National Movement (*Ruch Katolicko-Narodowy*) and Polish People Party "*Piast*" (*Stronnictwo "Piast"*).

<sup>2</sup> According to the opinion poll carried out by the Public Opinion Research Centre (CBOS) presented on 26<sup>th</sup> August 2016.

<sup>3</sup> *Political party preferences in May*, "Polish Public Opinion", 5/2016, p. 1, available on the website: [http://www.cbos.pl/PL/publikacje/public\\_opinion/2016/05\\_2016.pdf](http://www.cbos.pl/PL/publikacje/public_opinion/2016/05_2016.pdf).

<sup>4</sup> In February 2013, 78% of Poles declared that the family happiness is the most important issue in their life. Cf. *Rodzina – jej współczesne znaczenie i rozumienie [Family – its contemporary meaning and understanding]*,

protection by the Polish State. The Polish Constitution guarantees in article 18 that *“marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland”*. Moreover, article 71 of the Constitution specifies in paragraph 1 that *“the State, in its social and economic policy, shall take into account the good of the family”* and that *“families, finding themselves in difficult material and social circumstances - particularly those with many children or a single parent - shall have the right to special assistance from public authorities”*. As stated in article 18 of the Constitution (placed in the first chapter of the Constitution devoted to basic principles of the Republic of Poland), according to the Constitutional Tribunal, the special character of assistance provided by public authorities *“exceeding ordinary assistance”*<sup>5</sup> and *“going beyond ordinary consideration of its needs”*<sup>6</sup> is safeguarded by article 71 paragraph 1. Furthermore, the same article in paragraph 2 of the Constitution ensures *“the right to special assistance from public authorities”* to *“mother, before and after birth”*. This special care by the State should be taken into consideration with other articles of the Constitution, which notably grant parents the right *“to rear their children in accordance with their own convictions”* (article 48 paragraph 1) and the right to legal protection of *“private and family life”* (article 47).

The special protection of the family derives also from international and European law. As a member of the United Nations, of the Council of Europe and of the European Union, Poland has ratified numerous conventions and charters referring to family rights. At the European level, beside a universal right to marry and to start a family,<sup>7</sup> the right of the family to social, legal and economic protection *“by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means”* is guaranteed by article 16 of the European Social Charter (revised in 1996), as well as by article 33 of the Charter of Fundamental Rights of the European Union. Moreover, the family, recognized as *“the natural and fundamental group unit of society”*<sup>8</sup> and *“the natural environment for the growth and well-being of all its members and particularly children”*,<sup>9</sup> is the object of *“the widest possible protection”* and State assistance.<sup>10</sup> With that perspective, the Convention on the Rights of the Child ratified by the Republic of Poland on 7<sup>th</sup> July 1991 is of great importance. States Parties to that Convention shall *“take appropriate measures to assist parents and others responsible for the child”* and *“in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing”* (article 27 paragraph 3).

The protection of the family has been recently reinforced by the United Nations Human Rights Council in the resolution about the role of the family in supporting the protection and promotion of human rights of persons with disabilities<sup>11</sup> adopted on 1<sup>st</sup> July 2016 in accordance to precedent resolutions dedicated to the family from 2014<sup>12</sup> and 2015<sup>13</sup>. It is

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“Komunikat CBOS”, BS/33/2013., Warsaw, March 2013, available on the website: [http://www.cbos.pl/SPISKOM.POL/2013/K\\_033\\_13.PDF](http://www.cbos.pl/SPISKOM.POL/2013/K_033_13.PDF)

<sup>5</sup> *Judgment of the Constitutional Tribunal of 15<sup>th</sup> November 2005*, file no. P 3/05, item III.3.

<sup>6</sup> *Judgment of the Constitutional Tribunal of 8<sup>th</sup> May 2001*, file no. P 15/00, item III. 4.

<sup>7</sup> The right to marry and to found a family is recognised by the article 16 paragraph 1 of the Universal Declaration of Human rights (1948), the article 12 of the European Convention on Human Rights (1950) and the article 23 of the International Covenant on Civil and Political Rights (entry into force 23<sup>rd</sup> March 1976).

<sup>8</sup> Article 16 paragraph 3 of the Universal Declaration of Human Rights (1948).

<sup>9</sup> Preamble of the Convention on the Rights of the Child (adopted on 20<sup>th</sup> November 1989).

<sup>10</sup> Article 10 paragraph 1 of the International Covenant on Economic, Social and Cultural rights (entry into force 3<sup>rd</sup> January 1976).

<sup>11</sup> Resolution A/HRC/32/L.35.

<sup>12</sup> Resolution A/HRC/RES/26/11.

<sup>13</sup> Resolution A/HRC/29/L.25.

worth stressing that Poland has formally supported the adoption of the last resolution<sup>14</sup> which reaffirms that the family is the natural and fundamental group unit of society, entitled to protection by society and the State. Poland thus belongs to the countries denouncing the subjective vision of the family claiming its “*various forms*.”<sup>15</sup>

Beside such explicit constitutional and international safeguards for the family, its standard of protection and support defined in ordinary legislation in Poland was for a long time lower than in the majority of European States. In the context of the growing demographic crisis and considering obligations of public authorities towards families in accordance to the principle of subsidiarity, a new family policy has become an urgent necessity. The need of a coherent family policy was also demonstrated in different studies realized by civil society organizations.

## I. Towards a new family policy

After 1989, the term of family policy has been conjugated in a different way matching the government’s political anchor, going from the liberal vision of State policy towards family (1989-1993), through social (1993-1997) and conservative one (1997-2001) to the “*third way*” (2001-2005) referring to policy based on the work-family life balance.<sup>16</sup> Within the last decade (2005-2014), despite a growing awareness of the importance to have a coherent family policy, the standard of family protection and concrete financial and material support to families in Poland were lower than in majority of European countries. Even if public and social spending have increased in the last years, only few measures, such as parental leave or family relief concerning income tax, were the instruments of family-oriented policy. Indeed, different Polish governments treated the family policy more as a social policy in terms of budget expenditures than as a truly family-oriented policy filling out with the criteria of universality, directness and neutrality.

### A. New family policy as an answer to the demographic crisis

Poland has one of the lowest Total Fertility Rates in the world. In 2014, Poland was classified as 212<sup>th</sup> out of 224 countries with the index of 1,29 TFR, much lower than the level which could guarantee generational renewal (2,10-2,15 TFR).<sup>17</sup> In fact, the last time Poland achieved such a level (2,13 TFR) was in 1988.<sup>18</sup>

The demographic crisis began after the collapse of the communist regime. An unstable economic situation in the country, “*together with raising unemployment, hyperinflation and*

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<sup>14</sup> *Polska popiera rezolucje Rady Europy [Poland supports the resolution of the Council of Europe]*, Ordo Iuris, 14<sup>th</sup> July 2014, article available on the website: <http://www.ordoiuris.pl/polska-popiera-rezolucje-rady-praw-czlowieka-onz,3829,i.html>

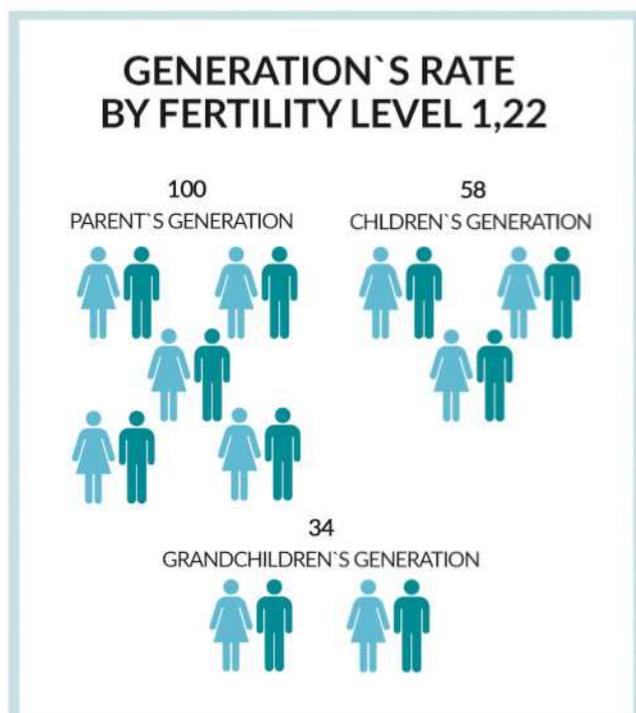
<sup>15</sup> Cf. *UN Human Rights Council Reinforces the Protection of Family*, European Centre for Law and Justice, 16<sup>th</sup> July 2015, available on the website: <http://www.eclj.org/Releases/Read.aspx?GUID=1a9e0609-997e-4ce3-b79f-551d0d134584>. Cf. *Rada Praw Człowieka ONZ przyjęła rezolucję o ochronie rodziny [United Nations Human Rights Council adopted a resolution on the family protection]*, Ordo Iuris, 4<sup>th</sup> July 2014, available on the website: <http://www.ordoiuris.pl/rada-praw-czlowieka-onz-przyjela-rezolucje-o-ochronie-rodziny,3417,i.html>

<sup>16</sup> Marek Rymysza, *Polityka rodzinna : cele, wartości, rozwiązania – w poszukiwaniu konsensualnego programu [Family policy - aims, principles, approaches]*, “*Studia BAS*”, n° 1 (45) 2016, pp. 67-69.

<sup>17</sup> Since 1999, Poland has never overcome the level of 1,4 TFR. In 2015, Poland was again placed at the end of world TFR ranking published by CIA World Factbook: 1,33 TFR giving to Poland 216<sup>th</sup> place on 224 countries, available on the Central Intelligence Agency website: <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2127rank.html>

<sup>18</sup> Cf. Główny Urząd Statystyczny, *Dziętność kobiet w latach 1960-2013 [Fertility rate in 1960-2013]*, Warsaw 2014.

the crisis of public finances led to the decline of well-being and the quality of life of many families.”<sup>19</sup> With the political and economic transformation, a new philosophical approach making families responsible for their well-being, induced the withdraw of public authorities from the family-oriented policies. As a result, the financial support for families was decreased, the funding for childcare structure was limited, and the privatization of nursing institutions was generalized. In reality, any coherent family policy system relevant to new risks was developed. Despite an initial shift in the family policies which can be observed after 1994, until the beginning of 2010, public support continued to have a marginal influence on the family's situation.<sup>20</sup>



Source: Joanna Banasiuk, Tymoteusz Zych (eds.), *State of Democracy, Human Rights and the Rule of Law in Poland. Recent Developments*, Ordo Iuris Institute for Legal Culture, September 2016, p. 89.

population of Poland will drop about 4,55 mln of people (12% of the total population) from almost 38,5 mln to less than 34 mln.<sup>25</sup>

Poland was taken into a triple demographic scissors with the very low fertility rate, the significant economic exodus, especially of young people, and finally without a coherent immigration policy.<sup>21</sup>

This situation can have irreversible consequences on the structure of Polish society involving the negative influence on economics.<sup>22</sup> Firstly, the low fertility rate interferes on the relation between working and retired people. Nowadays, there are two working people in Poland to one retired person. If the situation does not change, by 2060 there will be one working person for a retired one.<sup>23</sup> Moreover, one third of Poles will be over 65 years old, “meaning that the state may struggle to provide pensions and healthcare to its growing elderly population.”<sup>24</sup> Secondly, the current situation means the depopulation of Poland. It is estimated that in 2050 the

<sup>19</sup> Anna Rybińska, *Family Policies: Poland (2014)*, available on Population Europe Resource Finder and Archive website: <http://www.perfar.eu/policy/family-children/poland>.

<sup>20</sup> *Ibid.*

<sup>21</sup> Łukasz Hardt, Michał Kot, *Polityka rodzinna jako narzędzie łagodzenia negatywnych trendów demograficznych [Family policy as a tool to mitigate the negative demographic trends]*, in Mateusz Kędzierski (ed.), *W jaki sposób państwo może wspierać rozwój gospodarczy [How the State can support economic development]*, Instytut Sobieskiego, Warsaw 2015, p. 49.

<sup>22</sup> Looking to OECD estimate, in a long-term perspective, the GDP growth in Poland during 2030-2060 will not exceed 1%/year. Cf. OECD, *Looking to 2060: Long-term global growth prospects. A going for growth report*, November 2012, p. 31.

<sup>23</sup> Artur Bazak, Marcel Klinowski (eds.), *Polityka prorodzinna w Polsce. Diagnoza stanu obecnego i propozycje zmian [Family policy in Poland. Diagnosis of the current situation and proposals for change]*, Fundacja Republikańska, December 2012, p. 3.

<sup>24</sup> Lorenzo Berardi, *The Family 500+ : Poland's new child benefit programme*, 3<sup>rd</sup> March 2016, available on the New Eastern Europe website: <http://neweasterneurope.eu/articles-and-commentary/1909-the-family-500-poland-s-new-child-benefit-programme>

<sup>25</sup> Dorota Szaltys (ed.), *Population projection 2014-2050*, Central Statistic Office, Warsaw 2014, p. 109.

Young Poles, more than their European peers, make the decision to become parents based on their economic situation. At the same time, the majority of them declare the desire to have two or three children but they do not realize it because of their material situation. It is worth noting that the behavior of young Poles abroad, in the countries where public benefits are important, is different. This phenomenon is very visible in the United Kingdom where, according to the 2011 database, Polish women achieved the average of 2,13 TFR instead of 1,3 TFR in the country.<sup>26</sup>

This lack between the declarative and real fertility encourages us to think about the reasons of this situation and the methods which can change or even reverse the current trend. The economic situation of the young generation and fertility are strongly interrelated. The young people are the most concerned by unemployment. At the same time, they are directly charged childcare and education expenses. According to the study conducted by the Adam Smith Centre, the cost of the education of one child in Poland, until the age of 19, is about 176 000 - 190 000 PLN (40 400 - 43 500 EUR), respectively for two children 316 000 - 350 000 PLN (72 500 EUR - 80 000 EUR) and 421 000 - 460 000 PLN (96 500 EUR - 105 500 EUR) for three children. Only on account of VAT taxes, the cost of education of three children is about 111 530 PLN (25 600 EUR).<sup>27</sup> In sum, the cost of educating children is taken on their parents, while the benefits occurred by the new generation (taxes and pensions to public budget) is shared with the rest of society.<sup>28</sup>

## COST OF A CHILD CARE IN POLAND

Age of a child	One child	Two children	Three children	Four children
0-20 y/o	176 000 (40 480)	317 000 (72 910)	422 000 (121 210)	528 000 (121 440)
0-25 y/o	231 000 (53 130)	427 000 (98 210)	587 000 (121 210)	748 000 (172 040)

*In the brackets is given a tax amount (VAT), which is discharged to the state budget due to upbringing of the child.*

Source: Aleksander Surdej (ed.), *Koszty wychowania dzieci w Polsce 2015 [The costs of children education in Poland 2015]*, Centrum im. Adama Smitha, Warsaw 2015, p. 14.

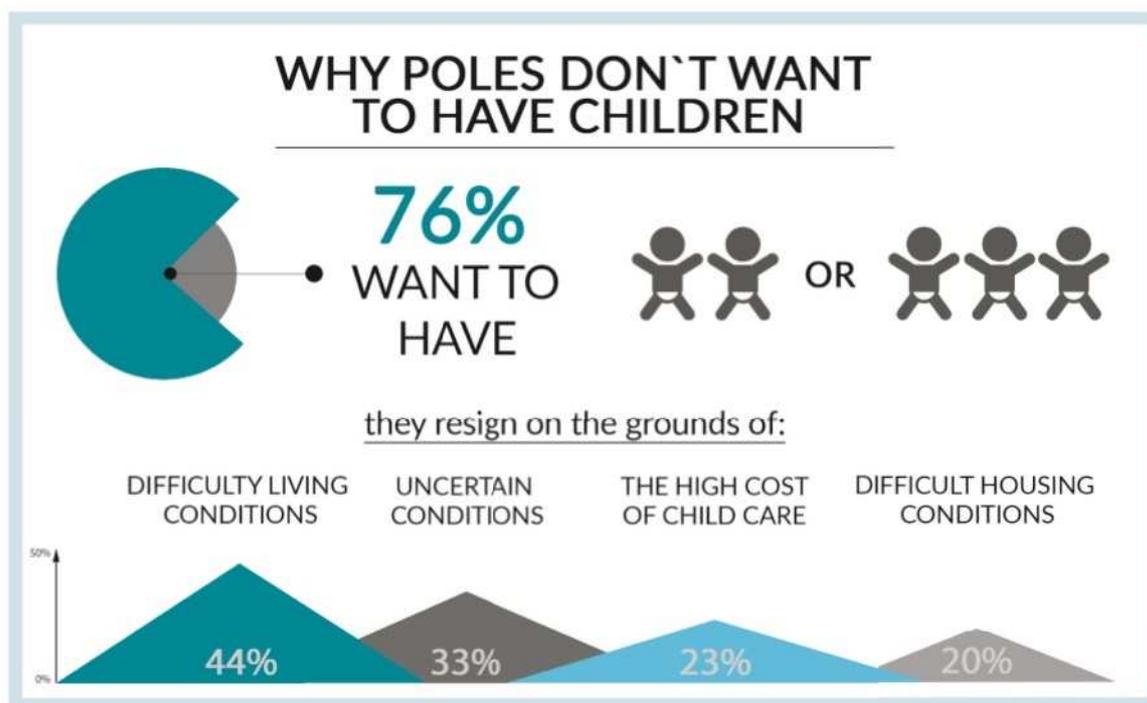
The decision to have children is more complex than the simple question of economy and depends on various factors. It seems that the decision to have first child depends more on cultural and personal motifs than on economic ones which influence the decision to have

<sup>26</sup> Cf. Jo Zumpe, Olivier Dormon, Julie Jefferies, *Childbearing among UK born and non-UK born women living in the UK*, Office for National Statistics (ONS), 25<sup>th</sup> October 2012, available on ONS website: [http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/dcp171766\\_283876.pdf](http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/dcp171766_283876.pdf)

<sup>27</sup> Aleksander Surdej (ed.), *Koszty wychowania dzieci w Polsce 2015 [The costs of children education in Poland 2015]*, Centrum im. Adama Smitha, Warsaw 2015, p. 14-16.

<sup>28</sup> Cf. Tymoteusz Zych, Karolina Dobrowolska, Olaf Szczypiński (eds.), *Jakiej polityki rodzinnej potrzebuje Polska ? [What family policy needs Poland?]*, raport Instytutu Ordo Iuris, Warsaw 2015, pp. 23-24.

more children.<sup>29</sup> Different studies<sup>30</sup> and above all the experience of several European countries show that States can promote fertility by a coherent family-oriented policy.<sup>31</sup> This is also the position presented by the European Parliament which has long recognized the importance of coordinated policies on the demographic change in the European Union.<sup>32</sup>



Source: Joanna Banasiuk, Tymoteusz Zych (eds.), *op.cit.*, p. 92; Cf. Janusz Czapiński, Tomasz Panek (eds.), *Social Diagnosis 2013. The objective and subjective quality of life in Poland*, The Council for Social Monitoring, Warsaw 2014, p. 160.

The best example of a successful family policy is in France which maintains a high fertility rate (1,98 TFR in 2014) close to the generation replacement level. The French model provides a wide range of subsidized childcare services and various allowances, especially for large families. This system leaves parents the choice of childcare in a way that allows a better balance between work and family life. The same situation is present in the United Kingdom (1,92 TFR in 2012) where the family policy is based on the principle of “*work-life balance and childcare*.”<sup>33</sup> The influence of generous public policies on fertility is also clearly

<sup>29</sup> Cf. Piotr Szikalski, *Czy w Polsce nastąpi powrót do prostej zastępowalności pokoleń? [Whether Poland will return to the replacement of generations?]*, in *Przyszłość demograficzna Polski [Demographic future of Poland]*, “Acta Universitatis Ludziensis. Folia Oeconomica”, vol. 231 (2009), pp. 68-70.

<sup>30</sup> Cf. Tomáš Sobotka, Vegard Skirbekk, Dimiter Philipov, *Economic recession and fertility in the developed world. A literature review*, “Population and Development Review”, June 2011, Volume 37, Issue 2, pp. 267-306; Guy Laroque, Bernard Salanié, *Does fertility respond to financial incentives?*, Institute for the Study of Labor (IZA) “Discussion Paper Series”, n° 3575, June 2008, 43 p.; Robert J. Willis, *Theory of Fertility Behaviour*, in Theodore W. Schultz, *Economics of the Family: Marriage, Children and Human Capital*, University of Chicago Press, 1974, p. 25-80; Anne H. Gauthier, Dimiter Philipov, *Can policies enhance fertility in Europe?*, “Vienna Yearbook of Population Research”, 2008, pp. 1-16; Noriyuki Takayama, Martin Werding (eds.), *Fertility and Public Policy: How to reverse the trend of declining birth rates*, MIT Press, 2011, 296 p.; Joëlle E. Sleebos, *Low fertility rates in OECD countries: facts and policy responses*, “OECD Social, Employment and Migration Working Papers”, n° 15, 2003, 62 p.; Anna Christina D'Addio, Marco Mira d'Ercole, *Trends and determinants of fertility rates: role of policies*, “OECD Social, Employment and Migration Working Papers”, n° 27, 2005, 93 p.

<sup>31</sup> Cf. Tymoteusz Zych, Karolina Dobrowolska, Olaf Szczypiński (eds.), *op.cit.*, pp. 31-68.

<sup>32</sup> Ron Davies, *Promoting fertility in the EU. Social policy options for Member States*, Library of the European Parliament, 21<sup>st</sup> May 2013, 10 p.

<sup>33</sup> Tymoteusz Zych, Karolina Dobrowolska, Olaf Szczypiński (eds.), *op. cit.*, p. 57.

identified in Scandinavian countries.<sup>34</sup> The examples of an effective family policy including the growth of birth rates are also observed in Central and Eastern Europe. Mostly, for the same reasons as Poland, many of post-communist countries like Estonia, Russia, Ukraine or Hungary decided to develop a new family policy favoring fertility.<sup>35</sup> What these policies have in common is the fact that the public support for families is direct and universal, with a great level of simplicity. The solutions have a concrete impact on the families' life and aim to stabilize their material situation, especially in the first years after the birth. Among different instruments employed by States, the most important are: family and child benefits, public subsidies to different forms of childcare, significant maternity and paternity leave, tax preferences system.<sup>36</sup> Finally, families with two or more children are clearly favored by the majority of State policies.<sup>37</sup>

In comparison to other European countries, Poland had for a long time a modest family policy in terms of public expenditures. Polish family and child benefits in 2012 amounted to 0,8% of GDP compared to the European Union average of 2,4%. In recent years, Poland has adopted only few measures responding to the criteria of family policy in terms of its universality, directness and neutrality. In this context, the extension of parental leave to one year was first adopted.<sup>38</sup> Introduced in 2013 by the government of Civic Platform and Polish People's Party, with the unanimous support of the opposition, the annual parental leave has already had a positive impact on the number of births in Poland.<sup>39</sup> The increase of the family relief concerning income tax was introduced second.<sup>40</sup> The other mechanisms, even if they have the merit of existing (one-off maternity grant called "*becikowe*" in the amount of 1000 PLN, the Big Family Card<sup>41</sup> etc.), had more symbolic than significant impact on the economic situation of families. In fact, many measures presented as pro-family have generated expensive handling costs and present the highly State-oriented system limiting, in practice, access to them. The children's nursery system is a significant example: only childcare in collective centers is subsidized by the State meaning that parents who cannot use it (for example because of the absence of childcare in countryside) or prefer other forms of childcare are totally deprived of public support.

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<sup>34</sup> Cf. Marit Rønsen, *Fertility and public policies: evidence from Norway and Finland*, "Demographic Research", Vol. 10, Art. 6, May 2004, p. 141-170; Marit Rønsen, Kari Skrede, *Fertility Trends and Differentials in the Nordic Countries - Footprints of Welfare Policies and Challenges on the Road Ahead*, "Vienna Yearbook of Population Research", Vol. 6, 2008, pp. 103-123.

<sup>35</sup> Tymoteusz Zych, Karolina Dobrowolska, Olaf Szczypiński (eds.), *op. cit.*, pp. 42-56.

<sup>36</sup> The sum of material support is usually equal or slightly lower than the average indirect taxes paid in relation to raising a child. Cf. *Ibid.*, p. 67.

<sup>37</sup> *Ibid.*, pp. 67-68.

<sup>38</sup> The regulation provides that the cumulated length of paid leaves for the birth of one child amounts to 52 weeks instead of 6 months before. Parents can share the parental leave among themselves.

<sup>39</sup> Even if time perspective is short, we can notice that the number of children born in 2014 compared to 2013 increased at about 6 000 contrary to the prognostics of decrease of 9 000, the same for 2015 even if there are fewer women in the age of procreation. Cf. Główny Ośrodek Statystyczny, *Prognoza ludności na lata 2014-2050 [Population forecast for years 2014-2050]*, Warsaw 2014, p. 157, middle option; Tymoteusz Zych, Olaf Szczypiński, *Uwagi do projektu ustawy o pomocy państwa w wychowaniu dzieci (projekt z dnia 22 grudnia 2015 r.) [Comments on the draft law on State aid in child raising (project of 22<sup>nd</sup> December 2015)]*, Instytut na rzecz Kultury Prawnej Ordo Iuris, p. 3, available on the website: <http://www.ordoiuris.pl/uwagi-do-projektu-ustawy-o-pomocy-panstwa-w-wychowywaniu-dzieci--projekt-z-dnia-22-grudnia-2015-r--3725,analiza-prawna.html>

<sup>40</sup> The child's allowance was introduced to the Personal Income Tax Act in 2007. Since 2013, tax relief increased for the third child and for the fourth and the following child. Cf. Szymon Bryndziak, *Family allowance in personal income tax, in the context of tax expenditures*, "Research Papers of Wrocław University of Economics", n° 403, 2015, pp. 21-29; Tymoteusz Zych, Karolina Dobrowolska, Olaf Szczypiński (eds.), *op. cit.*, pp. 140-142.

<sup>41</sup> The Big Family Card was introduced in 2014. It is a system of discounts for families with at least three children, irrespective of their income. In practice, the discounts are offered both by public institutions and private companies, which joined the programme.

A true family policy has to be considered an investment, particularly in human capital, and not as a social policy in terms of budget charges. The family-oriented policy has to take into account different families' need and propose a large range of solutions. The empowerment of the family has to be at the heart of this policy: the parents have to be the first interlocutors to public authorities and the public benefits have to follow the child. Finally, it has to be stressed that the development policy and access to employment are the best family policy.<sup>42</sup>

## **B. Amendment of the Family and Guardianship Code as an example of the principle of subsidiarity of public authorities towards the family**

The input of the word “*family*” in the name of the Ministry of Family, Labour and Social Policy by the new Polish government was a symbolic change asserting the axiology of new family policy: families have to be the subject of State policy. The question of deontological code in the ordinary law referring to the family and child's welfare is crucial for the respect of the subsidiarity principle of public authorities towards family.

This principle has to be considered in the light of the Polish Constitution and general systemic assumptions. This way, the child's welfare cannot be considered without reference to article 48 paragraph 1 of the Constitution: “*Parents shall have the right to rear their children in accordance with their own convictions. Such upbringing shall respect the degree of maturity of a child as well as his freedom of conscience and belief and also his convictions*”. The parents' right to ensure their children a moral and religious upbringing and teaching in accordance with their convictions is guaranteed also in article 53 paragraph 3 of the Constitution.

Detailed relations between parents and children are regulated in the Family and Guardianship Code (FGC – *Kodeks rodzinny i opiekuńczy*) of 25<sup>th</sup> February 1964. “*Parents raising and guiding a child under their parental authority are duly bound to care for the child's physical and spiritual development and to equip the child appropriately to work for the good of society according to his or her abilities*” (article 96 § 1 of FGC). Child under parental authority owes obedience to his parents and “*in matters in which he or she cannot take independent decisions and present declarations of will, the child should listen to the opinions and recommendations of parents formulated for his or her best interests*” (article 95 § 2 of FGC). Therefore, the child's welfare should take into consideration the parent's will and cannot be based solely on the child's will.

The question of a child's welfare is particularly important in the context of placing a child in foster care. This decision has to be reserved as a last resort to protect the child's interest and well-being, which would have been otherwise limited or threatened had the child remained in their current situation. The threat to the child's welfare must be grounded on constitutional axiology and cannot be an expression of the judge's private views.

Unfortunately, in recent Poland, there were numerous cases when the public authorities ruled in favor of placing a child in foster care due to a reduced material situation of the parents. Press has reported on multiple occasions stories of children taken from their parents because of poverty.<sup>43</sup> According to the official information of the Ministry of Labour and Social

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<sup>42</sup> Łukasz Hardt, Michał Kot, *op. cit.*, pp. 52-55.

<sup>43</sup> Cf. Klara Klinger, *Rodzina nie dla ubogich. W Polsce z powodu biedy zabierają dzieci rodzicom [Family is not for the poor. In Poland children are taken from their parents because of the poverty]*, *Gazeta Prawna*.pl, 3<sup>rd</sup> January 2014; Katarzyna Piojda, *Co 5. dziecko jest odbierane z powodu biedy w rodzinie. Takie są oficjalne dane rządowe! [Every fifth child is taken for the reason of poverty in family. These are the official government data]*, *Gazeta Pomorska*, 17<sup>th</sup> January 2015; Małgorzata Moczulska, *Sąd zabiera dziecko z domu. Bo rodzice*

Policy, between 2012 and 2013 more than 1800 children were placed in foster care for economic reasons. The number of families concerned by this problem versus all families that do not fulfil their protective and educational functions was 4.5% which was confirmed by different controls of the Supreme Audit Office (*Najwyższa Izba Kontroli*).<sup>44</sup> This situation is strongly related to the fact that 10% of children under 18 years old in Poland live below the poverty threshold.<sup>45</sup>

For these reasons, the new Polish government announced in autumn 2015 the revision of the Family and Guardianship Code to review the placing of a child in foster care for economic reasons. The change project was assigned to the Unit of Family Autonomy and Family Life Protection within the Ministry of Justice and went hand in hand with the government's programme of aid for Polish families.

The amendment of the Family and Guardianship Code was adopted on 18<sup>th</sup> March 2016 by the Polish Parliament and signed by President Andrzej Duda on 23<sup>rd</sup> March 2016. The aim was to strengthen the role of measures foreseen in article 109 paragraph 1-4 and the different forms of assistance to the child's parents, as specified in the provisions on supporting family and foster care system.<sup>46</sup> The word "should" concerning the placement of a child in foster care "after exhausting all other forms of help to the child's parents" (article 112<sup>3</sup> of FGC) was replaced by "may only take place if". The interdiction of placing a child in foster care against the parent's will solely for reasons of poverty was also introduced to the FGC. Thus, the court should help both the child and the parents, and can place a child in foster care only if all other measures have been exhausted. Parents' poverty cannot be considered a threat to the child's welfare, mentioned in article 109 paragraph 1 of FGC, as contrary to the principle of subsidiarity and proportionality of State towards family.

## II. Government's programmes for families

In order to increase low fertility rates and to improve the families' standard of living, the new Polish government has launched numerous measures, among which the new parental benefit called "Family 500+" (*Rodzina 500+*) and the programme "Home+" (*Mieszkanie+*) are the flagship projects. For the implementation of the first of them, the Polish government conducted by Beata Szydło received in August 2016 the prestigious award of the European Large Families Confederation. This prize brings to light "a breakthrough in Polish family policy, as it is the first widespread, systematic and direct financial support for families with children. It recognizes the economic value of family care and education."<sup>47</sup>

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*biedni i zabobonni, a dziecko grube [Court takes the child out of the house because parents are poor and superstitious, and the baby is fat]*, *Gazeta Wrocławska*, 14<sup>th</sup> June 2015.

<sup>44</sup>*Informacja Najwyższej Izby Kontroli o wynikach kontroli, Działania organów administracji publicznej w sytuacji zagrożenia odebrania dzieci rodzicom [Information of the Supreme Audit Office about the control results. Public administration's activities in the situation of the children placing]*, Warsaw 2015, nr ewid. 45/2015/P/15/075/LKI, available on the Supreme Audit Office website: <https://www.nik.gov.pl/plik/id,9884,vp,12175.pdf>

<sup>45</sup> Joanna Szymańczak, *Dzieci „odebrane” rodzicom – przyczyny umieszczenia dzieci w pieczy zastępczej [Children „taken” from their parents: the reasons for putting children in foster care in Poland]*, "Analizy BAS (Biura Analiz Sejmowych)", n° 5 (141), 19<sup>th</sup> April 2016, available on the website: [http://orka.sejm.gov.pl/WydBAS.nsf/0/67A817D0006452B9C1257F9A0046A2E1/\\$file/~1915018.pdf](http://orka.sejm.gov.pl/WydBAS.nsf/0/67A817D0006452B9C1257F9A0046A2E1/$file/~1915018.pdf)

<sup>46</sup> Act of 9<sup>th</sup> June 2011 concerning Family Support and Foster Care (Text No. 887), *Journal of Laws*, 21<sup>st</sup> July 2011, vol. 149, pp. 8914-8970.

<sup>47</sup> Information about ELFAC Prize 2016 is available on the European Large Families Confederation website: <http://www.elfac.org/our-activities/elfac-awards/elfac-prize-2016/>

## A. The “Family 500+” programme

The “Family 500+” programme is the leading project of the new Polish government. According to the minister of Family, Labour and Social Policy, Elżbieta Rafalska, it is “a system solution which would constitute a very important element of the family policy.”<sup>48</sup> Promised during the electoral campaign, the new parental benefit aims to change the current situation of Polish families, especially those with several children.<sup>49</sup>

The name of programme refers to the allowance amount of 500 PLN (equivalent of 115 EUR) which is addressed monthly to families with two or more children. The common benefit is introduced after the second, and all subsequent children up to the age of 18. Moreover, parents with a combined monthly income below 800 PLN (185 EUR) will also be eligible to get 500 PLN extra per month starting after their first child. For the families with a disabled child, the combined monthly income is fixed at 1200 PLN.



Source: *Raport Rodzina 500+ [The Family 500+ Report]*, Warsaw, 13<sup>th</sup> July 2016, p. 8, available on the Ministry of Family, Labour and Social Policy website: <http://www.mpips.gov.pl/wsparcie-dla-rodzin-z-dziecmi/rodzina-500-plus/dokumenty-i-opracowania/podsumowanie-3->

The works on the Act on State aid in raising children started on 1<sup>st</sup> December 2015. After the collaboration between different ministries, the draft bill was submitted for the consultation with social partners on 19<sup>th</sup> December 2015. Individuals could transmit their remarks on the project during a one month period via a special e-mail address. More than 3000 opinions were collected.<sup>50</sup> The project of law was passed by the Ministerial Council on 1<sup>st</sup> February 2016. After the adoption by the Polish Parliament on 11<sup>th</sup> February, the act was signed on 17<sup>th</sup> February by President Andrzej Duda. The programme started on 1<sup>st</sup> April 2016.

<sup>48</sup> *The government is starting work on the Family 500+ programme*, 1<sup>st</sup> December 2015, available on the website: <https://www.premier.gov.pl/en/news/news/the-government-is-starting-work-on-the-family-500programme.html>

<sup>49</sup> According to the simulation of the Ministry of Family, Labour and Social Policy, the allowance of 500 PLN will significantly increase the income of families in different cases: the increase of 37% for the families with one child and one salary at the minimum wage (net 1356 PLN in 2016), the increase of 37% for the families with two children and two minimum wage’s salaries (2711 PLN), the increase of 55% for the families with three children and two minimum wage’s salaries (2711 PLN). Cf. *Raport Rodzina 500+ [The Family 500+ Report]*, Warsaw, 13<sup>th</sup> July 2016, p. 8, available on the Ministry of Family, Labour and Social Policy website: <http://www.mpips.gov.pl/wsparcie-dla-rodzin-z-dziecmi/rodzina-500-plus/dokumenty-i-opracowania/podsumowanie-3-miesiecy-funkcjonowania-rodzina-500-plus/>

<sup>50</sup> Cf. Tymoteusz Zych, Olaf Szczypiński, *op. cit.*

Simultaneously, the government launched a large information campaign about the new family benefit. The minister Elżbieta Rafalska and representatives of the Ministry of Family, Labour and Social Policy have visited all voivodships. Indeed, the programme has started up very quickly. One million applications were submitted during the first week. For the requests made before 1<sup>st</sup> July, the allowance was attributed to the period since 1<sup>st</sup> April 2016. Cases occurring after this date, the child benefit will be assigned to the month of application.

To receive the allowance, parents need to fill an application either via the Internet or in a relevant municipal office. In 2016, the allowance is attributed for a period until the 30 September 2017, then the child raising benefit will be attributed for a year beginning 1<sup>st</sup> October until 30<sup>th</sup> September. The number of documents necessary was limited to the strict minimum in order to reduce the cost of programme management. In a general case (second and each subsequent child) no additional documents are required beside the application form. The authorities competent for granting child raising benefits are charged to collect information and to verify it.

Parents can choose the best form of payment for them and are free of the money using (transfer follows child). The idea, defended by different non-government organizations,<sup>51</sup> is to consider family as the subject of State policy with respect of their autonomy. The child raising benefit can be replaced by another form of help (ex. food, clothes, medicines, ticket for different services, etc.) only if it will be seriously proved that received money is squandered. The decision belongs to the local authorities charged of payment after examination of the family situation by social welfare officials.<sup>52</sup>

What is more, the child raising benefit will have no impact on other allowances that remain unchanged. It will not be included in the income assessment establishing eligibility for permanent social assistance benefits. *“However, improvement of families’ well-being might impact eligibility for temporary social assistance benefits. According to the amendment to the law on child-raising benefit, receipt of benefits should not impact the level of alimony (especially not reducing this due to higher family incomes) and cannot be taken by a bailiff. To prevent the latter, the Ministry of Labour envisages payment of benefits to separate bank accounts.”*<sup>53</sup>

It is worth to stress that the programme “Family 500+” is also aimed at aiding foreign citizens who live and work in Poland. Those whose stay is legally confirmed and who have children also living in the country, including non-EU citizens with temporary or permanent residence card, may easily apply for the benefit with the same conditions that apply to Polish families.<sup>54</sup> However, the benefit will not be granted to a family which is already supported by

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<sup>51</sup> Cf. Łukasz Hardt, Michał Kot, *op. cit.*, p. 57.

<sup>52</sup> Information on the condition of attribution of child raising benefit is available on the Ministry of Family, Labour and Social Policy website: <https://www.mpips.gov.pl/wsparcie-dla-rodzin-z-dziecmi/rodzina-500-plus/pytania-i-odpowiedzi/>

<sup>53</sup> Agnieszka Sowa, « Family 500+ »: *a new family income-supporting benefit in Poland*, European Social Policy Network (ESPN) Flash Report n° 45, June 2016, available on the website: [ec.europa.eu/social/BlobServlet?docId=16077&langId=en](http://ec.europa.eu/social/BlobServlet?docId=16077&langId=en)

<sup>54</sup> Marczuk : *Program 500 plus dla cudzoziemców. Ale tylko jeśli w Polsce pracują i mieszkają [Programme 500+ for foreigners only if they work and live in Poland]*, *Gazeta Prawna*.pl, 21<sup>st</sup> April 2016, available on the website: <http://praca.gazetaprawna.pl/artykuly/938098,marczuk-500-zlotych-na-dziecko-program-500-plus-swiadczenia.html>

an allowance system of another EU country: “*this condition applies also to Polish families living abroad and receiving financial support from a different country’s government.*”<sup>55</sup>

On 13<sup>th</sup> July 2016, during the public presentation of the report on functioning of “*Family 500+*” programme, Minister Elżbieta Rafalska informed that 2.6 million applications have been submitted since the start of the programme. More than 3.2 million children throughout Poland receive this benefit: this corresponds on average to 47% of children under 18 years old. Thus, 2.2 mln out of 2.6 mln submitted applications have already been examined and decisions in their cases have already been issued, while 390 000 applications are pending.<sup>56</sup> The application online has represented 20% of all requests. In only 254 cases representing 0,01% of all applications, the child raising benefit was replaced by material help.<sup>57</sup>

This policy is not going to be without expenditures. The cost of the programme is estimated at 17 billion PLN (3,9 billion EUR) in 2016 and 22 billion PLN (5 billion EUR) in subsequent years. The opposition criticizes this generous policy, pointing out shortcomings of the State budget. This is almost two times higher than expenditure on family benefits in 2014 (7 billion PLN/1,7 billion EUR).<sup>58</sup> Indeed, as it is emphasized in article 4 paragraph 1 of the act on State aid in raising children, “*the aim of the child raising benefit is to cover the expenses related to raising a child, including providing the right care and fulfilling his or her needs.*”<sup>59</sup> Hence, the child education is recognized as an investment from the economic perspective which can be beneficial to the whole society. According to the Ministry of Finance, the “*Family 500+*” programme will have a positive effect on the pace of economic growth in Poland as it will result in 0.5 percentage point GDP growth.<sup>60</sup>

The implementation of the programme “*Family 500+*” is a concrete realization of constitutional public authorities’ obligations towards family and marriage as it is guaranteed in articles 18 and 71 of Polish Constitution. The child raising benefit can constitute one of the pillars of the coherent family policy. Indeed, the criteria of directness, universality and neutrality are respected. This programme makes families responsible for their children. Parents have a choice in the way the money will be used for their children. This mechanism is similar to the solutions adopted in other European countries where negative demographic trends could be reversed (ex. France, United Kingdom, Nordic countries).<sup>61</sup>

Regarding the pro-natal impact of “*Family 500+*” programme, it is for now premature to evaluate the long term consequences. According to the information gathered before the introduction of new allowance by the Central Statistics Office (*Główny Urząd Statystyczny*) the number of Polish parents interested in having a second and third child is growing, while

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<sup>55</sup> Ewelina Nurczyk, *Poland’s new child benefit ‘500plus’ to include foreigners*, Careers in Poland, 29<sup>th</sup> February 2016, available on the website: <http://www.careersinpoland.com/article/news/polands-new-child-benefit-500-plus-to-include-foreigners>

<sup>56</sup> Beata Szydło : *Family is the best investment in Poland, our common future*, 13<sup>th</sup> July 2016, available on the Polish Prime Minister website: <https://www.premier.gov.pl/en/news/news/beata-szydlo-family-is-the-best-investment-in-poland-our-common-future.html>

<sup>57</sup> *Raport Rodzina 500+ [The Family 500+ Report]*, op. cit., p. 11.

<sup>58</sup> The new child-raising benefit is twice as high as the previous average family benefit per beneficiary (295PLN/70 EUR) in 2014 (MPiPS 2015). Note that only families with an income below a threshold of 574PLN/137EUR (664PLN/158EUR, in the case of child disability) were eligible for family benefits under the old scheme. Cf. Agnieszka Sowa, op. cit.

<sup>59</sup> Act of 11<sup>th</sup> February 2016 on State aid in raising children, Journal of Laws dated 17<sup>th</sup> February 2016, item 195.

<sup>60</sup> Beata Szydło : *Family is the best investment in Poland, our common future*, op. cit.

<sup>61</sup> Similar mechanisms exist in 21 out of 32 countries of the European Union, the European Economic Area and Switzerland.

the number of those deciding to have their first child is dropping.<sup>62</sup> “What is certain by now is that, according to a recent poll, 79 % of Poles support or strongly support the 500 PLN per child benefit. A feedback that looks encouraging for the current government whose Family 500+ is already paying off in terms of political consensus, waiting to see whether the programme will reach its goals and be economically viable.”<sup>63</sup>

## B. The “Home+” programme

A coherent family policy is more than a question of direct financial support for families. To change the negative demographic trends, the State needs to establish a large spectrum of instruments which can influence the families’ standard of living. The government’s programme “Home+” (*Mieszkanie+*) is enshrined in this perspective: the declared ambition is to launch the first comprehensive programme to solve Poles’ housing problems. While the “Family 500+” programme changed the approach on family policy, the new flagship project of the government led by Law and Justice, aims to positively influence the Polish housing market.

The main premises of the “Home+” programme have been officially presented by Prime Minister Beata Szydło, Minister of Infrastructure and Construction Andrzej Adamczyk and Deputy Minister of Infrastructure and Construction Kazimierz Smoliński on 3<sup>rd</sup> July 2016. “Decent wages, support for families and, finally, own flat - this is what Poles expect and need today” said the Prime Minister.<sup>64</sup> Conceived as universal housing programme, it is addressed to different groups of people across Poland and in particular to the middle class. “However, preference will be given to families with children and people who are not able to receive a loan from the bank due to their low wages.”<sup>65</sup> What is more, neither age or income census, nor marital status are included into the “Home+” programme, contrary to previous ones.

The new housing programme will be based on three pillars : apartment blocks built on land belonging to the State Treasury (the National Housing Fund – *Narodowy Fundusz Mieszkaniowy*), support for social housing, and support for individuals saving for housing purposes on Individual Housing Accounts (*Indywidualne Konta Mieszkaniowe*).<sup>66</sup>

The main pillar of the “Home+” programme is the National Housing Fund. It will be established by a special act. It is supposed to secure financing of the programme by using grounds owned by the State Treasury: “It will be a kind of a land bank and its assets will be used for housing investments.”<sup>67</sup> Local governments could also transfer their land to the housing programme. The idea is to reduce the costs of flat construction which will be slightly more than 2 500 PLN per square meter. According to the Prime Minister, the cost of renting such a flat will be between 10 and 20 PLN (2,3 - 4,6 EUR) per square meter.<sup>68</sup> The rent arrangement will include an option to take over ownership.

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<sup>62</sup> Janusz K. Kowalski, Klara Klinger, *Kryzys pierworodnych : albo dwoje dzieci albo wcale [Firstborn crisis: either two children or none at all]*, *Gazeta Prawna.pl*, 23<sup>rd</sup> February 2016, available on the website: <http://www.gazetaprawna.pl/artykuly/924203,rodzina-dzieci-demografia.html>

<sup>63</sup> Lorenzo Berardi, *op. cit.*

<sup>64</sup> Prime Minister Beata Szydło on *Mieszkanie Plus* programme: First comprehensive programme to solve Poles’ housing problems, 3<sup>rd</sup> July 2016, available on the website: <https://www.premier.gov.pl/en/news/news/prime-minister-beata-szydlo-on-mieszkanie-plus-programme-first-comprehensive-programme-to.html>

<sup>65</sup> Artur Kowalski, Krzysztof Losz, *Home+ programme to be introduced in Poland*, 6<sup>th</sup> July 2016, available on the website: <http://poland.pl/politics/home/home-programme-be-introduced-poland/>

<sup>66</sup> Presentation of “Home+” programme is available on the Ministry of Infrastructure and Construction website: <http://mib.gov.pl/files/0/1797173/MieszkaniePlus.pdf>

<sup>67</sup> Prime Minister Beata Szydło on *Mieszkanie Plus* programme, *op.cit.*

<sup>68</sup> Artur Kowalski, Krzysztof Losz, *op.cit.*



Source: Presentation of “Home+” programme available on the Ministry of Infrastructure and Construction website : <http://mib.gov.pl/files/0/1797173/MieszkaniePlus.pdf>

Private individuals and owners may also contribute to the programme by exchanging their land for a certificate of contribution and by gaining income through receiving a percentage of the profit. The government also plans to use its grounds for various financial operations such as obligations and loans. *“Operational investment management and management of housing stock built will be the responsibility of the National Housing Operator”*. The objective is to make dwellings affordable. *“Beneficiaries of the programme will have the choice between renting a flat and renting a flat with an option to take over ownership. This arrangement will encourage an increase in the mobility of population, also on the labour market.”*<sup>69</sup>

However, some criteria of preferences will be established: the large families will be clearly preferred. *“The number of points awarded will depend on the number of children. Income will be taken into account, but it will affect only the period of waiting for a flat.”*<sup>70</sup>

The programme will be supplemented by an increase in the government’s support to social rental housing (second pillar). Local governments could apply for funding to cover 35-55% of the communal housing investment cost. Additionally, local governments, municipal companies and social housing associations will be also able to apply for preferential loans for the social rental housing investments at the State Development Bank of Poland (*Bank Gospodarstwa Krajowego*). *“A new support instrument will be introduced - a subsidy for municipalities (20% of investment cost), which in cooperation with other investors will build flats to be rented at a specified low cost, designated for a specific group of people (meeting certain criteria, including income level). This instrument will be widely available not only to entities, such as social housing associations and housing cooperatives, but also to developers.”*<sup>71</sup>

Finally, the third pillar of the “Home+” programme will be a possibility to allocate savings on housing accounts. This way, the government enables people to save money for purchasing or renovating a housing property on the so-called housing sub-accounts (Individual Housing Accounts). *“These savings will be complemented with bonuses paid by the government. As a*

<sup>69</sup> Prime Minister Beata Szydło on Mieszkanie Plus programme, op.cit.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

result, people who have a home, but would like to improve its quality, will also benefit from the programme.”<sup>72</sup>

The bill on the National Housing Fund will be discussed at the government’s sitting in the next quarter. It is set to be adopted by the government by the end of the year. According to the Ministry of Infrastructure and Construction, the National Housing Fund bill will allow the launch recruitment for the programme in the second half of 2017, so that investments could start at the beginning of 2018.<sup>73</sup> It will match with the end of the current housing programme *Mieszkanie dla Młodych* (“*Home for the Young*”).<sup>74</sup>

The opposition has received the announcement of the “*Home+*” programme with scepticism. Supporting the general direction of the project, their doubts concern the real capacities of the Polish government to succeed in such an ambitious programme.<sup>75</sup> Regarding experts of the housing market, they appreciate the variety of the government’s propositions and the inducement to save on housing accounts. They however stay doubtful on the question of financing the “*Home+*” programme. They stress also that the costs of renting may be higher than these declared by the government (10-20 PLN) regarding the market prices. The localization of flats can also influence the costs of rent or purchase. Taking into consideration that the flats built under government’s programme will be constructed in a few years, the developers and banks have no reason to be afraid.<sup>76</sup> Many Polish families wait for the launching of the programme, hoping that it will develop the housing market for middle-income families.<sup>77</sup> The success of the “*Home+*” programme will depend on the viability of government funding and on the quality of collaboration with local governments and investors. The common character of this programme coming under a comprehensive family policy is to be highlighted, however, its real value for the increase of Polish families’ standard of living remains to be demonstrated.

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<sup>72</sup> *Ibid.*

<sup>73</sup> Malwina Wrotniak-Chałada, *Program „Mieszkanie Plus” – szczegóły [Programme „Home+” - details]*, Bankier.pl, 3rd July 2016: <http://www.bankier.pl/wiadomosc/Program-Mieszkanie-Plus-szczegoly-7408952.html>

<sup>74</sup> Home for the Young (*Mieszkanie dla Młodych*) is the government housing programme supporting persons aged up to 35 in buying their first new flat. Succeeding “Family at Home” programme, the programme is operating since 1<sup>st</sup> January 2014. Its point is to subsidise buyers’ deposit from the state budget. It is 10% of the real property’s value. Couples with children can obtain additional 5%. Another 5% is available, if within five years of the flat’s purchase the third or next child is born. Under the new rules, persons who will start construction of their first own flat can also take advantage of the so-called partial VAT refund for construction materials. Cf. *Mieszkanie dla Młodych: the government programme is gathering momentum*, 18<sup>th</sup> April 2014, available on the website: <https://www.premier.gov.pl/en/news/news/mieszkanie-dla-mlodych-the-government-programme-is-gathering-momentum.html>

<sup>75</sup> *Opozycja o programie PiS Mieszkanie plus [Opposition about the Law and Justice programme „House+”]*, “*Rzeczpospolita*”, 5<sup>th</sup> July 2016.

<sup>76</sup> *Ekspert: deweloperzy i banki nie muszą się bać programu Mieszkanie Plus [Expert: developers and banks do not have to be afraid of „Home+” programme]*, 3<sup>rd</sup> July 2016, available on the website: <http://nieruchomosci.pb.pl/4435636,78335,ekspert-deweloperzy-i-banki-nie-musza-sie-bac-programu-mieszkanie-plus> Cf. Marek Wielgo, *Koniec świetnej passy deweloperów? Na rynku nowych mieszkań “symptom zadyszki” [End of good pass for developers? Shortness of breath syndrome on the market of new flats]*, 12<sup>th</sup> July 2016, available on the website: <http://wyborcza.biz/biznes/1,147759,20388076,mieszkania-przestana-sie-sprzedawac-koniec-swietnej-passy-deweloperow.html>

<sup>77</sup> Artur Kowalski, Krzysztof Losz, *op. cit.*

## Conclusions

Since the fall of communism in 1989, Poland is faced with a deep demographic crisis. With one of the lowest Total Fertility Rates in the world, Poland did not succeed in elaborating a coherent family policy. Even if public and social spending increased in the last years, only few measures, such as one-year parental leave or family relief concerning income tax, were the instruments of truly family-oriented policy in terms of universality, directness and neutrality.

The new Polish government, formed after the parliamentary elections held in October 2016, tries to set up a new family policy according to the principle of subsidiarity. The amendment of the Family and Guardianship Code in March 2016, excluding the possibility of placing a child in foster care for economic reasons, confirmed its commitment in favor of respect of family rights. This decision went hand in hand with the government's flagship projects aiming to improve the material situation of Polish families. The objective is to consider family policy as an investment, particularly in human capital, and not as a social policy in terms of budget charges.

Indeed, two important programmes improving families' standard of living have been launched in the last six months. The new parental benefit called "*Family 500+*" introducing direct and common allowance for the second and each subsequent child has already changed the structure of Polish family policy. Started on 1<sup>st</sup> April 2016, it is a concrete realization of constitutional public authorities' obligations towards family and marriage as it is guaranteed in articles 18 and 71 of Polish Constitution. Making families responsible for their children, this programme significantly increases the income of families, notably those with one or two salaries at the minimum wage. However, it is for now premature to evaluate its pro-natal impact.

In order to change the negative demographic trends, the government aims to establish a large spectrum of instruments such as the programme "*Home+*". Conceived as a universal housing programme, it is addressed to different groups of people across Poland and in particular to the middle class. The idea is to reduce the costs of flat construction by using grounds owned by the State Treasury. Indeed, the creation of National Housing Fund, support for social housing and savings on housing accounts, are the three pillars of this new housing programme. Adopted by the government on 27<sup>th</sup> September 2016, it has to be implemented from last quarter of 2016. Its success will nevertheless depend on the viability of government's funding and on the quality of collaboration with local governments and investors.