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Substitute Child Care as a Current Problem of Social Care in the Czech Republic

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Abstract

In the event of the breakdown of the original family, institutional care has for many decades been the preferred alternative to family substitute care or aid to the original family. The origins of this practice can be traced to the 1950s, when foster families were cancelled by the communist regime and the ideology of collective upbringing triumphed. The objective of this essay is to determine how substitute child care in the Czech Republic has changed in the last ten years. The unfortunate practice of giving preference to institutional care in the event of the breakdown of the original family is changing: between the years 2005–2016 the number of children in institutional facilities for the youngest children (up to three years of age) has decreased by 30%; a similar trend may be observed in older children assigned to institutional or protective care. In contrast, the number of children in foster care has increased by 2.5 times since 2004. In 2016 40% more children lived in all forms of formal family substitute care compared to 2009. The problem remains the fragmented nature of legislation among the various ministries and the inadequate support of families in danger of social exclusion. A disproportionate number of children continue to be placed in substitute care due to non-existent public housing and inadequate networks of outpatient, field, and support services.

Keywords

Social Work, Social/Legal Child Protective Services, Institutional Care, Family Substitute Care, Foster Care

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I. Introduction

The family is the primary social group, which fills a range of tasks and functions. For a child, the family has irreplaceable significance. A child obtains safe space in the family – a home, in which they can freely move and develop. The family is also the first to specify boundaries for the child. Through the family a child becomes aware of their place and role in society. The family has a decisive influence on the overall development of the child's personality. Early childhood in particular is a period in which the influence of the family has the greatest impact on the later life of the child. According to Matějček (2002) or O'Loughlin (2016), a child should mature in an emotionally warm, accepting, and stable environment. The family is a place where a person returns, where they should feel good, should be accepted unconditionally, supported, and motivated.

An unstable environment undermines a child's security in life. If the interest of the child does not conform for any reason to the interest of the adults, the interest of the child takes precedence during any decision-making about the current or future conditions of their life. Social/legal protection of children in the Czech Republic focuses in part on children whose parents do not perform the obligations arising from parental responsibility or who do not perform or who abuse their parental rights (Act on Social/Legal Protection of Children). Children who deserve the attention of authorities of social care are often at risk of violence among parents or other persons responsible for their care. If a child lives in an unsuitable environment for a longer period of time, or if the intensity of the risk is high, the state may proceed, under the observance of legal conditions, with placing the child into substitute care. In this case, one of the forms of substitute care for children comes into play, taking one of two basic forms: *institutional care* or *family substitute care*.

The system of substitute care in Central and Eastern Europe, including the Czech Republic, was for some time following the fall of the totalitarian regime in 1989 influenced by the conviction that the state and its institutional facilities are the best guarantor of child care when the family fails (Courtney and Iwaniec, 2009). Only very gradually did the thinking take root that institutional care should not be the first choice, but the last instance, if the child can be placed into a substitute family. In recent years the Czech Republic has faced more than ten years of criticism by international organisations for its system of care for children at risk, which gives precedence to institutional care even in cases of very young children. As a result of this pressure, certain established methods of social/legal protection of children have begun to change in the direction of preferring substitute family substitute care.

The objective of this article is to determine how substitute child care in the Czech Republic has changed in the last ten years.

II. Institutional care of the child

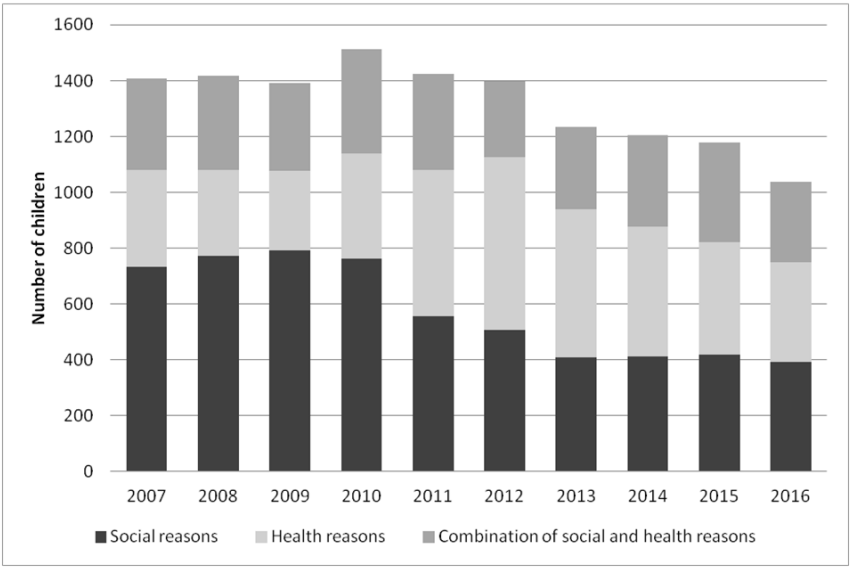
Institutional care of children in the Czech Republic is markedly varied. Various facilities providing institutionalised care for children fall under various ministries that do not always agree on a common approach. The founders of facilities for long-term institutional care of children also vary widely: ministries, cities, or regions. Long-term child care is provided in the following types of facilities:

- Institutes for infants (children's centres) and children's homes for children up to three years of age – fall under the Ministry of Health;
- children's homes, children's homes with school, diagnostic institutions, child caring facilities – fall under the Ministry of Education, Youth, and Sport;
- homes for persons with health disabilities – fall under the Ministry of Health.

In the year 2012 there were a total of 33 *institutes for infants and children's homes* for children up to three years of age in the Czech Republic. Institutes for infants were mostly transformed several years ago into *children's centres*, which are facilities providing complex and interdisciplinary care to children at risk in their development, including help for their families. Over the long term, children younger than three years of age are placed into institutional care predominantly for social reasons; e.g. in 2007 over half of children in children's homes up to three years of age and in child caring facilities were accepted primarily for reasons of poor social conditions in their original family, only a fourth of them were placed into institutional care for purely health reasons. After ten years of gradual changes oriented toward a preference for foster care, fewer children live in institutional facilities for children up to three years of age, between the years of 2007 and 2016 this resulted in a decrease of 30% (1,407 children in the year 2007 versus 1,037 in 2016); the total number of children accepted for social reasons also decreased (from 734 children in 2007 to 394 in 2017). And yet social reasons continue to predominate; in 2016 38% of children were placed in institutional care for social reasons, 34% for health reasons, and the remainder due to a combination of social and health reasons (figure 1).

Institutional care of children older than three years falls under the sponsorship of the Ministry of Work and Social Affairs, which oversees various types of facilities (*children's homes, children's homes with school, diagnostic institutions, child caring facilities*), into which children who were assigned to institutional or protective care are placed. With priority given to other forms of substitute care, the number of children older than three years of age in institutional care decreased between the years 2005 and 2016 by 30% (from 8,802 children to 5,944, see table 1).

Figure 1: Number of children in children's homes up to 3 years and children's centres (formerly institutions for infants): reasons for placement



Source: ÚZIS (2017)

Table 1: Number of children assigned to institutional or protective care* (status as of 31 December)

	2005	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Number of children	8802	8850	8127	8203	8180	7862	7468	7169	6630	6451	6028	5944
Year-on-year change in %		0.5	−8.2	0.9	−0.3	−3.9	−5.0	−4.0	−7.5	−2.7	−6.6	−1.4

Source: MPSV (2017)

*) *Facilities of MPSV (Ministry of Labour and Social Affairs)*

In addition to long-term institutional care, the child is also provided immediate assistance if needed. Children who have been placed in any form of care, including those who have been abused or molested, are offered protection by

- facilities for children requiring immediate assistance,

whose founders are mostly private subjects (e.g. the Fund for Children at Risk, etc.), financed from state allowances. The length of the child's stay in these facilities is limited depending on the specific situation to 3–12 months. A child may be accepted on the basis of a court decision, request by a social/legal child protection authority, or at the request of the parents or the child themselves (table 2).

Table 2: Number of children newly placed in facilities for children requiring immediate assistance

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Court decision	266	289	404	450	448	520	506	460	607	642	625	464
Other reasons*	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	706	734	844	1108	1158	1190

Source: MPSV (2017)

**) Children placed in a facility for children requiring immediate assistance on the basis of a request by a legal representative, the request of the child, or a request from social/legal child protection authority with parental consent.*

The absolute best equipped institutional facility cannot replace a home for children, and for this reason in recent years other forms of substitute child care that better approximate family care have been prioritized in the Czech Republic, in keeping with the model of other European countries. The substitute family is not only cheaper in comparison to institutional care, but mainly it is far more useful for the child and for society, comparatively meeting the needs of the child as a functional biological family and enabling healthy psychomotor development of the child in all areas.

III. Family substitute care

Family substitute care means care for the child raised by other persons than the biological parents in an environment that most approximates life in a natural family. This type of care is legislatively governed by Act No. 89/2012, the Civil Code, and Act No. 359/1999 on the Social and Legal Protection of Children. Family substitute care can take the following forms:

- adoption;
- guardianship (with personal care);
- entrusting the child to the care of a different person;
- foster care;
- transitional foster care.

According to the duration of the family substitute care, it can be defined as *permanent care* such as adoption, in which the child becomes a permanent part of the family. Foster care and guardianship may have a *long-term character*, where the care ceases once the child comes of age, or this may consist of *temporary care* or even *emergency care* on the basis of prior decision by the court (Bubleová et al., 2011).

Adoption

The court decides on the adoption of an underage child at the petition of a person who wishes to adopt the child, whereas the requirement must be met that the adoption is in the best interests of the child. Adoption gives rise to a relationship between the adoptive parent and the adopted child at the parent-child level. The adopter should guarantee through their personal characteristics and lifestyle that they will be a good parent to the adopted

child, and it is therefore necessary for candidates for adoption to be thoroughly vetted. Consultation for adopters is provided in the Czech Republic by clinics for family, marriage, and interpersonal relationships (Matoušek, 2016). The number of adopted children is relatively stable (table 3).

Table 3: Number of newly placed children until adoption

	2005	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Adoption	615	516	533	542	543	549	478	526	504	300	302	377
Care of future adopters	537	496	455	501	449	462	451	467	426	339	412	458

Source: MPSV (2017)

Guardianship (with personal care)

In the event that the child has no parents who can take care of them, the court shall appoint the child a guardian who in principle has all the obligations and rights of a parent with regard to the child, but does not have an obligation of sustenance toward the child. The obligations of the guardian are to raise the child, represent the child, and administer the child's property in the place of his parents. The appointed guardian is entitled but not obligated to care for the child in person. If the guardian cares for the child in person, they shall have a claim for foster care benefits. The decisions of the guardian in material affairs pertaining to the child require court approval.

Entrusting a child to the care of a different (natural) person

Per § 953–957 of the Civil Code, if neither of the parents or any guardian can care for the child, the court may entrust the child to the personal care of another person (hereafter the "caregiver"). The decision to entrust a child into the care of another must be in keeping with the best interests of the child. Entrusting the child into the personal care of a caregiver does not replace foster care, pre-foster care, or pre-adoption care. It takes precedence over placing the child into institutional care.

Foster care

If neither of the parents or any guardian can care for the child, the court may place the child in foster care, which takes precedence over placing the child into institutional care. The court may also entrust the child into transitional foster care for the period during which the parent is incapable of caring for the child. If the obstacles to personal care for the child cease to be, the parent may request that the child be returned to their care. The court will decide in favour of their petition if it is in the best interests of the child.

Transitional foster care

Since 2006 the legislation regarding foster care was supplemented with new special legislation accepted with the goal of emphasising the need for short term foster care in clearly defined situations as a crisis intervention for the child.

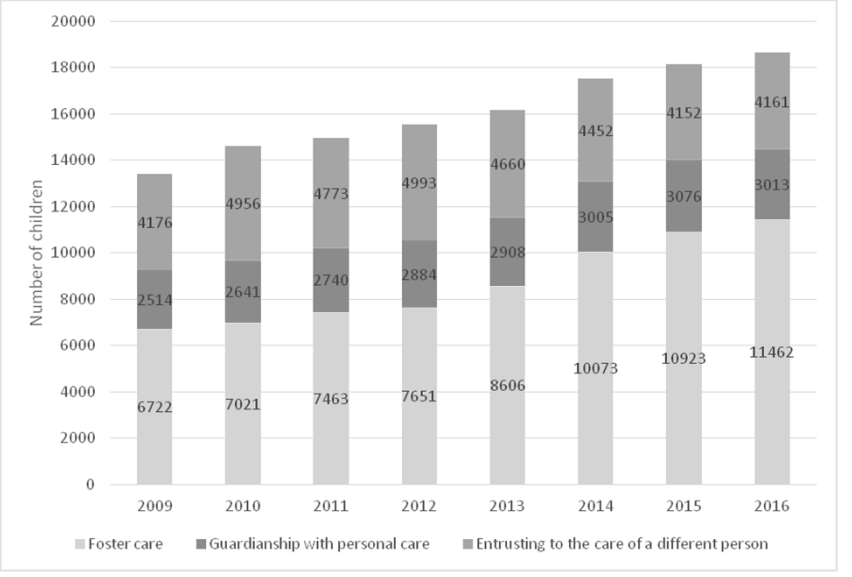
The number of children in all forms of substitute family care is increasing (table 4 and figure 2).

Table 4: Number of children in foster and guardian care (status as of 31 December)

	2004	2005	2006	2007	2008
Foster care	4363	4613	4884	5174	5727
Guardianship with personal care	2192	2287	2265	2196	2229

Source: MPSV (2017)

Figure 2: Number of children in family substitute care (status as of 31 December)



	2009	2010	2011	2012	2013	2014	2015	2016
Foster care	6722	7021	7463	7651	8606	10073	10923	11462
Guardianship with personal care	2514	2641	2740	2884	2908	3005	3076	3013
Entrusting to the care of a different person	4176	4956	4773	4993	4660	4452	4152	4161
Total	13412	14618	14976	15528	16174	17530	18151	18636

Source: MPSV (2017)

Transitional foster care

At present only persons who are recorded in the register of persons suited to the performance of transitional foster care may become transitional foster parents (§ 27a of the Act on the Social and Legal Protection of Children). The process of expert assessment

prior to registration is hitherto similar to that of adoption and foster care; more extensive preparation is required, specifically in regards to the transitional nature of care.
Material support for foster care and transitional foster care did not differ in any way prior to 2013. A foster parent performing transitional foster care is also materially provided with financial assistance in maternity from the system of hospital insurance benefits or the parental allowance from the system of state social support benefits.
Since January 2013 transitional foster parenting has become a profession. Material support is also provided in periods when the transitional foster parent is not currently caring for a child, but is prepared to accept one at any time. People who are transitional foster parents reflect significant specifications. Foster parents must be prepared to give the child everything, and yet must not become strongly attached; on the contrary, they must be capable of preparing the child for transition into other forms of family substitute care. Foster parents must therefore be able to part with the child. Another complication of foster care, for example, is the overcoming of various administrative obstacles, e.g. lengthy court proceedings, appeals deadlines, etc.
For transitional foster parents, it is desirable for them to have satisfied the need for parenthood – otherwise this could result in attachment and inability to part with the child, to unwillingness to cooperate with the biological family, or to unpreparedness of the child for return to their biological family or to a more permanent solution to their situation through other forms of family substitute care. Every foster parent has an accompanying organisation (an authority of the SPOD, contributory organisation, or non-profit organisation), which provides them with support, aid, guidance, education, help in processing documents, and consultation.
Transitional foster care may also serve in the case of crisis intervention. As of 31 December 2016 a total of 799 transitional foster parents were recorded, along with a total of 540 children in transitional foster care. Two thirds of parents providing transitional foster care are currently caring for children; 259 families are available (32.4%), prepared to accept at risk, orphaned, or abandoned children. In 2016 367 transitional foster care arrangements were discontinued, primarily because the children transitioned into other forms of family substitute care, e.g. long-term foster care (approx. half), adoption (22%), or return to the original parents (19%). Only a small number were placed in institutional care (less than 5%).

IV. Inadequacies of substitute care in the Czech Republic

No institutional facility, even if their employees try their absolute hardest, can replace a child's family; in these facilities children become lost psychologically and socially, their psychomotor development (mainly in early childhood) is markedly delayed not only due to their genetic composition but also as a result of the psychological and social *deprivation* of a child in an institution. According to Matoušek (2016), deprivation leads to delayed development of speech, as well as retardation of intellectual, emotional, and moral development. A typical consequence is also substitute satisfaction of unmet basic needs, e.g. overeating or fidgeting. A consequence of long-term psychological deprivation is an inability to create and maintain strong emotional ties, with the establishment of

superficial relationships, provocation of interest through misbehaviour, or an inclination to ongoing substitute comforting more often the case. This burden is borne by deprived children until the adult years, when they fail in personal relationships and ties, are unable to give and accept love, and are unable to become socialised into society and establish their own functioning family. The consequences of deprivation, according to findings by the Prague School of Psychological Deprivation (J. Langmeier, Z. Matějček, J. Kovařík, and others), are reflected not only in the generation of children affected by deprivation but also in the generation following them, i.e. the children of these children.

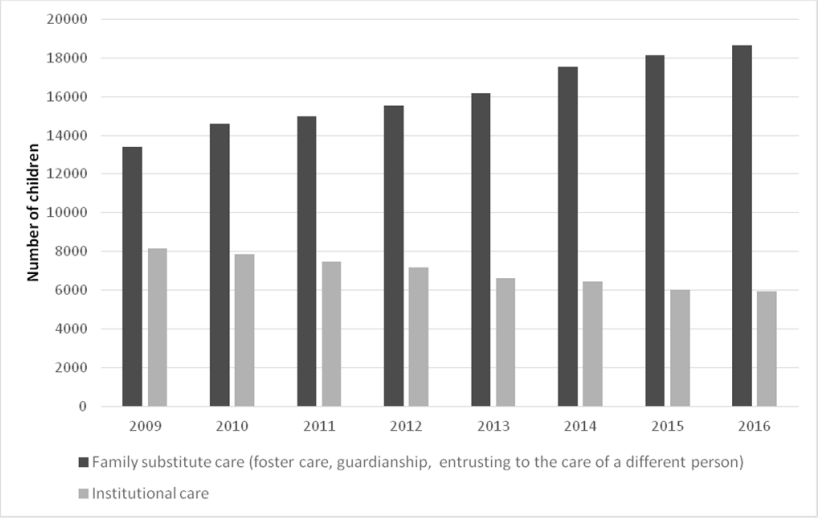
Experts (psychologists, paediatricians, sociologists, social workers, pedagogues) prefer that child development take place in the family. Prior to placing a child in an institution, it is better to provide aid to the actual biological family of the child in order that they may handle the problems impeding care for the child. It is better for a family in a situation where they do not know how to provide everything the child needs to be taught the necessary skills. In the situation where the family perhaps knows how but cannot for various reasons care well for the child, a better solution than institutional care is financial and advisory aid to the family (supplies, assistance, grants, consultation, guidance . . .). Inadequate living conditions (see Birčiaková, Stávková, Antošová, 2015, or Vykopalová, 2016) or financial conditions of the parents of the child or persons to whom the care of the child has been entrusted cannot be in and of themselves a reason for the court to decide in favour of institutional care. Only in a situations where things simply do not work and there is risk of damage to the child (neglect, abuse, molestation), or the parents do not wish or do not have an interest in improving care for the child is it time for substitute care for the child. Parents should financially participate and cooperate with the social and legal authorities for protection of the children. In worse cases, their parental rights may be limited according to the cases stipulated by law.

In recent years there has been a noticeable deviation from institutional care in the Czech Republic, accompanied by an inclination toward family substitute care, which meets the emotional and other needs of the child to a greater extent (see figure 3). Despite the drop in the number of children placed in institutional care, the system of care for children at risk in the Czech Republic suffers from its maladies. Any form of substitute care should be perceived and carried out as a short-term, emergency solution. For this reason it is the obligation of the state to regularly assess the situation of the child and determine the current interests of the child, how the child themselves perceives the situation, and what solutions are available. This obligation is even mandated by the Law on SPOD. In practice, however, this is only minimally fulfilled. Children remain in substitute forms of care for long months and years without ever even knowing their rights.

The situation of children in institutional facilities is addressed by the Public Defender of Rights, who since 2006 has been systematically visiting these facilities and monitoring the living conditions of children at risk. From the reports certain doubts about the selected facilities have arisen, such as the fact that the institutions inadequately work with the original family of the child. Children were allowed contact with their families only as a reward, for example; certain children were separated from their siblings, because they fell into a different type of care facility due to their age. Often no one attended to social

work to support contact with relatives and rehabilitate the original family. No conditions were created for children in institutional care that would enable them to adopt ordinary skills associated with the operation of a household (dining, family budget, etc.), which then greatly impeded their transition to independent life following their departure from the institutional facility.

Figure 3: Number of children in substitute care: institutional care and family substitute care (status as of 31 December)



Source: MPSV (2017)

According to the reports of the Public Defender of Rights, the substance of most problems lies in the system of care for at risk children itself, which despite many positive changes does not meet the level of a developed European nation. According to the Public Defender of Rights, a fundamental problem is the high number of children in institutional care. There is a lack of targeted pressure on the placement of children into alternative forms of care, more intensive work with the family, and prevention of instances when the last resort is to place the child into institutional care. A separate chapter entirely is the otherwise unseen placement of small children into institutions for newborns. According to the methodology of the Ministry, a child should remain in an institution for newborns no more than half a year. The determination of the Public Defender of Rights (VOP, 2013) indicates that 30–70% of children who ended up in a children's home after reaching three years of age remain in certain facilities for more than half a year.

Care for children at risk is the focus of three departments, is divided among public administration and regional government and between the governmental and non-governmental sectors. The current situation is regularly criticised by both Czech and international experts. It is regularly called to attention by the Council of Europe, for example, or the UN Committee on the Rights of the Child.

One of the basic prerequisites for remedying the situation is unification of the system of care for the child, which has been discussed in the Czech Republic for many years without any specific results. Sufficient authority for the realisation and provision of measures necessary for the essential transformation of the system have not been made available in and of themselves by any of the affected ministries.

The primary goal should be retaining the child in their family, or, if this is not possible, the provision of family substitute care, to avoid the placement of children into institutions through preventive measures. The child passes through the hands of a series of specialists, of which each monitors one narrow facet of the child's development, and yet no one ensures their unification and overall assessment. If it is necessary to decide on important matters regarding the child, it is not clear whether the opinion of the physician, psychologist, facility director or authority of social and legal protection of the child should take precedence. Institutions lack the means and capacity to work with the family. Nor is it their job – they are meant to care for the child, not the family. While they communicate with the family, they cannot take any measures.

V. Conclusion

In the event of the breakdown of the original family, institutional care has for many decades been the preferred alternative to family substitute care or aid to the original family. The origins of this practice can be traced to the 1950s, when foster families were cancelled by the communist regime and the ideology of collective upbringing triumphed. This unfortunate practice is changing in recent years; according to statistical data the number of children in institutional facilities for the youngest children (up to three years of age) has decreased from 2005–2016; a similar trend may be observed in older children assigned to institutional or protective care. The number of children in foster care has increased 2.5 times since 2004; this was due in part to the fact that temporary guardianship became a paid profession by 2013. In 2016 40% more children lived in all forms of formal family substitute care compared to 2009.

Despite this positive trend, the system of care for children at risk in the Czech Republic suffers from certain defects. The most burning problems of substitute care for children at risk are not the conditions in the facilities but the aforementioned fragmentary nature of authority among the various ministries and inadequate support of families who are at risk of social exclusion. A disproportionate number of children continue to be placed in substitute care due to non-existent public housing and inadequate networks of outpatient, field, and support services. In 2016 38% of children younger than three placed in institutional facilities were placed for social, not health reasons. Only a minimal emphasis is placed on prevention and on cooperation with and rehabilitation of the original family.

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