

PART IV

CONCLUDING
REMARKS

DIFFICULTIES AND POSSIBLE ESCAPES FROM CENTRAL EUROPE'S DEMOGRAPHIC WINTER: A SUMMARY OF BEST PRACTICES



TÍMEA BARZÓ

Abstract

The final chapter of the volume is a synthesis study, which aims to summarise the main regulatory features of the country reports in a logical order. However, the study does not focus solely on the specificities of Central Europe, but also takes a more holistic approach, drawing on the first part of the volume, and briefly reviews the demographic situation in the world and in Europe, as well as the related regulatory environment of the European Union.

Keywords: family policy, ageing society, population of Central Europe, fertility rate, demographic challenge of Central Europe, best practices of demographic winter

1. The introduction of a very interdisciplinary volume

Europe is undoubtedly the cradle of culture. However, in recent years, more coffins have been built than cradles. As the European Parliament has pointed out, while European Union residents made up some 13.5% of the global population in 1960, this figure had declined to 6.9% by 2018. By 2070, EU residents

Tímea Barzó (2024) 'Difficulties and Possible Escapes from Central Europe's Demographic Winter: A Summary of Best Practices'. In: Tímea Barzó (ed.) *Demographic Challenges in Central Europe. Legal and Family Policy Response*, pp. 757–815. Miskolc–Budapest, Central European Academic Publishing.

https://doi.org/10.54237/profnet.2024.tbdecce_20

are expected to account for just 4% of the global population.¹ In light of these statistics, it is perfectly understandable why our current period is being referred to as a ‘demographic winter’, or even as a ‘demographic ice age’. In the EU, the number of older people—that is, people aged 80 years and older—is anticipated to increase by 57.1% between 2010 and 2030, with significant consequences for social security systems. Between 1998 and 2018, the population fell by up to 15% in some regions of the EU due to rapid depopulation and population ageing. Such rapid demographic change has generated disproportionately high adjustment costs.²

1.1. The ageing of the population

Ageing in demographic terms refers to the age distribution of the population. A population in which the proportion of older people is greater than that of young people is called an ageing population.³

According to the European Parliament, Europe has become an ‘Old Continent’. In the P9_TA(2021)0347 Resolution, the European Parliament drew attention to Europe’s ageing population, a demographic phenomenon involving a decrease in both fertility and mortality rates and a higher life expectancy.

Europe has earned the nickname of the ‘Old Continent’⁴ on account of its age composition, specifically the large and growing proportion of older age groups. Indeed, if we compare the proportions of younger and older people in Europe and other societies in the world, it is clear that the demographic outlook for Europe as a whole is largely negative, as the continent keeps ageing.

The following population pyramid shows the age of the EU population in 2022. As UNESCO notes, the ageing of populations as a demographic trend is ‘*progressively transforming the traditional population age pyramid into a treeshaped form*’.⁵

1 Old continent growing older: Possibilities and challenges related to ageing policy post 2020 European Parliament resolution of 7 July 2021 on an old continent growing older—possibilities and challenges related to ageing policy post-2020 (2020/2008(INI)) (2022/C 99/13); Eurostat, 2023a, p. 11.

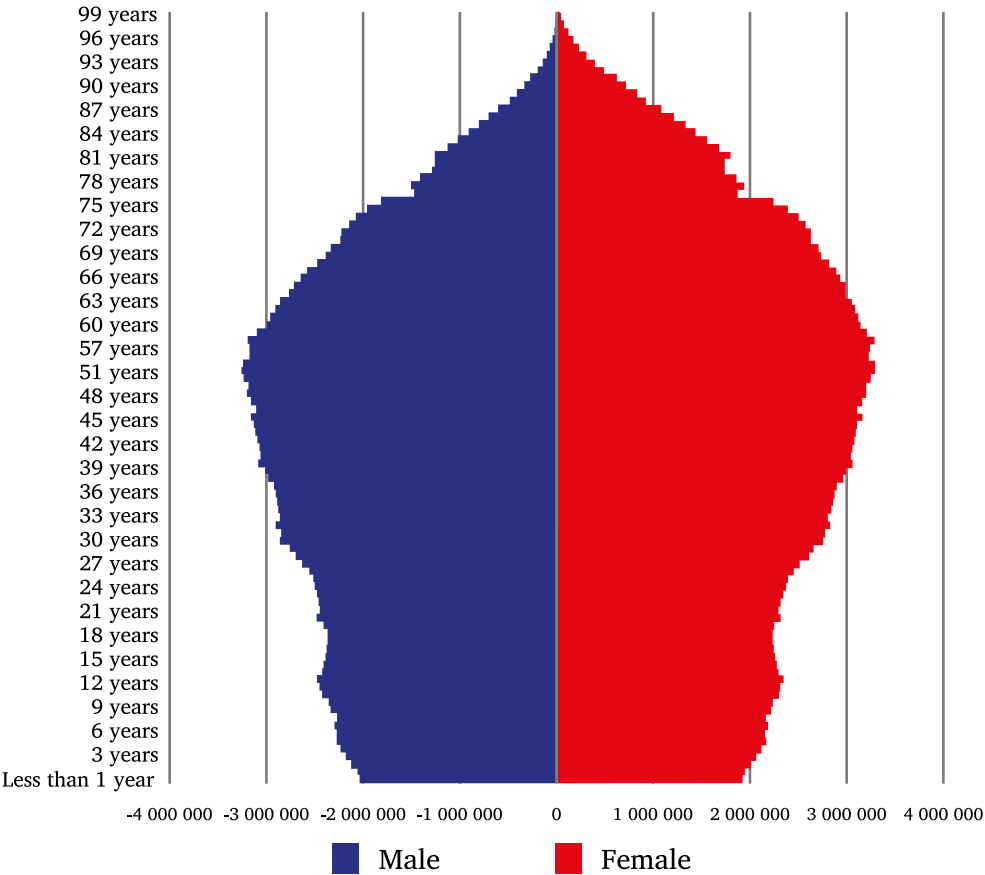
2 Old continent growing older: Possibilities and challenges related to ageing policy post 2020 European Parliament resolution of 7 July 2021 on an old continent growing older—possibilities and challenges related to ageing policy post-2020 (2020/2008(INI)) (2022/C 99/13).

3 Sauvy, 1963, p. 355.

4 Old continent growing older: Possibilities and challenges related to ageing policy post 2020 European Parliament resolution of 7 July 2021 on an old continent growing older—possibilities and challenges related to ageing policy post-2020 (2020/2008(INI)) (2022/C 99/13).

5 United Nations, 2019.

Figure 1. Population Pyramid of the EU in 2022⁶



Another illustrative table of statistics demonstrates that the European society is the oldest in the world. As the table below shows, the age composition of European society has changed dramatically over the past 70 years.

6 Source: Eurostat Population on 1 January 2022 by age and sex [DEMO_PJAN_custom_7604679]. I am grateful to Dr András Pári for the professional preparation of the charts.

Table 1. Aging index of the world population⁷

	Ageing Index (%)						
	Africa	Asia	Europe	Latin America and the Caribbean	Northern America	Oceania	World
1950	8%	11%	30%	8%	30%	24%	15%
1951	8%	11%	30%	8%	30%	24%	15%
1952	8%	11%	31%	8%	30%	23%	14%
1953	8%	11%	31%	8%	30%	23%	14%
1954	8%	10%	32%	8%	30%	23%	14%
1955	8%	10%	32%	8%	30%	23%	14%
1956	8%	10%	32%	8%	30%	22%	14%
1957	7%	10%	32%	8%	29%	22%	14%
1958	7%	10%	32%	8%	29%	22%	14%
1959	7%	9%	32%	8%	29%	22%	13%
1960	7%	9%	32%	8%	29%	22%	13%
1961	7%	9%	33%	8%	29%	22%	13%
1962	7%	9%	33%	8%	30%	22%	13%
1963	7%	9%	34%	8%	30%	22%	13%
1964	7%	9%	35%	8%	30%	21%	13%
1965	7%	9%	36%	8%	30%	21%	13%
1966	7%	9%	37%	8%	31%	21%	14%
1967	7%	9%	38%	8%	32%	21%	14%
1968	7%	9%	39%	8%	32%	21%	14%
1969	7%	9%	40%	8%	33%	21%	14%
1970	7%	9%	42%	9%	34%	21%	14%
1971	7%	10%	43%	9%	35%	21%	14%

⁷ Source: United Nations, 2019.

DIFFICULTIES AND POSSIBLE ESCAPES FROM CENTRAL EUROPE'S DEMOGRAPHIC WINTER

	Ageing Index (%)						
	Africa	Asia	Europe	Latin America and the Caribbean	Northern America	Oceania	World
1972	7%	10%	44%	9%	36%	22%	14%
1973	7%	10%	46%	9%	37%	22%	15%
1974	7%	10%	47%	9%	39%	22%	15%
1975	7%	10%	49%	10%	41%	23%	15%
1976	7%	10%	50%	10%	43%	24%	15%
1977	7%	10%	52%	10%	45%	24%	16%
1978	7%	11%	54%	10%	46%	25%	16%
1979	7%	11%	55%	11%	48%	26%	16%
1980	7%	11%	56%	11%	49%	27%	17%
1981	7%	12%	56%	11%	50%	28%	17%
1982	7%	12%	56%	11%	51%	28%	17%
1983	7%	12%	55%	11%	52%	29%	17%
1984	7%	13%	56%	11%	53%	29%	17%
1985	7%	13%	56%	12%	54%	30%	17%
1986	7%	13%	57%	12%	55%	31%	18%
1987	7%	13%	58%	12%	56%	32%	18%
1988	7%	14%	59%	12%	56%	33%	18%
1989	7%	14%	60%	13%	57%	33%	18%
1990	7%	14%	62%	13%	57%	34%	19%
1991	7%	15%	64%	13%	57%	34%	19%
1992	7%	15%	66%	14%	57%	35%	19%
1993	7%	15%	68%	14%	57%	35%	20%
1994	7%	16%	70%	15%	57%	36%	20%
1995	7%	16%	72%	15%	58%	36%	20%
1996	7%	17%	75%	16%	58%	36%	21%

TÍMEA BARZÓ

	Ageing Index (%)						
	Africa	Asia	Europe	Latin America and the Caribbean	Northern America	Oceania	World
1997	7%	17%	77%	16%	58%	37%	21%
1998	7%	18%	79%	17%	58%	37%	22%
1999	7%	19%	81%	17%	58%	37%	22%
2000	7%	19%	84%	18%	58%	38%	23%
2001	8%	20%	87%	18%	59%	38%	23%
2002	8%	21%	91%	19%	59%	38%	24%
2003	8%	22%	94%	19%	59%	39%	25%
2004	8%	22%	97%	20%	60%	39%	25%
2005	8%	23%	100%	21%	61%	40%	26%
2006	8%	24%	103%	22%	62%	41%	27%
2007	8%	25%	104%	22%	63%	41%	27%
2008	8%	25%	105%	23%	64%	42%	27%
2009	8%	26%	105%	24%	66%	42%	28%
2010	8%	26%	105%	25%	67%	43%	28%
2011	8%	27%	105%	26%	69%	44%	29%
2012	8%	28%	107%	27%	71%	45%	29%
2013	8%	29%	108%	28%	73%	46%	30%
2014	8%	30%	110%	29%	75%	47%	31%
2015	8%	31%	111%	30%	76%	48%	32%
2016	8%	32%	112%	31%	79%	49%	32%
2017	8%	34%	114%	33%	81%	50%	33%
2018	8%	35%	116%	34%	84%	51%	34%
2019	8%	37%	118%	35%	87%	52%	36%
2020	9%	38%	120%	37%	90%	53%	37%
2021	9%	40%	122%	38%	94%	55%	38%

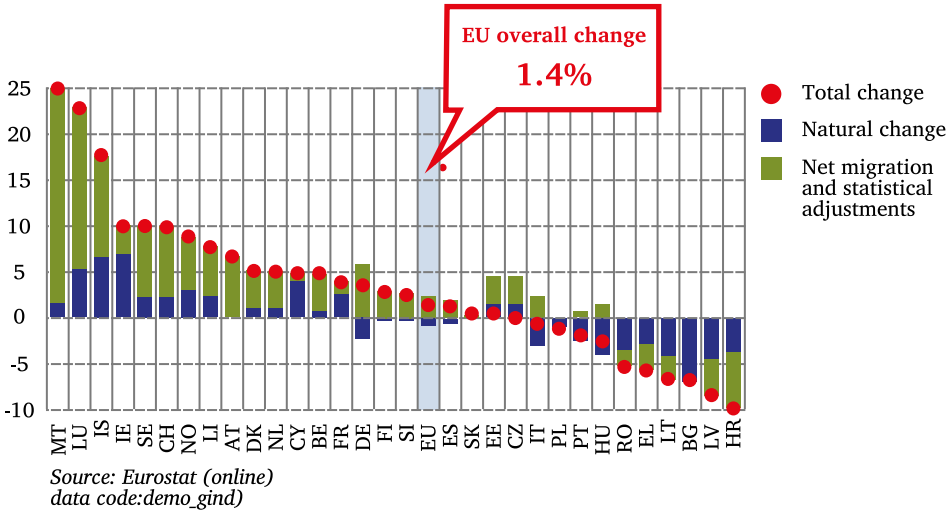
1.2.Population change

According to the most recent edition of Eurostat’s *Key Figures on Europe*,

Between 1 January 2012 and 2022, the EU’s population rose 6.2 million (or 1.4 %); net inward migration was the driving factor behind this growth. A natural decrease in the number of inhabitants (more deaths than births) in Latvia, Lithuania, Croatia, Romania and Greece was reinforced by net outward migration (more people emigrating than immigrants arriving) leading to a decline in population numbers. There was also an overall decline in the populations of Bulgaria, Hungary, Portugal, Poland and Italy, despite net inward migration.⁸

Per this Eurostat report, at the beginning of 2022, there were 37.5 million foreign citizens living in EU Member States. Indeed, foreign citizens accounted for 8.4% of the total population of the EU. Figures varied widely. For instance, where 47.1% of Luxembourg’s population was of a foreign nationality, just 1% of Croatia’s population were foreign citizens. Moreover, the majority of the EU Member States reported a higher number of non-EU citizens than foreign citizens from other EU Member States within their populations.⁹

Figure 2. Population change of the EU¹⁰
(% of total population, 1 January 2012–2022)



8 Eurostat, 2023a, p. 11.

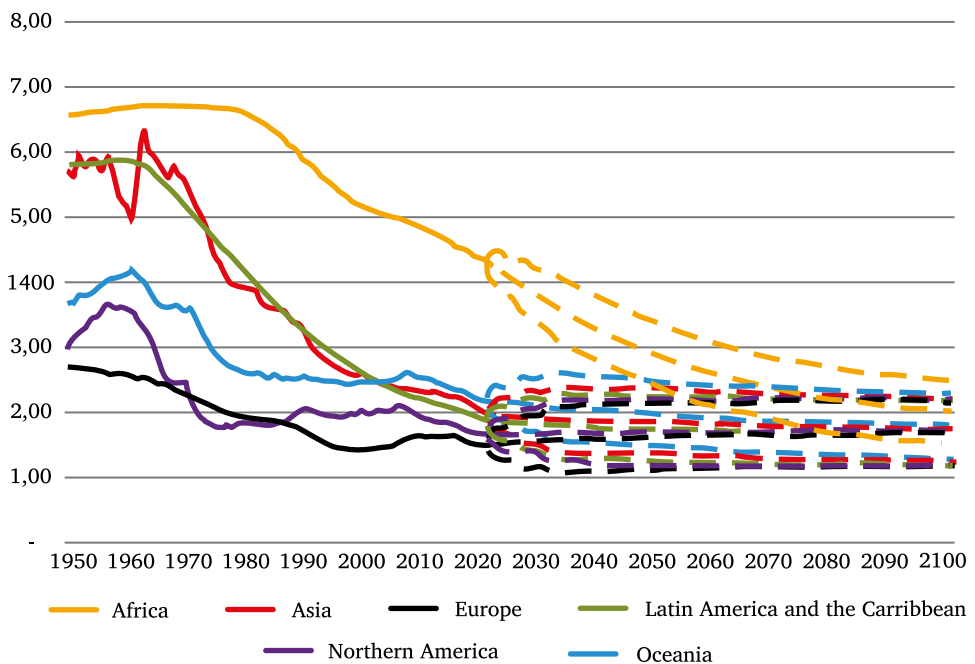
9 Eurostat, 2023a, p. 13.

10 Source: Eurostat, 2023, p. 11.

1.3. The total fertility rate and natural population change

The demographic changes in Europe are worrying, and Central European countries are no exception. One of the introductory chapters¹¹ in this volume provides an overview of the demographic statistics across Europe. Noting that Europe's fertility rate was 1.53 in 2021, the authors stress that neither the birth nor fertility rate reach the replacement level. As the following figure shows, based on United Nations data, Europe exhibits the lowest total fertility rate in the world.

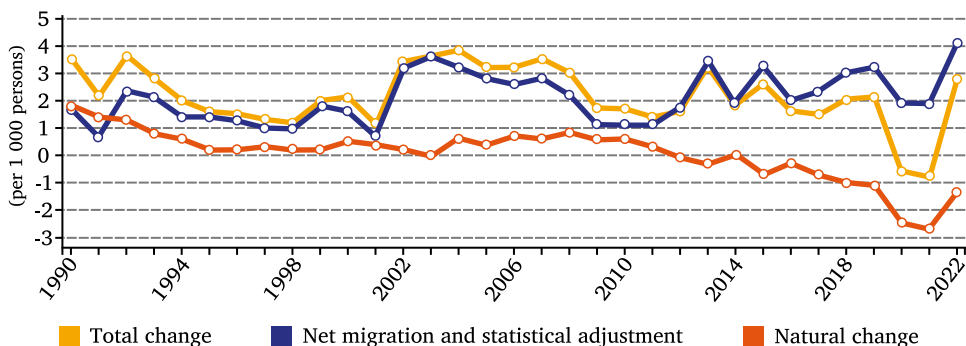
Figure 3. Total fertility rate of the World¹²
Total Fertility Rate (live births per woman), 1950–2100



Today, no EU Member States reaches the 2.1 level needed for population reproduction. However, while the EU's fertility rate is still declining, its population size is increasing. This demographic situation is due to immigration.

¹¹ Pári, Rövid and Fűrész, 2024.

¹² Source: UN Population database. I am grateful to Dr András Pári for the professional preparation of the charts.

Figure 4. Population change of the EU by component¹³

Note: Excluding French overseas departments up to and including 1997.

Breaks in series: 1991, 1998, 2000–01, 2008, 2010–12, 2014, 2015, 2017, 2019, 2021 and 2022.

2022: Eurostat estimate

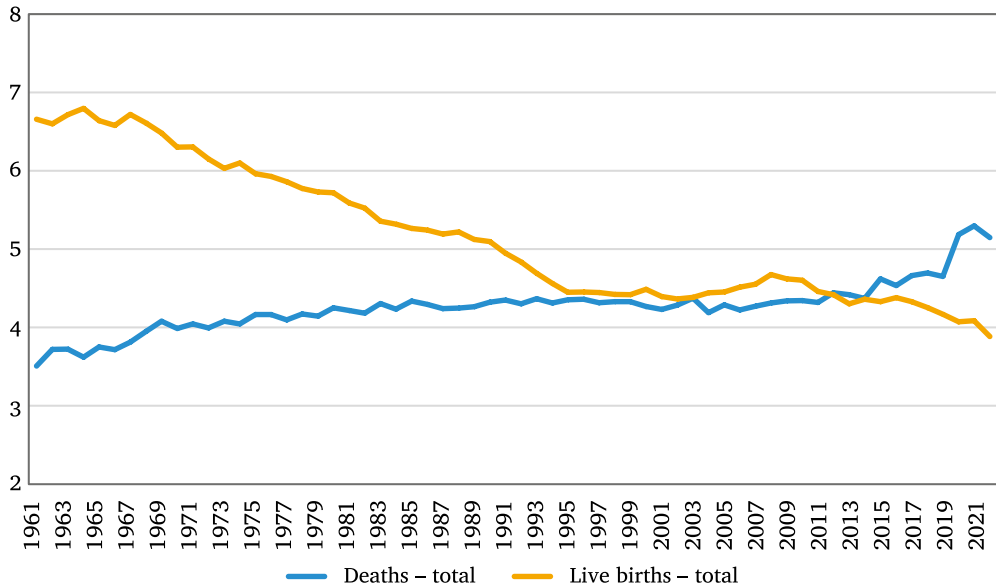
Having and raising children requires considerable investments of both time and economic resources from parents. At the same time, statistics and reports show that the richest territories of the world have the fewest children. There is a gap between wanting and having children. In order to understand the current and future potential of society and identify and address the challenges Europe may face, it is imperative to minimise the so-called fertility gap between the number of children initially planned (i.e. desired children) and the children actually born.¹⁴

Population trends are determined by the balance between births and deaths. More specifically, the so-called *natural population change* is the difference between the number of live births and deaths during a given time period. Trends can be either positive or negative. *Natural population increase* is a positive natural change whereby the number of live births is larger than the number of deaths during the time period considered. In contrast, *natural population decrease* is a negative natural change whereby the number of deaths exceeds the number of births.¹⁵

¹³ Source: Eurostat, 2023b.

¹⁴ Pári and Rövid, 2023, p. 27.; Engler and Pári, 2022, p. 27.

¹⁵ See: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Natural_population_change (Accessed: 3 January 2024)

Figure 5. Births and deaths of the EU¹⁶

According to the literature, changes in the family structure can destabilise the family institution, weakening and destroying family cohesion.¹⁷ However, it is worth noting that this change does not necessarily portend the disintegration of the family. On the one hand, marital instability has led to an increase in the number of marriages of a short duration. On the other hand, increased life expectancy has resulted in an unprecedentedly high number of marriages of particularly long duration. In Europe, changes in family structure show that certain types of families are becoming more common, with a notable increase in the proportions of single-parent, multi-nuclear, and cohabiting families in society.¹⁸

1.4. The aim and structure of the present volume

The present volume seeks to answer the question of what measures and good practices can be used to turn the frustrating data defining the demographic situation in Europe and Central Europe into a more positive vision of the future. Of the books published by the Central European Academy to date, this book is unique insofar as it goes beyond the usual jurisprudential and comparative-legal perspective and approaches the issue from an interdisciplinary perspective. The interdisciplinary focus

16 See: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Population_and_population_change_statistics (Accessed: 3 January 2024)

17 Harcsa, 2014, pp. 2–13.

18 Pári and Rövid, 2023, p. 22.

permeated the entire year of research, which was dedicated to one of the biggest challenges facing contemporary Europe: demographic challenges.

If one looks at the structure of this book, the interdisciplinary perspective is immediately apparent. Given the complex and interdisciplinary nature of the subject, this volume comprises four main parts. The first two parts of this book discuss the population of the world,¹⁹ as the omega of the issue, before turning to the demographic situation in Europe,²⁰ especially Central Europe. Discussions of this complex issue need to consider the social background of population decline,²¹ the postmodern challenges facing the family (including the rediscovery of family ties),²² the macroeconomic impacts of demographic change,²³ and the relationship between the economy and the family, as the 'Economy begins in the family'.²⁴ This approach also requires attention to regional aspects, including Christian ethics as a factor promoting the traditional model of the family,²⁵ the appropriate approaches of labour law,²⁶ and the provision of a sustainable pension system.²⁷

The third part of this book presents country reports of eight Central European countries: Czechia, Croatia, Hungary, Poland, Romania, Serbia, Slovakia, and Slovenia. Beside the Central European solutions, the Spanish aspects can be read in the third part as well. Each country report provides an empirical discussion and analysis of the country's demographic situation and potential solutions for the 'demographic winter'. In these reports, the authors place significant emphasis on family support solutions and family policy. This volume also provides a chapter on the constitutional funding of family policy,²⁸ which is of utmost importance.

As such, the first two parts of this book contain the introductory and preparatory studies, which are based on demographic data and provide an empirical basis for this research. The complexity of the demographic problem renders purely jurisprudential or legislative approaches insufficient. The approach to this problem must reflect its complexity. Therefore, in preparing this book, the decision was taken to expand the scope beyond law-oriented analyses.

Jurisprudential responses to demographic issues need to be examined from multiple perspectives. In preparing the country reports, the authors drew on both private and public law approaches within jurisprudence. Both the questions and answers are multifaceted. As public law (constitutional law) is the basis of family policy, one of the approaches to solving demographic problems involves the adoption of a more

19 Arsenović, 2024.

20 Pári, Rövid and Fűrész, 2024.

21 Lenkovics, 2024.

22 Montserrat Gas-Aixendri, 2024.

23 Michalski, 2024.

24 Michalski, 2024.

25 Bielecki, 2024.

26 Jakab, 2024.

27 Barta and Novoszáth, 2024.; Korom, 2024.

28 Sobczyk, 2024.

public law approach. At the same time, it is not possible to address population issues without considering family law, the relevant substantive rules of which fall under private law.

This chapter presents a summary of the relevant family policy measures and family law instruments of the abovementioned countries, providing a synthesis of the Central European country reports. This chapter is based on and synthesises the country reports presented in this volume. Accordingly, this chapter has fewer footnotes pertaining to scientific sources literature; rather, footnotes detail the relevant Acts and legal sources related to the legal environment of the topic. Detailed analyses of and references for legal institutions and solutions are available in the relevant country report.

In compiling this chapter, we did not seek to present the legal institutions of each country in alphabetic order, but to situate them in a much more comprehensive context. Therefore, we opted to compose the chapter on a comparative logic, discussing the similarities and differences between the given legal institutions and family policy measures. In doing so, we provide a summary of the factors that link the Central European countries. Although these demographic problems affect the whole of Europe, this chapter emphasises the specific features of Central Europe. In this respect, it is necessary to consider whether the same problems are perceived as the major threats in each country. In the majority of cases, low fertility rates and the ageing of the population appear to be the strongest source of problems.

This book introduces the essential elements and consequences of Europe's demographic winter and provides an overview of the best practices and possible solutions to demographic issues proposed in Central Europe. In summing these dynamics, this chapter similarly focuses on the characteristics of Central European countries.

2. Summary of the demographic situation of Central Europe

The country reports provide concrete data on the demographic situation of the given countries. Data were primarily obtained from respective countries statistical offices.²⁹ The Population and Housing Census (hereinafter, the Census) was also useful, particularly as the most recent census was conducted in several Central European countries. For instance, the country report for *Czechia* included the results of the 2021 Populations and Housing Census conducted in the country.³⁰ The family

29 The statistical data of the Czech Statistical Office are available at: <https://www.czso.cz/csu/czso/population> (accessed: 06 January 2024).

30 Králíčková, 2024.

policy strategies of the countries involved in this research project were determined by the population and demographic situation of the given country.

This summary chapter also surveyed data from the Eurostat and the Data Portal of the UN. The following table presents a summary of the data of natural population change in Central European countries over a roughly 12-year period.³¹ More specifically, it shows the difference between the number of live births and deaths between 2010³² and 2022.³³ Note, in the table, the figures for 2023 are based on data collected as of 1 January 2023.

Table 2. Natural population change and fertility rate of the Central European countries³⁴

	2010		2010	2022		2023	Fertility rate	
	Number of deaths (thousands)	Number of life births (thousand)	Population (thousands)	Number of deaths (thousands)	Number of life births (thousands)	Population (thousands)	2010 ³⁵	2022
Croatia	52	44	4,417	57	33	3,850	1.5	1.4
Czechia	107	118	10,507	120	101	10,827	1.5	1.6
Hungary	130	96	10,013	136	89	9,597	1.4	1.5
Poland	385	418	38,167	448	305	37,635	1.4	1.4
Romania	257	222	21,462	272	183	19,051	1.4	1.7
Serbia	115		7,291	109	62	6,664	1.4	1.5
Slovakia	53	61	5,425	59	52	5,428	1.4	1.5
Slovenia	19	22	2,047	22	17	2,116	1.5	1.6

The following figure illustrates the natural population change between 2010 and 2022.

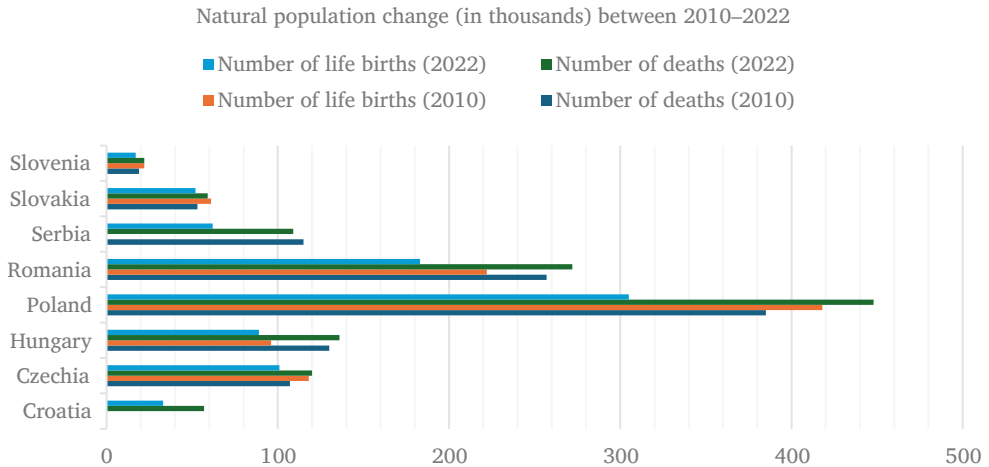
31 According to the abovementioned sources: Eurostat and country reports.

32 For the data of the natural population change of 2010 and the population data of 2010 (1 January), see: Eurostat, 2010.

33 For the data of the natural population change of 2022 and the population data of 2023 (1 January), see: Eurostat, 2022.

34 Source: Author's own work.

35 United Nations, 2014.

Figure 6. Natural population change of the Central European countries³⁶

In short, the 2010–2022 data presented above show that the fertility rates in Central Europe have largely stagnated. Some countries have seen a slight decrease, while others have experienced a slight increase. *Romania* stands out insofar as it experienced a noticeable increase in its fertility rate, which currently stands at 1.7.³⁷

Influenced by political, social, and economic shifts since 1989, family structure in *Czechia* and other ex-Soviet countries has undergone significant changes. As of summer 2023, *Czechia* had a population of 10,873,553 people. According to the 2021 Census, women with two children are represented in population most frequently, and the country has a fertility rate of 1.57. According to Eurostat data, there has been a slight increase in *Czechia*'s total fertility rate, which was 1.6 in 2023.³⁸

According to the most recent census, *Croatia* had a permanent population of 3.87 million in 2021, a decline on previous years. The country report notes that 99.24% of citizens are of *Croatia* citizenship, while the remaining 0.74% of inhabitants are foreign citizens.³⁹ The fertility rate in *Croatia* is 1.4. In line with the summary table, *Croatia* has experienced a slight decline in fertility rate and population.⁴⁰

Like other European countries, *Romania* has an ageing population. However, the country also saw a very slight increase in the proportion of children from 2011 to

³⁶ Source: Author's own work.

³⁷ Florian and Floare, 2024.

³⁸ Králíčková, 2024.

³⁹ The Census of Population, Households, and Dwellings in the Republic of *Croatia*, 2021.

⁴⁰ Korać Graovac, 2024.

2021. While Romania's fertility rate is below the desirable level of 2, at 1.74, it is the third highest in the EU.⁴¹

Building on data, the author of the *Polish* country report, Marek Andrzejewski, gives a detailed and holistic picture of the demographic crisis of contemporary Europe and Poland, noting that in 2022, the number of births was almost half what it was some 40 years ago. This downward trend places Poland near the bottom of global fertility rates. Poland's current fertility rate is 1.4, which is well below the historical peak of 2.1 from the 1960s to the 1980s.⁴²

Serbia is one of the countries with more recent census data, their latest census having been conducted in 2022.⁴³ According to the 2022 Census, the Republic of Serbia had a total population of 6,647,003 and a fertility rate of 1.5, which aligns with the Central European average.⁴⁴

As *Slovenia* is a relatively small country in terms of territory, it is hardly surprising that it had a population of approximately 2,116,972 people in 2023. As Suzana Kraljić notes, this number is actually some 9,800 higher than the previous year. However, the number of Slovenian citizens actually decreased by almost 7,600, while the number of foreigners increased by 17,400. Among them, the number of Ukrainian citizens had increased the most. Slovenia currently has a fertility rate of 1.6, which is slightly higher than 10 years ago.⁴⁵

As of mid-2023, *Slovakia* had an estimated population of 5,795,199 people and a fertility rate of 1.5, indicating a slight increase. The most recent population census in Slovakia was conducted in 2021. The country report also refers to the fact that development of the total fertility rate, although very moderate, has been on an upward trend for the past 20 years. The cumulative fertility rate increased from 1.2 in 2001, to 1.5 in 2021.⁴⁶

A moderate increase can also be observed in the *Hungarian* fertility rate, which currently stands at 1.5, compared to 1.4 a decade ago. Hungary has an estimated population of 9,597,000 people. According to official statistical data and research by the Kopp Mária Institute for Demography and Families (KINCS), the perception of marriage and family formation in Hungarian society has been increasingly positive since the early 2010s, largely driven by family-friendly thinking and a targeted family support system, among other things. Although Hungarian society traditionally views family and children as valuable, but for many decades now, fewer children have been born than are planned.⁴⁷

41 Florian and Floare, 2024.

42 Andrzejewski, 2024.

43 Census of Population, Households, and Dwellings. Law on the 2022 Census of Population, Households, and Dwellings, *Official Gazette of Serbia* no. 9/2020, 35/2021.

44 Kovaček Stanić, 2024.

45 Kraljić, 2024.

46 Garayova, 2024.

47 Pári and Rövid, 2023, p. 20.

3. The responses of Central European countries to demographic challenges: Family policy

This subchapter summarises the legal and family policy responses that the given countries have adopted to address demographic challenges. Although all of the Central European countries under review are addressing these challenges along similar lines, there are specificities unique to each country. This subchapter first introduces the institutional context before turning to the various family policy elements and measures.

3.1. The institutional and legal background

In each of the countries surveyed, the institutional framework for dealing with demographic problems is primarily provided by a ministry. All of the Central European countries prepared their own policies and strategies for addressing demographic challenges. That said, they share the view that society has been undergoing constant social, demographic. and economic development and change.

In *Czechia*, the Ministry of Labour and Social Affairs and the Expert Committee for Family Policy are the primary institutions responsible for family policy affairs. The two bodies co-operated in preparing the so-called ‘A New Approach to Family Policy’, which comprises more than 24 reform measures across five areas. They subsequently issued a new policy entitled, ‘The New Family Policy Strategy 2023–2030’ (hereinafter, the Strategy). The Strategy is based on the premise that the family remains a priority value today. In its unique function, the family is a space for the creation of human capital, one in which the human personality is formed and future generations are nurtured and they grow. As such, it is undoubtedly the basic and most important unit of our society. The Strategy stresses that only stable and prosperous families can guarantee the provision of a good environment for the upbringing of children, the sustainable development of society and the functionality and cohesion of society. That said, the Strategy respects the diversity of life paths and forms of family cohabitation. To achieve demographic stability, the Strategy emphasises a threefold approach of valuing the family, promoting the stability of families, and providing a supportive and stable socio-economic environment for families. Another objective of the Strategy is to reduce demographic debt, which has built up due to the extremely low birth rate over the last two to three decades.

The author notes an important feature of the family policy and the related substantive law provisions: to facilitate the implementation of the Strategy, several points of public law have been amended, destabilising this area of law. Consequently,

young couples are not necessarily aware of the tax, social security, or benefit rules that apply to them when they have children.⁴⁸

In respect to the concrete legal background, the author highlights the following acts: a) Charter of Fundamental Rights and Freedoms as a part of the constitutional order; b) Labour Code; c) Act on Sickness Insurance; d) Act on State Social Support; d) Act on Social and Legal Protection of Children ('Children Act'); e) Act on Pension Insurance; f) Act on Income Tax.

In *Croatia*, the legal environment of the family policy is based on the provisions of the Constitution of the Republic of Croatia, where the basic law declares the special protection of the family,⁴⁹ the protection of children,⁵⁰ and that the rights pertaining to childbirth, maternity, and childcare shall be regulated by law.⁵¹ Beside the Constitution of the Republic of Croatia, other important legal acts include: a) The Child Allowance Act; b) The Labour Act; c) Free Legal Aid Act; d) Temporary Maintenance Act; e) The Social Welfare Act.

In terms of institutional context, Croatia's demographic policy is set by the Ministry of Social Policy and Youth, Ministry of Labour and Pension System, Ministry of Finance, Ministry of Health, and Ministry of Defence. Local and regional self-governments are the competent bodies responsible for social care. However, as the country report for Croatia emphasises, there are huge differences in the economic development of different municipalities. In this respect, the author notes the work of the Central State Office for Demography and Youth, which publishes overviews of demographic measures and the activities of local units. Croatia's current family policy was enacted in 2003. Since April 2022, Croatia has been preparing the 'Strategy for Demographic Revitalisation of Croatia until 2031'. One of the goals of 'National Development Croatia 2030' is the strengthening of the family.⁵²

Regarding the institutional background in *Romania*, at the central level, demographic policy is guided by the recently established Ministry of Families, Youth and Equal Opportunities, Ministry of Work and Social Solidarity, Ministry of Justice, Ministry of Education, and Ministry of Health. Government strategy seeks to protect families and the youth, safeguard children's rights, facilitate adoption, provide equal opportunities for women and men, and take action against domestic violence. In the Romanian legal system, there are a number of sectoral laws covering various sub-issues—which are described in detail in the country report—including:⁵³ a) The Universal Child Allowance Act⁵⁴; b) Romanian Tax Code⁵⁵; c) Labour Code⁵⁶;

48 Králíčková, 2024.

49 Art. 62 of the Constitution of the Republic of Croatia.

50 Art. 65 of the Constitution of the Republic of Croatia.

51 Art. 57 of the Constitution of the Republic of Croatia.

52 Korać Graovac, 2024.

53 Florian and Floare, 2024.

54 Law No. 61/1993.

55 Law No. 571/2003.

56 Law No. 53 of 24 January 2003.

d) Government Emergency Decree⁵⁷; e) Law on Paternal Leave⁵⁸; e) Law on Young People⁵⁹; f) Public Pension Law.⁶⁰

In *Serbia*, the Ministry of Family Care and Demography is responsible for all aspects of the management of demographic challenges. The relevant laws pertaining to family policy include the Law on Financial Support for Families with Children, several regulations of the Act on Labour Law, the Law on Biomedical Assisted Fertilisation, the Law on Pension and Disability Insurance, and the Family Act. The country has also adopted several strategies in line with family policy, including the ‘National Strategy for Youth (2015–2025)’, ‘Strategy for Youth in the Republic of Serbia (2023–2030)’, and the ‘Strategy to Encourage Childbirth’.⁶¹

Slovakia has also developed a new strategy to support families in the context of adverse demographic trends. Regarding the institutional framework, the government had adopted the ‘National Strategic Framework for Family Support and Demographic Development until 2030’, which aims to protect children and the youth, improve health care, reconcile family care and employment, and safeguard the labour market and financial instruments in the context of demographic issues. The importance of protecting the family is also mentioned in ‘The Programme Declaration of the Government of the Slovak Republic for 2021–2024’. The legal background is secured by the Constitution and the Family Act, per the protection of families and marriage, and by the Labour Code and Social Insurance Act, which seeks to enhance the work–life balance. The Ministry of Labour, Social Affairs, and Family of the Slovak Republic is the institution responsible for drafting the relevant legislation.⁶²

The Council for Children and the Family of the Republic of *Slovenia* is a permanent expert advisory body providing expert and advisory services to the government in respect to the drafting of legislation as well as monitoring and reporting on the situation of children and the family. The Family Code serves as the relevant legal basis for these matters, governing not only the substantive regulations of family law, but also the process of the aforementioned Council. The Parental Protection and Family Benefits Act and the Exercise of Rights from Public Funds Act are also significant legal bases, as they provide detailed regulations on family allowances. In terms of housing creation, The Resolution on the National Housing Programme 2015–2025 is an important strategy implemented and managed by the Housing Fund of the Republic of Slovenia. In response to demographic challenges, including the need to care for a growing number of elderly people in an ageing society, the country has adopted the Long-Term Care Act and the ‘Strategy for a Long-Lived Society’.⁶³

57 Law No. 158/2005.

58 Law No. 210/1999.

59 Law No. 350/2006.

60 Law No. 263/2010.

61 Kovaček Stanić, 2024.

62 Garayova, 2024.

63 Kraljić, 2024.

Essentially, the demographic strategies and family policy action plans of all of the Central European countries examined in this book identify the relationship between demography and family relations. While the *Polish* policy document, '2040 Demographic Strategy', addresses this relationship, it does not recognise the role of family law in solving the demographic problem. Rather, the Polish government focuses on opportunities in other legal institutions outside family law, particularly in family mediation, conflict resolution, and other types of pedagogical and psychological assistance. This indicates that the Polish legislator does not consider family law a sufficient and effective means of addressing demographic problems, such as the need to encourage childbearing. Regarding the Polish solution, it should be noted that although the 'Family 500+ Programme'—or the 'Family 800+ Programme' as of 1 January 2024—succeeded in lifting many families out of deep poverty, it has yet to produce any demographic results. As far as the legal background is concerned, besides the Constitution of the Republic of Poland, the following documents are worth noting: the Family and Guardianship Code,⁶⁴ the Act of 11 February 2016 on state assistance in the upbringing of children, the Act of 28 November 2003 on family benefits, and the Act of 4 November 2016 on the assistance of pregnant women and family support 'For Life'.⁶⁵

Regarding the *Hungarian* situation, a new approach to family policy was initiated in 2010, namely, the delineation between social policy and family policy.⁶⁶ Where the former is based on means-testing and benefit-based policies, family policy seeks to support the internal stability of families, protect the autonomy and security of the family, encourage childbearing, and enhance intergenerational co-operation.⁶⁷ Since 2010, family policy has been separate from social policy. Family policy is a sub-system with its own objectives. As a community policy that regards the family as a fundamental value of the national community, family policy goes beyond the provision of financial support for families. As a coherent system, family policy protects and serves society in many ways by ensuring family security.⁶⁸ Consequently, over the past 10 years, family policy has become a policy in its own right, and with the 2019 Family Action Plan, it can now be considered a 'Hungaricum'. The main features, objectives, and areas of family policy in Hungary are summarised below.⁶⁹ As for the legal background, the Fundamental Law of Hungary, Act CCXI of 2011 on the Protection of Families, Act CLXXIV of 2005 on support for young people starting their lives, Act LXXXIV of 1998 on Family Support, Act I of 2012 on the Labour Code, and Act LXXXI of 1997 on Social Insurance Pension Benefits are essential measures at the level of statutory legislation. Regarding the institutional background, the Kopp Mária Institute for Demography

64 Act of 25 February 1964.

65 Andrzejewski, 2024.

66 Sági, 2024.

67 Molnár, Szarvas and Gellérné, 2022, p. 90.

68 Novák and Fűrész, 2021, p. 85.

69 Fűrész and Molnár, 2020, pp. 4–6.

and Families is worth noting. The Institutions Research Office prepares professional concepts, strategies, and action plans, carries out applied research, and contributes to decision-making to support family and population policy objectives. Moreover, in collaboration with other departments, this body conducts and provides scientific research, methodological development and services, and statistical and information services.⁷⁰

Table 3. Summary table of the institutional and legal background of the family policy of Central Europe⁷¹

	Institutional background	Basis of the family policy	
		Laws	Strategies
Czechia	<ul style="list-style-type: none"> – Ministry of Labour and Social Affairs – Expert Committee for Family Policy 	<ul style="list-style-type: none"> – Charter of Fundamental Rights and Freedoms – Act No. 262/2006 on Labour Code – Act No. 187/2006 on Sickness Insurance – Act No. 117/1995 on State Social Support – Act No. 359/1999 on Social and Legal Protection of Children as the Children Act – Act No. 155/1995 on Pension Insurance – Act No. 586/1992 on Income Tax 	<ul style="list-style-type: none"> – A New Approach to Family Policy 2016 – The New Family Policy Strategy 2023–2030

⁷⁰ <https://www.koppmariaintezet.hu/hu/tevekenyseguenk> (Accessed: 28 November 2023)

⁷¹ Source: Author's own work.

	Institutional background	Basis of the family policy	
		Laws	Strategies
Croatia	<ul style="list-style-type: none"> – Ministry of Social Policy and Youth – Ministry of Labour and Pension System – Ministry of Finance – Ministry of Health (more social than family policy) – Ministry of Defence (more social than family policy) – Local and regional self-governments – Central State Office for Demography and Youth 	<ul style="list-style-type: none"> – Constitution of the Republic of Croatia – Child Allowance Act – Labour Act – Free Legal Aid Act – Temporary Maintenance Act – Social Welfare Act – Act on Subsidizing Housing Loans 	<ul style="list-style-type: none"> – Explicit family policy of 2003 – Since April 2022, preparing the Strategy for Demographic Revitalisation of Croatia until 2031 – National Development Croatia 2030, focused on strengthening of the family
Hungary	<ul style="list-style-type: none"> – Kopp Mária Institute for Demography and Families 	<ul style="list-style-type: none"> – Fundamental Law of Hungary – Act CCXI of 2011 on the Protection of Families – Act CLXXIV of 2005 on Support for Young People Starting Their Lives – Act LXXXIV of 1998 on Family Support – Act I of 2012 on the Labour Code – Act LXXXI of 1997 on Social Insurance Pension Benefit 	<ul style="list-style-type: none"> – 2019 Family Action Plan

	Institutional background	Basis of the family policy	
		Laws	Strategies
Poland	<ul style="list-style-type: none"> – Government Plenipotentiary for Demographic Policy 	<ul style="list-style-type: none"> – Constitution of the Republic of Poland – Family and Guardianship Code – Act of 11 February 2016 on State Assistance in the Up-bringing of Children – Act of 28 November 2003 on Family Benefits – Act of 4 November 2016 on the Assistance of Pregnant Women and Family Support ‘For Life’ 	<ul style="list-style-type: none"> – 2040 Demographic Strategy – Family 800+ Programme
Romania	<ul style="list-style-type: none"> – Ministry of Families Youth and Equal Opportunities – Ministry of Work and Social Solidarity – Ministry of Justice – Ministry of Education – Ministry of Health 	<ul style="list-style-type: none"> – Constitution of Romania – Universal Child Allowance Act – Romanian Tax Code – Labour Code – Government Emergency Decree – Law on Paternal Leave – Law on Young People – Public Pension Law 	<ul style="list-style-type: none"> – Government Strategy
Serbia	<ul style="list-style-type: none"> – Ministry of Family Care and Demography 	<ul style="list-style-type: none"> – Law on Financial Support for Families with Children – Act on Labour Law – Law on Biomedical Assisted Fertilisation – Law on Pension and Disability Insurance – Family Act 	<ul style="list-style-type: none"> – National Strategy for Youth (2015–2025) – Strategy for Youth in the Republic of Serbia (2023–2030) – Strategy to Encourage Childbirth

	Institutional background	Basis of the family policy	
		Laws	Strategies
Slovenia	<ul style="list-style-type: none"> – Council for Children and the Family of the Republic of Slovenia – Housing Fund of the Republic of Slovenia – Ministry of Labour, Family, Social Affairs, and Equal Opportunities 	<ul style="list-style-type: none"> – Constitution – Family Code – Parental Protection and Family Benefits Act – Exercise of Rights from Public Funds Act – Long-Term Care Act 	<ul style="list-style-type: none"> – Strategy for a Long-Lived Society – Resolution on the National Housing Programme 2015–2025
Slovakia	<ul style="list-style-type: none"> – Ministry of Labour, Social Affairs, and Family of the Slovak Republic 	<ul style="list-style-type: none"> – Family Act – Labour Code – Social Insurance Act 	<ul style="list-style-type: none"> – National Strategic Framework for Family Support and Demographic Development until 2030

3.2. Family policy measures in Central European countries

This subchapter provides a systematic review of the family policy measures that have emerged in Central European countries in recent years to alleviate and address demographic challenges. The most effective way to compare and synthesise family policy measures is to group them. According to this methodology, family policy measures can be categorised into the following groups: a) Family support benefits; b) Other tax and contribution benefits ; c) Home creation; d) Family and work allowances; e) Generational policy; f) Family-friendly provisions in the pension system; g) Social security institutions supporting families.

That said, the country reports show that not all family policy packages and action plans use this classification. Some countries (e.g. Hungary) have a more detailed list in their Action Plan, although these elements can also be placed into the categories identified above. Therefore, for the sake of clarity, this subchapter does not summarise the specificities and essential elements of each country's measures separately. Conversely, this subchapter places and discusses the relevant measures of each country following the classification above to synthesise them.

It is worth noting that all of the measures discussed above are essential elements of family support. That said, certain family support benefits, other tax and contribution benefits, home creation measures, family and work allowance institutions, and certain elements of generational policy have been the main contributors to the

increase in birth rates. For this reason, a comparative analysis of these measures is provided below. Detailed analyses of the other measures can be found in the country reports themselves.

3.2.1. Family support benefits: Maternity and paternity allowances

Within the classification framework, the category of *family support benefits* includes the most diverse range of benefits as it incorporates child welfare measures, maternal and parental benefits, and childcare allowances.

In the matter of *maternal and parental benefits*, there are legal instruments that *require social insurance* and others that are available to everyone in the given country, regardless of whether they possess social insurance.

One of the most important legal institutions in this category is *maternity leave*, which is available in every Central European country, albeit at varying lengths. In *Croatia*, maternity leave is available until the child turns six months old. It can be followed by parental leave for employed or self-employed parents at 6 months for each of the first two children and 30 months for the third and subsequent children.⁷² Similarly, *Hungary* provides for maternity leave of up to 168 days.⁷³ In *Slovakia*, the duration of maternity leave is 34 weeks, which is almost 8 months. However, single mothers are entitled to maternity leave of 37 weeks and women giving birth to two or more children simultaneously are entitled to maternity leave for 43 weeks.⁷⁴ In *Slovenia*, mothers are entitled to 105 days of maternity leave, of which 15 days are compulsory.⁷⁵ According to the *Serbian* law, maternity leave lasts for three months with an additional nine months of leave for childcare.⁷⁶ In *Poland*, all pregnant contract employees are entitled to maternity leave of 20 weeks, 6 of which can be taken before the due date. In the case of a multiple birth, maternity leave is extended.⁷⁷ In *Czechia*, maternity leave is 28 weeks long, and extended to 37 weeks in the event of the birth to two or more children at the same time.⁷⁸

Most of the countries provide *paternity leave* in addition to maternity leave. In *Hungary*, after the birth of a child, fathers are entitled to 10 extra days of paid leave, which are reimbursed by the state to the employer. A similar regulation has been implemented in *Croatia*, where employed and self-employed fathers are entitled to paternity leave for a child from birth until the six months of age.⁷⁹ Paternity leave is 10 business days for one child and 15 business days for twins or a multiple birth. Fathers are entitled to 15 calendar days (11 working days) of leave in *Slovenia*. In

⁷² Korać Graovac, 2024.

⁷³ Sági, 2024.

⁷⁴ Garayova, 2024.

⁷⁵ Kraljić, 2024.

⁷⁶ Kovaček Stanić, 2024.

⁷⁷ Andrzejewski, 2024.

⁷⁸ Králíčková, 2024.

⁷⁹ Korać Graovac, 2024.

Slovakia, men are entitled to the same amount of leave as the mothers, provided that they are caring for the newborn child instead of the mother.⁸⁰ A similar regulation can be found in *Serbia*, where fathers can take leave if the mother is not able to care for the child. It is possible for parents to share childcare leave under certain conditions.⁸¹ *Czechia* also regulates paternity leave.⁸²

In *Croatia*, only those who have a valid status in the mandatory health insurance regulated by the Croatian Health Insurance Fund are entitled to family support benefits. Foreign nationals with permanent residence in Croatia, asylum grantees, and persons under subsidiary protection have the same rights as Croatian nationals.⁸³

In *Hungary*, the infant care allowance (CSED) childcare allowance (GYED) and child raising allowance for large families (GYET) are insurance-based benefits. The additional childcare allowance (GYES) has a lower amount and is not insurance-based.⁸⁴

3.2.2. Other tax and contribution benefits

Most Central European countries have attempted to encourage childbearing via different taxation initiatives. The *Czech* country report makes explicit reference to the consequences of this approach. The frequent changes in legislation have made this area non-transparent. In addition to the legal uncertainty that this can create, this non-transparency poses a problem for families, especially those with many children or in difficult financial circumstances, even if Czech tax law also acknowledges the *family tax bonus system*.⁸⁵

In the *Croatian* income tax system, the *personal child tax allowance* is a benefit reducing the tax base of taxpayers with dependent children. The amount of the child tax allowance increases gradually for each additional child. It is also important to note that the parents of a child can share the full amount of the tax credit, which can reduce the tax base for both of them. The legislator prescribes the requirement of the tax allowance, which is available to taxpayers with dependent children who have income from employment or self-employment.⁸⁶

In *Slovenia*, the so-called *child tax allowance* (deduction) is granted to parents for each dependent child up to the age of 18 and for children up to the age of 26 who are in continuous or intermittent education for up to one year at the secondary, higher, or tertiary education level and who are not in employment or self-employment and who have no or less income to support themselves than the amount of the special allowance for each other member of the family. Slovenia has developed a unique

80 Garayova, 2024.

81 Kovaček Stanić, 2024.

82 Králíčková, 2024.

83 Korać Graovac, 2024.

84 Sági, 2024.

85 Králíčková, 2024.

86 Korać Graovac, 2024.

solution to facilitate travel-related costs. A parent or other person who owns or uses a vehicle classified in the second toll class B under the law governing toll roads and tolls and who, at the time of the last registration of the vehicle, was entitled to and exercised the right to a 50% reduction in the annual charge for large families for that vehicle (four children up to the age of 18) under the law governing the annual charge for the use of vehicles on the road, are entitled to a one-off grant for the annual vignette for that vehicle of the difference between the price of the annual vignette set for the second toll class A in the law governing toll roads and tolls.⁸⁷ *Motor vehicle tax* is not payable on vehicles purchased for the transport of families with three or more children, namely, one motor vehicle with five or more seats purchased no more than once in any three years by one parent in a family with three or more children under the age of 18. Motor vehicle tax is also not payable on vehicles purchased for the transport of disabled persons, purchased no more than once in any five years by disabled persons' organisations and by persons who hold a driving license or who require the assistance of other persons who have a driving license (including children who need special care and protection).⁸⁸

Serbian law provides some special provisions in terms of tax and pension policies and family benefits to improve the lives of minors and persons with disabilities. In Serbia tax law includes provisions for the *exemption from income tax*, which impacts family maintenance.⁸⁹

In *Slovakia*, the so-called tax bonus system has been instituted to help families. Under this system, employees have the right to claim a tax bonus for each dependent child residing in their household. The tax bonus can be claimed by the employee from the month of the child's birth until the month in which the child turns 25, but only if the child is consistently engaged in full-time study at a secondary school or university. The monthly child tax bonus amount varies based on the age of the dependent child (EUR 140 up to the age of 18, and EUR 50 for children over 18 years of age).⁹⁰

In the *Romanian* system, all children and young people between the ages of 18 and 26 (if they are engaged in education) are exempted from health insurance contributions.⁹¹

Since 2020, *Hungarian* mothers with four or more children *benefit from a full personal income tax exemption* under the Family Action Plan. The Hungary country report also notes the reinstatement of *family taxation (family-friendly taxation)*. Family-friendly taxation is premised on the notion that families of different compositions but similar incomes should have the same standard of living after taxation. Therefore, families with more children (i.e. large families) should be taxed less than

87 Republika Slovenija Gov.si, 2023a.

88 Kraljić, 2024.

89 Kovaček Stanić, 2024.

90 Garayova, 2024.

91 Florian and Floare, 2024.

families with fewer children or without children on the same income. In addition to tax allowances depending on the number of children and a full tax exemption for mothers of four or more children, there is a *tax allowance for first-time married couples*, which newlyweds are entitled to for two years.⁹²

Table 4. Summary table of the family-friendly taxation schemes⁹³

Country	Is there family-friendly taxation?	Most important elements of the family-friendly taxation
Croatia	✓	– Personal child tax allowance: The amount of the child tax allowance increases gradually for each additional child
Slovenia	✓	– Child tax allowance – Motor vehicle tax
Slovakia	✓	– Tax bonus system
Serbia	✓	– Exemption from income tax in line with family maintenance
Hungary	✓	– Full personal income tax exemption for mothers of at least four children – Family taxation: large families should be taxed less – Tax allowance for first-time married couples
Czechia	✓	– Family tax bonus system

3.2.3. Home creation

Creating a family home is a key to ensuring that couples who want to have children feel safe and secure themselves and for their future children. According to the *Slovenian* country report, the State is responsible for creating opportunities for citizens to acquire adequate housing, with international documents stipulating that adequate housing is a fundamental human right.⁹⁴ The *Polish* country report suggests that the provision of housing and the proper management of the housing market significantly promote the desire to have children.⁹⁵ In principle, the governments of several Central European countries recognise supporting the ability of couples to create a home as one of the key elements of population growth. Therefore, it is

⁹² Sápi, 2024.

⁹³ Source: Author's own work.

⁹⁴ Kraljić, 2024.

⁹⁵ Andrzejewski, 2024.

important to ensure that the couple's desire to have children is not hindered by the fact that they do not own property suitable for having children. The importance of the family nest and public assistance to obtain it has thus been recognised by many countries. The following subchapter discusses the specificities and main conditions of the countries that provide support for home creation. However, this approach faces an issue insofar as couples can take advantage of home creation benefits as long as they are of childbearing age, that is, as long as the authorities of the country can actually and realistically expect population growth from the assistance of home creation programmes.

Per the country reports, countries can be divided into three main groups according to their attitudes towards the importance of home creation and home ownership.

The first group (Romania, Czechia, Slovakia) includes countries where the specific status of the family home is emphasised by private law, but where there are no explicit demographic-oriented home creation programmes.

The second group (Serbia and Poland) of countries offer solutions via formal public instruments promoting home creation, but these primarily involve collateral subsidies. Common examples include preferential interest rates for loans and credit and tax allowances.

The third group (Hungary, Croatia, Slovenia) includes countries where couples are entitled to state-subsidised loans and direct state support in exchange for having children, facilitating the demographic reconstruction of society.

Ad 1) According to the country reports, the family home enjoys special legal protection in most Central European countries, primarily via family law provisions. In *Romanian* law, the family home has a special legal status, which is only available to married couples and for their main residence and not a secondary dwelling. A rented house or apartment can be designated a family home.⁹⁶ As the *Czech* report shows, the importance of the family home and the definition of its status is particularly evident in the event of divorce and the provision of accommodation for minor children.⁹⁷ Based on survey data, the *Slovak* report notes that, on average, people are having one less child than they would like to have a tendency that can be traced back to the family's financial and housing situation.⁹⁸

Ad 2) To facilitate home creation, some countries have implemented tax reimbursement provisions (e.g. Serbia) and sought to control interest rates on home purchase loans (e.g. Poland).⁹⁹ The latter is true of the *Serbian* system, where a person is entitled to reimbursement of value added tax when purchasing their first dwelling. Serbian nationality and a residence in Serbia are required for such reimbursement.

96 Florian and Floare, 2024.

97 Králíčková, 2024.

98 Garayova, 2024.

99 Andrzejewski, 2024.

According to the Serbia country report, this measure is particularly useful for the young persons and families, as it is available for the first dwelling.¹⁰⁰

Poland's 'Demographic Strategy 2040' includes many points on the issue of housing, including a low interest rate (2%) on house purchases.¹⁰¹

Ad 3) Regarding the importance of the family home, *some countries have special home creation programmes* per specific financial support (e.g. Hungary, Slovenia, Croatia).

Croatia has implemented a complex solution involving an exemption from real estate tax for the first home and a 'proper housing care programme'. The housing loan subsidy is a housing care scheme under which the state contributes to the repayment of a part of a housing loan taken out for the purchase of a house over a five-year period. The support period is extended by two years for each child born during the support period. The grant is extended for a further year for each child the applicant has at the time of applying for the loan.¹⁰²

In Hungary, the system of home creation subsidies, known collectively as CSOK (family home creation subsidy), has undergone reform since 2014. CSOK has a specific demographic objective: increasing the propensity to have children. Since 2016, the support scheme has been significantly expanded and its administration simplified. CSOK provides up to HUF 10,000,000 (approximately EUR 26,146) if the pair have three or more children, or if they are planning to have three or more children if they are building or buying a new home. An essential element of the CSOK is that it is actually a loan for up to two children. Once the couple has a third child, the CSOK is considered a free state subsidy. In order to support the countryside, on 1 July 2019, the Village CSOK was introduced to provide favourable conditions for the purchase and renovation of housing in disadvantaged settlements with a population of less than 5,000. On 1 January 2024, the amount of the Village CSOK was increased by 50%.¹⁰³

Slovenia also has a separate policy regarding home creation. The legal institutions of Slovenia's Resolution on the National Housing Programme 2015–2025 target a broad range of beneficiaries, including young people, young families and single-parent families, large families and single-person households over 65 years of age, persons with disabilities, and persons in complex social situations. As the Slovenia country report notes, young people have fewer opportunities to become independent and acquire independent housing, often leading them to postpone the decision to start a family. The National Housing Programme intends to renovate the housing stock and build new housing in areas where there is the greatest need by providing long-term loans with favourable interest rates and aid via the payment of loans.¹⁰⁴

100 Kovaček Stanić, 2024.

101 Andrzejewski, 2024.

102 Korać Graovac, 2024.

103 Šapi, 2024.

104 Kraljić, 2024.

Table 5. Concrete measures of home creation allowances¹⁰⁵

Country	Nature of the allowance	Most important elements of the legal institution
Hungary	<ul style="list-style-type: none"> – CSOK – Village CSOK – CSOK Plus 	<ul style="list-style-type: none"> – Approximately EUR 26,146 for married couples building or buying a new home if the pair have or are planning to have three or more children – Until the birth of two children, the allowance is a loan; after the birth of a third child, it is a free state subsidy
Serbia	<ul style="list-style-type: none"> – Reimbursement of value added tax 	<ul style="list-style-type: none"> – Requirements: Serbian nationality and residence in Serbia; only for the first dwelling
Poland	<ul style="list-style-type: none"> – Interest rate of housing loans 	<ul style="list-style-type: none"> – A low controlled interest rate (2%) on house purchases
Croatia	<ul style="list-style-type: none"> – Subsidising interest rate of housing loans – Tax exemption for the first home 	<ul style="list-style-type: none"> – Housing care programme
Slovenia	<ul style="list-style-type: none"> – National Housing Programme 2015–2025 	<ul style="list-style-type: none"> – Wide range of beneficiaries – Renovation of the housing stock – Building of new housing in areas – Providing long-term loans with favourable interest rate – Aid in the payment of loans

3.2.4. Family and work allowances

Work–life balance is particularly important for having children and starting a family. However, the way in which countries approach the work–life balance requirement varies. Here, the most important questions are: a) How much is work–life balance promoted?; b) What actual measures are taken to achieve a work–life balance?; c) Is there an actual legal basis for it or is it is ‘only’ good practice performed by some employers who recognise the importance of this factor?

As far as the work–life balance is considered, typical elements of national legislation include parental leave, leave for the birth of a child, flexible working hours, and part-time work.

In general, all of the countries included in this book provide parental leave for parents. As the provision of *flexible working hours* and *part-time employment* is more

¹⁰⁵ Source: Author’s own work.

likely to have a demographic impact and increase the propensity to have children, this subchapter focuses on these measures. The notion of more flexible forms of work encompasses the right to shorter working hours and assistance to facilitate the reconciliation of work and family commitments.

In 2023, *Poland* boasted the lowest unemployment rate in Europe and the third lowest in the world after Japan and Korea. Between 1990 and 2015, unemployment was a structural problem in Poland. The country report refers to the good experience of some countries, like France, regarding the provision of flexible employment for women and the demographic impacts thereof. With this in mind, Poland's 'Demographic Strategy 2040' emphasises the need to reform labour law, particularly in terms of flexible working, which can ensure and promote the stability of parental employment.¹⁰⁶

In *Croatia*, employed and self-employed parents are entitled to maternity leave, parental leave, and *part-time work*. Employees who are pregnant, have given birth, or are breastfeeding are entitled to leave, days off for prenatal check-ups, and *breaks for breastfeeding*. Employees are entitled to leave or part-time work if the child requires more care due to health reasons or to care for a child with severe developmental disabilities. Employed parents are also entitled to suspension of employment until the child turns three.¹⁰⁷

In the *Slovenian* legal system, parents who have a child under the age of three have the right to work as a part-time employee, rather than a full-time worker. Nevertheless, according to the Slovenian country report, women are mainly employed full-time and Slovenia has one of the highest employment rates in the EU. At the same time, the country report highlights an increase in the number of mothers in part-time work, which has had a negative impact on women's position in the labour market. The labour laws of several countries include provisions for breastfeeding breaks. This provision is available in both Slovenia and Croatia. However, the Slovenian report notes that the provision of breastfeeding breaks has not proven particularly important in Slovenia as only a small number of eligible women take advantage of it. This is presumably due to the length of parental leave, which mostly take by mothers.¹⁰⁸

In *Romania*, breastfeeding employees have the right to two one-hour 'breastfeeding' breaks during worktime per day, until the child is one year of age. These breaks include the travel time to the place where the child is. The Labour Code also allows for the employer to establish individual work schedules for all employees at the request or with the consent of employees, which imply a flexible division of work hours. According to the Romanian Labour Code, flexible working time includes work from home, flexible schedules, individual schedules, and part-time employment.¹⁰⁹

106 Andrzejewski, 2024.

107 Korać Graovac, 2024.

108 Kraljić, 2024.

109 Florian and Floare, 2024.

The *Hungarian* Family Action Plan also supports family-friendly jobs. Since 2012, both parents can take additional leave for children under the age of 16. After the birth of the child, fathers are entitled to 10 extra days of paid leave. The amendment on 5 extra days of paternity leave entered into force on 1 January 2015, and the provision of 10 extra days of paternity leave entered into force on 1 January 2023. With the introduction of GYED Extra in 2014, it is now possible for mothers to work full-time while receiving benefits, even from the time their child reaches six months of age. In addition, thanks to GYED Extra, a parent who has a child born on or after 1 January 2014 can receive the child benefit while still receiving the benefit for the older child.¹¹⁰

According to the *Slovak* country report, Slovakia ranks last in the use of part-time employment among OECD countries. This tendency can be traced back to the lack of real opportunities for part-time employment after parental leave. As a negative consequence, this situation often causes mothers to take up low-skilled jobs because it allows more time to take care of the child, which does not fully exploit their knowledge potential and human capital.¹¹¹ As Professor Garay underscores, *‘Flexible forms of employment could be beneficial in this sense, and it is one of the key pillars of the Government’s Strategic Framework that needs significant improvement by the year 2030’*.¹¹²

As mentioned above, there are also examples where flexible working hours and actual employee benefits linked to parental status are provided by individual companies to their employees based on their own internal rules. An example of this solution can be observed in *Serbia*, where such best practices can be seen within the by-laws of big companies, most of which are international, such as the 3AP company or the L’Oreal. The former company ensures a so-called ‘soft landing’ for mothers after returning from maternity leave. For the first two weeks upon returning to work, mothers enjoy a work engagement of 50%, that is, they work for about four hours a day as they get back into the routine of work, catch up with work, and adapt to working while caring for a newborn. In terms of the latter’s best practice, L’Oreal provides six weeks of paternity leave.¹¹³

3.2.5. Generational policy

The system of family relationships and the strength of these relationships impact the treatment of older people in a given society. We know that there are countries, such as Italy and Spain, where close family ties and the role of the elderly in keeping families together are a priority, resulting in the elderly being much more respected in these countries than elsewhere. The well-being and care of the more vulnerable members of the family—especially children and the elderly—is largely dependent

¹¹⁰ Sápi, 2024.

¹¹¹ Garayova, 2024.

¹¹² Garayova, 2024.

¹¹³ Kovaček Stanić, 2024.

on the relationship between the members of the family. At the same time, the state plays an important role in caring for those who cannot rely on family members due to a lack of family or financial means. There are also examples of countries in Central Europe where family and intergenerational solidarity play an important role. This tendency can be observed in *Croatia*¹¹⁴ or in *Serbia*, for example, where young people are prioritised in society. The *Slovakian* strategy, the National Strategic Framework, emphasises the importance of intergenerational solidarity to protect all family members from poverty.¹¹⁵

Countries can be distinguished on the basis of the instruments they use to support and privilege older people and/or young people. Some countries use public law rules, policies, and strategies to give priority to these groups, while others prefer to use private law instruments. The country reports show that generational policy primarily focuses on supporting young people and the elderly, mostly by providing specific tax benefits for the elderly and cultural and educational services for young people. However, generational policy measures vary.

Serbia prioritises young people, as evidenced by the 'National Youth Strategy (2015–2025)', 'Youth Strategy in the Republic of Serbia (2023–2030)', and the former Action Plan. In order to improve the position of the elderly, the Serbian Government adopted the 'National Strategy on Ageing (2006–2015)', which seeks to provide an even better quality of life and improve the position of the elderly in the country.

In *Croatia*, the National Benefit for the Elderly is granted to those meeting certain criteria, including Croatian citizenship, at least 65 years of age, resident in the territory of the Croatia for twenty years without interruption, not a pension beneficiary or an insured person covered by the mandatory pension insurance, and receiving a low amount of monthly income. However, while this is a good idea in principle, the country report shows that only about half of people are able to take advantage of this measure. Recognising this shortcoming, the Croatian government plans to loosen the requirements from 2024.¹¹⁶

One of the elements of generational policy in *Hungary* is the introduction of the 'grandmother's pension', known as WOMEN 40, which allows women to retire with a full pension without reduction after 40 years of eligibility (minimum 32 years of employment and a maximum 8 years of childcare), regardless of their age. It is also possible for grandmothers to have unlimited gainful employment in addition to their pension. This opportunity allows to women around the age of 60 to play an active role in caring for their grandchildren or elderly relatives in need for care.¹¹⁷

As part of its generational policy (elderly care area), *Slovenia* offers a wide variety of services to help care for the elderly while ensuring access to disposal various forms of institutional care, such as retirement homes and assisted living facilities. To

114 Korać Graovac, 2024.

115 Garayova, 2024.

116 Korać Graovac, 2024.

117 Sápi, 2024.

protect and support the elderly, the government adopted the Long-Term Care Act on the basis of the ‘Strategy for a Long-Lived Society’.¹¹⁸

The *Romanian* government adopted the Law on Young People no. 350/2006 to prioritise young people and ensure equal opportunities. According to the law, young people will benefit from the provision of more favourable conditions for starting a business and easier access to cultural services (e.g. free access to libraries). There is also specific legislation on financial support for the elderly, namely, Government Emergency Decree no. 6/2009, which established the ‘minimum social pension’; the pension is amended every year in view of the public budget. In 2023, social indemnity was approximately EUR 227.¹¹⁹

The *Polish* country report notes that elderly people who own land or a house are protected by several economic measures intended to ensure economic stability for the elderly. These regulations contribute to ensuring decent living conditions for the elderly. Such support for the elderly is only available to a small group of people, with the majority of the elderly reliant on insurance or regular pensions via private law (family law, contract law) and the autonomous application of legal instruments rather than public law measures.¹²⁰

Table 6. Most important elements of the generational policy¹²¹

Country	Elements of the generational policy
Czechia	<ul style="list-style-type: none"> – A New Approach to Family Policy 2016 – The New Family Policy Strategy 2023–2030
Croatia	<ul style="list-style-type: none"> – Intergenerational solidarity – Public law instruments – National Benefit for the Elderly
Slovakia	<ul style="list-style-type: none"> – Strategic Framework: intergenerational solidarity
Serbia	<ul style="list-style-type: none"> – Public law instruments – National Youth Strategy (2015–2025) – Youth Strategy in the Republic of Serbia (2023–2030) – National Strategy on Ageing (2006–2015)
Hungary	<ul style="list-style-type: none"> – Public law instruments – WOMEN 40 – Grandmothers can have unlimited gainful employment in addition to their pension

118 Kraljić, 2024.

119 Florian and Floare, 2024.

120 Andrzejewski, 2024.

121 Source: Author’s own work.

Country	Elements of the generational policy
Slovenia	<ul style="list-style-type: none"> – Public law instruments – Elderly care area – Strategy for a Long-Lived Society – Long-Term Care Act
Poland	<ul style="list-style-type: none"> – Private law institutions: contracts
Romania	<ul style="list-style-type: none"> – Public law instruments – Law on Young People no. 350/2006 – Government Emergency Decree no. 6/2009

4. The importance of family law principles as basic guidelines that support families, parents, and children in Central Europe

Principles are generally considered the guiding ideas in a field of law. They are not only characteristic of the legislation embraced by that area of law, but also define the basic features of the legislation. Under the expression of basic principles, *Hungarian* civil law understands the guiding ideas of a legal area that both reflect the content and define the basic features of the legislation covered by the given legal area. The principles are particularly important in a changing society, of which we are witnesses, as they are rooted in development and social change.¹²² In respect to family law principles, the sociological interpretation of family is broader than the narrow legal definition of family based on marriage, which includes other criteria such as cohabitation and running a household together. The broader definition includes children born out of wedlock and children conceived or adopted. This basic approach is reflected in the content of the family law principles of most Central European countries.¹²³

The following subchapter provides a summary of the essential elements of the family law principles of the Central European countries examined in this book: a) The principle of protection of marriage and family; b) The principle of equality between spouses; c) The primacy of the best interests of the child; d) The principle of fairness and protection of the weaker party.

In line with the abovementioned principles, this discussion is guided by several issues and questions. Regarding the *principle of protection of marriage and family*, the sociological approach to the concept of family needs to be considered, particularly in

¹²² Pap, 1982, p. 22.

¹²³ Spi, 2024.

terms of whether such protection refers to family based on marriage or in a broader sense. The main issue of the *principle of equality* between spouses is whether it is applicable to all relationships. One of the cornerstones of family protection is the *primacy of the best interests of the child*. Here, the key question is whether the principle of the best interests of the child is only relevant to family law relationships or whether it has a broader interpretation. Similarly, the *principle of fairness and protection of the weaker party* raises the issue of the protection of the family against domestic violence, which can be a transgenerational problem.

Table 7. Summary of the principles of family law¹²⁴

Country	The principle of protection of marriage and family	The principle of equality between spouses	The primacy of the best interests of the child	Principle of fairness and protection of the weaker party	Other relevant and expressly listed principles
Croatia	✓ – Constitution of the Republic of Croatia	✓ – Family Act	✓ – Family Act and other branches of law	Only indirectly among maintenance rules	1. Principle of family solidarity – Family Act
Czechia	✓ – Charter of Fundamental Rights and Freedoms (all forms of family) – Civil Code (Book Two – Family Law)	✓ – Charter of Fundamental Rights and Freedoms – Civil Code (Book Two – Family Law)	✓ – Civil Code	✓ – Civil Code (indirectly)	1. Principle of family solidarity – Civil Code
Hungary	✓ – Constitution – Civil Code (Family Law Book)	✓ – Civil Code (Family Law Book)	✓ – Civil Code (Family Law Book)	✓ – Civil Code (Family Law Book)	

124 Source: Author's own work.

Country	The principle of protection of marriage and family	The principle of equality between spouses	The primacy of the best interests of the child	Principle of fairness and protection of the weaker party	Other relevant and expressly listed principles
Poland	<p>✓</p> <p>– Constitution</p> <p>– Family and Guardianship Code</p>	<p>✓</p> <p>– Constitution</p> <p>– Family and Guardianship Code</p>	<p>✓ (As the principle of the good of the child)</p> <p>– Constitution of the Republic of Poland</p> <p>– Family and Guardianship Code</p>	<p>✓</p> <p>– Family and Guardianship Code</p> <p>– Law on Counteracting Domestic Violence</p>	<p>1. Principle of family autonomy</p> <p>– Constitution of the Republic of Poland</p> <p>2. The principle of maternity protection</p> <p>– Constitution of the Republic of Poland</p> <p>– Family and Guardianship Code</p>
Romania	<p>✓</p> <p>– Constitution</p> <p>– Civil Code</p>	<p>✓</p> <p>– Constitution</p> <p>– Civil Code</p>	<p>✓</p> <p>– Civil Code</p> <p>– Law No. 272/2004</p>	<p>✓</p> <p>– Law No. 217/2003</p>	
Serbia	<p>✓</p> <p>– Constitution of the Republic of Serbia</p> <p>– Family Act</p>	<p>✓</p> <p>– Constitution of the Republic of Serbia</p> <p>– Family Act</p>	<p>✓</p> <p>– Family Act</p>	<p>✓</p> <p>– Family Act</p>	<p>1. Principle of free decision of the childbirth</p> <p>– Constitution of the Republic of Serbia</p> <p>– Family Act</p>

Country	The principle of protection of marriage and family	The principle of equality between spouses	The primacy of the best interests of the child	Principle of fairness and protection of the weaker party	Other relevant and expressly listed principles
Slovenia	✓ – Family Code	✓ – Constitution – Family Code	✓ – Family Code	✓ – Domestic Violence Prevention Act	1. Principle of free decision of the childbirth – Constitution of the Republic of Slovenia
Slovakia	✓ – Constitution of the Slovak Republic	✓ – Family Act	✓ – Family Act	Only indirectly in the Constitution of the Slovak Republic	1. Principle of family solidarity – Family Act

Ad 1) The *principle of protection of marriage and family* appears in the legislation of most Central European countries at both the level of family law and directly in the constitution. It appears in the constitutions of Serbia,¹²⁵ Romania,¹²⁶ Hungary,¹²⁷ Croatia,¹²⁸ and Slovakia,¹²⁹ and in the Charter of Fundamental Rights and Freedoms as a part of the constitutional order of *Czechia* (all forms of family, not only family based on marriage).¹³⁰ In addition to the constitution, as the highest level of legislation, the Family Code or Civil Code of the given country also provides guidelines on this principle.¹³¹ Regarding the characteristics of the regulating system, the official justification of the *Hungarian* Civil Code emphasises that the special principles of the Family Law Book articulate the differences between family relations and business life, which are also significant in other rules of civil law and the Civil Code.¹³² The content and main elements of the *principle of protection of marriage and family* are essentially the same across all of the countries examined in this book. The principle is essentially based on the primacy of marriage, typically defined as a *consensual*

125 Constitution of the Republic of Serbia, Art. 66.

126 The Constitution of Romania, Art. 26.

127 Fundamental Law of Hungary, Art. I).

128 Constitution of the Republic of Croatia, Art. 61.

129 Constitution of the Slovak Republic, Art. 41.

130 Charter of Fundamental Rights and Freedoms of Czechia, Art. 32.

131 Králíčková, 2024.

132 For further detail, see: Barzó, 2017, pp. 37-38.

union between a man and a woman. However, several country reports emphasise that the sociological concept of the family is broader than the narrow legal definition of marriage. For example, according to *Serbian* law, protection of the family is understood as the protection of all families based on marriage, non-marital cohabitation, as well as single-parent families, such that children born out of wedlock are regarded as equal to those born in marriage.¹³³ *Croatian* law also interprets the principle as equally applicable to a marriage, informal extramarital union, and same-sex registered partnerships.¹³⁴ The country reports reiterate that the family remains a fundamental and uniquely valuable social institution to the individual. For instance, according to the *Slovenian* report, in 2015, 98% of respondents to a public opinion poll claimed that the family is important to them. Even for young families, the family represents an essential positive value.¹³⁵ *Polish* law stresses that while the family is formed on the foundation of marriage, the principle can also be applied to other relations (e.g. multigenerational families, reconstructed families, and cohabitation).¹³⁶

Ad 2) *The principle of equality between spouses* is now a requirement in all civilised countries, and it is included in several international documents. Consequently, it is a significant guiding principle of family law relationships and primarily regulated by the Family Act or Civil Code of respective countries. In some countries (e.g. *Romania*, *Slovenia*, *Serbia*, and *Poland*), spousal equality is enshrined in the constitution, as the principal is rooted in international human rights law and the requirement of equality before the law. In the *Polish*¹³⁷ and *Czech* legal frameworks, both the Constitution and the Family and Guardianship Code or Civil Code highlight the importance of equality.¹³⁸ Equality between a married couple also incorporates the requirements of the principle of parental equality.¹³⁹ An important element of the equality of partners is that it is not only meant for spouses, but the relationship of de facto partners and cohabitants.¹⁴⁰ According to *Hungarian* family law, the principle represents the equality of rights and obligations, including the right to make joint decisions in family issues, the provisions concerning the personal and property relations of spouses, and the rules concerning spouses as parents. Equality is ensured in two directions: namely, the marital relationship and in family life. The basic content is that neither spouse has power over the other's person or property, nor can they enjoy privileges in the area of parental custody over the other either during the marriage or upon its termination. The principle also incorporates the following elements:

133 Kovaček Stanić, 2024.

134 Korać Graovac, 2024.

135 Kraljić, 2024.

136 Andrzejewski, 2024.

137 Andrzejewski, 2024.

138 Králíčková, 2024.

139 e.g. Art. 483 of the Romanian Civil Code.

140 See, for example, the Serbian country report.

co-operation and support obligation, joint and independent decision-making rights, and choosing the place of residence.¹⁴¹

At the same time, we cannot ignore the *practical problem*—explicitly referred to in the *Croatian* country report—that, despite being a fundamental principle, equality is *not always achieved in real life*. As the author of the aforementioned report notes, on the one hand, data on domestic violence suggest that women are more frequently victims. On the other hand, fathers often complain about discrimination in the event of the termination of marriage and when exercising their right to parental care.¹⁴²

Ad 3) *The primacy of the best interests of the child* is one of the most important guidelines of family law and family protection, as it is protected at the international level within the framework of the Convention on the Rights of the Child. The aim of Art. 3 of the United Nations Convention on the Rights of the Child is to ensure that the rights of the child are applied and respected, with the best interests of the child serving as the primary consideration. Most countries recognise the principle at the national and normative level, although interpretations vary. For example, in the *Hungarian* Civil Code, the principle appears as the ‘protection of the interests of children’, which is not necessarily the same as ‘best interests of the child’. According to country regulations, the principle involves the following elements: a) In family law, the interests and rights of children merit enhanced protection.; b) All children have the right to grow up in their own family; c) If raising a child in his own family is not an option, all possibilities should be explored to find ways for the child to grow up in a family environment and to maintain prior family ties; d) The right of children to grow up in their own families, or alternatively in a family setting, and to maintaining prior family ties may be limited in cases defined by law, under exceptional circumstances and in the best interests of the child.

The principle is expressly listed in the *Romanian* Civil Code and a separate Act,¹⁴³ wherein the principle incorporates the child’s right to normal physical and moral development, socio-affective balance, and family life, which is linked to the rights and duties of parents.¹⁴⁴ Within the framework of the *Croatian* system, the principle appears at the normative level in family law among other branches of law.¹⁴⁵ *Polish* law emphasises that the ‘principle of the good of the child’ is a principle of the entire Polish legal system, which is stipulated not only by the Family and Guardianship Code but by the Constitution as well. It also encompasses the requirement that the best interests of the child be considered in all proceedings that directly or indirectly affect the child. However, inappropriate interpretations and the non-functioning of the system have been observed in the practice.¹⁴⁶ In the *Slovenian* law, the principle of the best interests of the child is a fundamental guiding principle in all matters

141 Sápi, 2024.

142 Korać Graovac, 2024.

143 Law No. 272/2004 on the protection and furthering of the rights of the child.

144 Florian and Floare, 2024.

145 Korać Graovac, 2024.

146 Andrzejewski, 2024.

concerning the child as a legal standard. That said, this legal standard is individually adaptable based on the given child's needs.¹⁴⁷ As in other countries, the court must fill in its content based on the circumstances of each specific case. According to the *Czech Civil Code*, the principle of the best interests of the child has gained significance within the framework of the rules of parental responsibility. It reflects to the fact that the child is no longer a passive object of the parents' activities, but an active subject with legally guaranteed rights.¹⁴⁸ That said, in most countries, the principle is a matter of *family law* (as highlighted in the *Serbian country report*¹⁴⁹) rather than *civil law*, which weakens its application in legal relationships that have an important impact on the life and interests of the child, even if they are not clearly family law relationships. As such, the best interests of the child should be seen as a principle that permeates civil law as a whole, and not just as a principle of family law.

Ad 4) The special role and nature of the *principle of fairness and protection of the weaker party* is reflected in the regulatory system, where it can serve as the basis of special independent acts, or as a particular family law principle, or as indirect guidance. An example of the independent-nature solution can be found in the *Slovenian* system, where a separate act, the Domestic Violence Prevention Act,¹⁵⁰ provides measures to protect victims of domestic violence and gives children special protection.¹⁵¹ Within the framework of *Romanian* law, there is a special act concerning domestic violence.¹⁵² However, these provisions have a very nuanced approach to family violence, and only an indirect relationship can be observed.

In other countries, the principle is understood as a family law principle enshrined in the Family Code or in the family law section of the Civil Code, as is the case in *Hungary* and *Czechia*.¹⁵³ According to *Hungarian* legal theory and practice, although there is a link between the principles of fairness and the protection of the weaker party, these two principles do not necessarily apply to the same situations.¹⁵⁴ The protection of the weaker party protects the person who, on account of his or her situation and circumstances, is less able to represent and assert his or her interests. Who constitutes the weaker party in a given situation can only be assessed in relation to the specific situation. Regarding fairness, the specific circumstances and the fact that the application of the law in a given life situation results in unfairness are relevant. In both cases, the circumstances need to be explored in detail, particularly in view of the fact that in family law relationships, fairness applied to one party can easily lead to unfairness to the other.¹⁵⁵ For instance, in *Serbia*, the protection of the

147 Kraljić, 2024.

148 Králíčková, 2024.

149 Kovaček Stanić, 2024.

150 The decision of the Constitutional Court of the Republic of Slovenia Up-70/15.

151 Kraljić, 2024.

152 Law No. 217/2003 on the prevention of domestic violence, Florian and Floare, 2024.

153 Králíčková, 2024.

154 Sági, 2024.

155 Szeibert, 2024.

weaker party is a family law principle regulated by the Family Act. According to the principle and the related rules, the weaker party has special rights in a family law proceeding. It also stipulates that the child may initiate action in a dispute over the protection of his or her rights and in a dispute over the exercise or deprivation of parental rights before a court regarding the territory in which the child has residence or a dwelling place.¹⁵⁶

However, more abstract interpretations can be observed. For instance, the principle appears only indirectly within the provisions of the *Slovak Constitution*, where it stipulates that *'Marriage is a unique union between a man and a woman. The Slovak Republic broadly protects and promotes its good. Marriage, parenthood and the family are protected by law. Special protection of children and minors shall be guaranteed'*.¹⁵⁷ An indirect solution can also be found in the *Croatian system*, where the principle of fairness is not explicitly emphasised in family law.¹⁵⁸

Ad 5) *The principle of family solidarity* also appears as a relevant principle of family law in some countries—namely, *Croatia*,¹⁵⁹ *Czechia*,¹⁶⁰ and *Slovakia*¹⁶¹—where it is linked to the socio-economic role of the family, encompassing all its members indiscriminately, and where its interpretation is reflective of societal values. Contributing to collective well-being should be an inherent value for all individuals, especially within the family, as it represents the fundamental social unit to which one belongs. This solidarity extends beyond financial matters in the eyes of the law. It is also recognised as the keystone of mutual aid and support. There is also a deep connection between the principle of family solidarity and the legal institution of maintenance.

The principle of the free decision of childbirth is a unique principle that can be regarded as a human right. This principle is protected by *Serbian law*, with the Constitution of the Republic of Serbia providing for the free decision of childbirth as a human right that can only be restricted on the ground of health protection.¹⁶²

In the *Polish legal system*, the *principle of family autonomy* is of paramount importance to the institutions of the state. However, while this ensures the ability of the family to function freely, it may be the basis of the erosion of the notion of family as a value. Therefore, it is imperative that the principle of family autonomy be interpreted in the right way, particularly insofar as an incorrect interpretation can create problems for societies. Under the Constitution of the Republic of Poland and the Family and Guardianship Code, *the principle of maternity protection* is an obligation of the state.¹⁶³

156 Kovaček Stanić, 2024.

157 Garayova, 2024.

158 Korać Graovac, 2024.

159 Korać Graovac, 2024.

160 Králíčková, 2024.

161 Garayova, 2024.

162 Kovaček Stanić, 2024.

163 Andrzejewski, 2024.

5. The role and regulation of assisted reproductive techniques

*'Globally, an estimated 1 out of every 6 people are affected by the inability to have a child at some point in their life. This is regardless of where they live and what resources they have.'*¹⁶⁴ According to a World Health Organisation (WHO) report and statistics, infertility affects a relatively high percentage of couples who want to have children.¹⁶⁵ Similar infertility figures can be seen across the globe. Around 17.5% of the adult population is facing infertility. As Dr Tedros Adhanom Ghebreyesus, the Director-General of the WHO, asserted, *'The report reveals an important truth: infertility does not discriminate.'*¹⁶⁶ Per the WHO definition, infertility is a disease of the male or female reproductive system defined by the failure to achieve a pregnancy after 12 months or more of regular unprotected sexual intercourse.

In addition to affecting birth rates, infertility has a negative impact on the psychological wellbeing of individuals struggling with infertility. Aleksandra Korać Graovac points out that we can expect to see a rise in the number of infertile couples in the future, underscoring the urgent need for solutions to infertility. The prevalence of infertility among reproductive-aged couples ranges between 12.6% and 17.5% worldwide, with relatively higher prevalence rates in some regions of the Americas, Western Pacific, Africa, and Europe.¹⁶⁷

On a practical level, as infertility rates increase, so the use of reproductive techniques is becoming more expensive. Moreover, these procedures are rarely 100% successful after the first treatment. Couples typically undergo at least three to four treatments, which is increasingly costly for their wallets. It is also clear that in vitro fertilisation (IVF) procedures have a low success rate. As such, the WHO argues,¹⁶⁸ it is becoming increasingly necessary for countries to provide state aid to help finance human reproductive procedures.

While this complex disease has a negative impact on the psyche and the formation of a family, current medical science already provides several answers and solutions for the treatment of infertility. However, it is necessary to provide an institutional and legal framework that can deal with the problem effectively and facilitate access to the assisted treatment of infertility and birth of desired children. Many of the country reports¹⁶⁹ included in this volume refer to the ethical and religious aspects and dilemmas of assisted reproduction procedures, all of which can be found in the broader literature on assisted reproduction. Assisted reproductive technology

164 WHO, 2023a, p. 5.

165 WHO, 2023b.

166 WHO, 2023a, p. 5.

167 Njagi et al., 2023, p. 2.

168 WHO: 'More needs to be done to: (...) Enhance inclusion of infertility in health policies, services, and financing, and achieve universal access to fertility care for all.' cited in WHO, 2023a, p. 29.

169 E.g. Marek Andrzejewski, Aleksandra Korac Graovac, Gordana Kovacek Stanic.

(ART) for the treatment of infertile couples (or persons) is considered an important biomedical intervention throughout the world.¹⁷⁰

This subchapters summation focuses on the following core issues:

It is necessary to compare and present the legal background and institutional system and highlight the curiosities.

An essential question is what kind of assisted reproductive techniques are accepted in the given country. This prompts the question of whether posthumous reproduction is allowed and whether single women can take part in such procedures. In this regard, the issue of the permitted or prohibited nature of surrogacy is significant.

It is important to review those measures and instruments—not only the legal ones—that can be used to promote assisted reproductive procedures. Therefore, focus is placed on the financial framework, that is, the costs incurred and the provision of state aid and subsidies for ART. Consequently, the approval of ART by a given country is not only reflected in the legal authorisation or acknowledgement, even in an effective institutional background, but also in the full or partial funding of these technologies.

5.1. The legal and institutional background

Most of the countries examining in this volume regulate ART via multilevel rules. In some cases, there is a separate act on human reproduction, typically linked to a healthcare act. The private law basis of assisted reproduction (i.e. family law relations) can be found in the civil codes or family law acts. Some countries have specific separate laws on medically assisted reproduction; others have no such separate legislation and regulation is fairly fragmented. This subchapter focuses on countries with comprehensive legislation in this area. It first presents the countries with comprehensive regulation of reproductive procedures, before discussing those where regulation is more fragmented.

In *Czechia*, the regulation of assisted reproduction is established by a special act¹⁷¹ and linked to other health services. This act defines the basic concepts (e.g. assisted reproduction, infertile couple, anonymous donor, mutual anonymity of the donor, the infertile couple, and the child) and conditions for ART (i.e. informed consent), as well as the various restrictions (e.g. age and kinship). In *Czechia*, regulation of this field is fairly liberal.¹⁷²

In *Serbia*, the Law on Biomedical Assisted Fertilisation¹⁷³ is a significant element of the country's family policy and regulates the most important questions of assisted reproduction system as a comprehensive separate act.¹⁷⁴

170 Njagi et al., 2023, p. 4.

171 Act No. 373/2011 Sb., as amended, on Specific Health Services.

172 Králíčková, 2024.

173 Law on biomedical assisted fertilisation, *Official Gazette of Republic of Serbia* 40/2017.

174 Kovaček Stanić, 2024.

In *Croatia*, the activities connected with medically assisted reproduction are laid down in the Medically Assisted Reproduction Act¹⁷⁵ and connecting regulations. In Croatia, the right to medically assisted reproduction may also be exercised by a *single woman* providing it is supported by medical opinion and the woman is regarded as medically infertile. From an institutional perspective, the National Commission for Medically Assisted Reproduction plays a key role, as does the Croatian Institute for Public Health and the Croatian Health Insurance Fund, which provides financial assistance (see below).¹⁷⁶

In *Poland*, IVF can only be conducted in a medically assisted procreation centre and may be initiated after other treatments conducted for no less than 12 months have been exhausted. The time limit does not apply if, according to medical knowledge, these treatments do not make it possible to obtain a pregnancy.¹⁷⁷

Romania has no specific independent statute on medically assisted human reproduction procedures. The regulation is quite fragmented, with various laws addressing the question from different points of view. Significant legislation includes the Civil Code, the Law on Healthcare Reform, the Law on the Rights of the Patient, and various lower-level regulations (e.g. Health Minister's Order on Therapeutical Transplants and the Health Minister's Order on the Implementation of National Public Health Programmes). Regarding the institutional framework, the Romanian Association for Human Reproduction plays an important role.¹⁷⁸

Regarding the *Hungarian* legal basis of ART is complex. The most important legal components are the Civil Code, which provides the family law aspects of ART; the Criminal Code, which stipulates the limits and restrictions of the procedures; the Health Care Act and its implementing decree, which regulate the permitted types of ART; and Decree 30/1998 (VI. 24.) on the detailed rules for the performance of specific procedures for human reproduction and for the disposal and frozen storage of gametes and embryos. In terms of the institutional system, most treatments are provided in infertility clinics. The 1729/2019 (XII. 19.) Government Decision on the National Human Reproduction Programme seeks to secure Hungary's demographic stability and ensure equal access to human reproductive procedures.¹⁷⁹

According to the *Slovak* country report, the legal background of ART in Slovakia is inadequate, incoherent, and beset by internal contradictions. The most important domestic elements of the legal basis are the Measure of the Ministry of Health of the Slovak Socialist Republic No. 24/1983 and Act No. 317/2016 Coll. on Requirements and Procedures for the Collection and Transplantation of Human Organs, Human Tissues, and Human Cells and on Amendments to Certain Acts.¹⁸⁰

175 The Medically Assisted Reproduction Act (*Zakon o medicinski potpomognutoj oplodnji*), Official Gazette, No. 86/12.

176 Korać Graovac, 2024.

177 Andrzejewski, 2024.

178 Florian and Floare, 2024.

179 Sápi, 2024.

180 Garayova, 2024.

Table 8. The legal and institutional background of ART¹⁸¹

Country	Legal basis	Institutional background
Czechia	Act on Specific Health Services Civil Code	
Croatia	Medically Assisted Reproduction Act Family Act	National Commission for Medically Assisted Reproduction Croatian Institute for Public Health Croatian Health Insurance Fund
Hungary	Civil Code Criminal Code Health Care Act and its implementing decree Decree 30/1998 (VI. 24.) on the detailed rules for the performance of specific procedures for human reproduction and for the disposal and frozen storage of gametes and embryos	Infertility clinics National Laboratory for Human Reproduction National Research Centre for Reproductive Methodology
Poland	Law on infertility treatment	Medically assisted procreation centre
Romania	Civil Code Law on Healthcare Reform Law on the Rights of the Patient Lower-level regulations	Romanian Association for Human Reproduction
Serbia	Law on Biomedical Assisted Fertilisation	
Slovakia	Measure of the Ministry of Health of the Slovak Socialist Republic, no. 24/1983 Act no. 317/2016 Coll. on Requirements and Procedures for the Collection and Transplantation of Human Organs, Human Tissues, and Human Cells and on Amendments to Certain Acts	Ministry of Health of the Slovak Republic Institute of Medical Ethics and Bioethics Central Ethics Committee of the Ministry of Health
Slovenia	Infertility Act Criminal Code	Slovenian National Institute of Public Health

181 Source: Author's own work.

5.2. *Acknowledged and questionable types of assisted reproductive technologies: The situation of single women, posthumous reproduction, and surrogacy*

The approach to procedures and the types of procedures are largely similar across countries, as the same international standards are applied. The two main types of assisted reproduction are *in vivo* and *in vitro* fertilisation, with the latter comprising numerous types in terms of medical treatment.

Artificial insemination is the oldest assisted reproductive technology and constitutes an *in vivo* fertilisation technique. From a historical perspective, artificial insemination is significant because it can be considered the basic method of assisted reproduction. It is available in the contemporary legal environment of the countries examined in this book. *Serbia* regulates insemination with the sperm of the husband, partner, or donor. Insemination with the sperm of the husband or partner is referred to as a homologous procedure, while insemination using a donor's sperm is referred to as a heterologous procedure.¹⁸² This is also the case in Hungary. So-called posthumous fertilisation is not regulated in Serbia.¹⁸³

In vitro fertilisation (IVF) is also regulated and applied in the given countries, where the first IVF babies were generally born in the 1980s. In *Poland*, IVF treatments are allowed for heterosexual pairs (married couples and cohabitants) who provide declarations of consent. However, these statements are not legal binding as their validity is not monitored. This opens up the possibility for single people or same-sexual couples to benefit from IVF procedures. A maximum of six female reproductive cells can be fertilised, unless the recipient is over 35 years of age or fertilising more is medically justified. Destroying embryos capable of normal development is not permissible (Art. 23). At the end of 2020, 122,000 embryos were stored in *Poland* (20,000 more than the previous year). The destruction of embryos capable of normal development incurs a punishment of six months to five years in prison. If a couple does not use all of their embryos, they will be donated to anonymously after 20 years. In-vitro procedures are permitted in *Poland* and the legal status of children born as a result of these procedures and their relationship with their parents may not be questioned.¹⁸⁴

In *Serbia*, married or heterosexual partners can be considered the subjects of medically assisted fertilisation procedures, as Serbia does not make provisions for same-sex partnerships.¹⁸⁵ The right to biomedically assisted fertilisation procedures is provided to adult and legally capable women who live alone and are capable performing parental duties in the best interests of the child. Under family law, a child born as a result of the donor insemination (AID) of a woman without a partner would not have a father, as establishing the paternity of a donor is not permitted.

182 Kovaček Stanić, 2024.

183 Kovaček Stanić, 2024.

184 Andrzejewski, 2024.

185 Kovaček Stanić, 2024.

In this case, the child would only have one parent, the mother. In terms of family law, a child's right to have two parents should be considered. If a single woman has access to AID, the right of the child to have two parents would not be respected. On the other hand, single women have reproductive rights, including the right to AID. Whether a single woman has the right to AID or not depends on which of these conflicting rights the legislator of a particular country considers more important: the right of the child to have both parents or the single woman's right to AID. In the United Kingdom, supportive parenting is a legal solution in situations where a woman without partner utilises ART.¹⁸⁶ In Serbia, posthumous fertilisation is not regulated.¹⁸⁷

In *Croatia*, single women are entitled to ART. However, embryos cannot be used *posthumously* as this would lead to the birth of a child unable to enjoy parental care from both parents.¹⁸⁸

Romania has not regulated posthumous in-vitro fertilisation, but does permit the use of ART by single women.¹⁸⁹

In *Hungary*, only ART defined in Act CLIV of 1997 on Health Care are permitted.¹⁹⁰

The *Slovenian* Infertility Act defines biomedical assisted reproduction procedures, namely, intra-uterine insemination and extra-uterine insemination (the union of egg cells and sperm cells outside the woman's body; the transfer of early embryos into a woman's uterus). A man and woman who are married or cohabiting and are regarded as infertile are entitled to use ART procedures. After the Constitutional Court annulled the Article of the Rules on Compulsory Health Insurance (RCHI), which stipulated that a woman has the right to insemination with biomedical assistance up to the age of 43, the Infertility Act stipulates that a woman must be of an age suitable for childbearing. Slovenian legislation does not allow posthumous fertilisation.¹⁹¹

According to *Czech* law, assisted reproduction may be performed on a woman under 49 years of age, based on a written request from the woman and man who intend to undergo this medical procedure together. Significantly, ART procedures cannot be performed on a single woman; only on married couples or de facto couples. While the law does not explicitly prohibit posthumous assisted reproduction, the need for consent effectively prevents it.¹⁹²

The following table summarises how paternal and maternal status is awarded for children born through ART. This topic is closely linked to the issue of surrogacy, which is discussed in more detail in the next paragraph.

186 For a more detailed picture: Kovaček Stanić G., 2014, pp. 151–169. and Kovaček Stanić and Samardžić, 2019, pp. 235–250.

187 Kovaček Stanić, 2024.

188 Korać Graovac, 2024.

189 Florian and Floare, 2024.

190 For further detail, see: Navratyil, 2011, pp. 109–121.

191 Kraljić, 2024.

192 Králíčková, 2024.

Table 9. Summary of the parental status of children born through assisted reproductive technique¹⁹³

Country	Maternal status	Paternal status
Czechia	– Mater semper certa est, the woman who has given birth to the child	– Mother's husband or partner of the opposite sex; written consent is always required
Croatia	– Mater semper certa est, the woman who has given birth to the child	– Mother's husband – De facto cohabitant partner shall provide a statement acknowledging paternity (certified by a notary)
Hungary	– Mater semper certa est, the woman who has given birth to the child	– Presumption based on the reproduction process – If the parents are married: presumption is based on the marriage bond – If the parents are not married: the man who has been involved in a reproductive process with the mother during their partnership shall be considered the father of the child
Poland	– Mater semper certa est, the woman who has given birth to the child	– The husband of the child's mother – A man who has acknowledged his paternity – A man whose paternity has been acknowledged in a court case
Romania	– Mater semper certa est, the woman who has given birth to the child	– The mother's husband, although he can contest the paternity if he did not consent to the procedure – Cohabitation: consent – Cohabitation: judicial establishment of paternity
Serbia	– Mater semper certa est, the woman who has given birth to the child	– The mother's husband (or the mother's partner) is to be considered the father of the child, but written consent is required – In the case of donated semen cells, the paternity of the man who donated the semen cells may not be established

193 Source: Author's own work.

Country	Maternal status	Paternal status
Slovakia	– Mater semper certa est, the woman who has given birth to the child	– The mother's husband (or the mother's partner) is to be considered the father of a child, but written consent is required
Slovenia	– Mater semper certa est, the woman who has given birth to the child	<ul style="list-style-type: none"> – The mother's husband or partner from cohabitation, provided they have consented to the procedure under assisted reproduction rules – If the child has been conceived with the help of a donor's sperm cell, paternity of the donor may not be established

Surrogacy is not legally accepted in any Central European country. There are minor differences in the way in which countries prohibit surrogacy. While some countries prohibit surrogacy through the concrete regulation of law (direct prohibition), others provide no regulations on surrogacy, thus excluding the possibility of surrogacy by omission (indirect prohibition). Many of the countries examined in this book do not regulate surrogacy in private law (i.e. Family Code and/or Civil Code); rather, they maintain the traditional principle of 'Mater semper certa est', which does not acknowledge surrogacy. However, public laws (i.e. Criminal Code and/or Health Law) expressly prohibit surrogacy.

Polish family law *indirectly prohibits* surrogacy insofar as the law stipulates that the mother of the child is the woman who gave birth to it.¹⁹⁴ Additionally, the invalidity of surrogacy contracts is reflected in the principles of social co-existence and good morals.¹⁹⁵ There is a gap in *Romanian* legislation on surrogacy, which is a grey area. Surrogacy is neither expressly forbidden nor specifically allowed. The fact of motherhood is based on the giving birth. While nursing pregnancy (altruistic surrogacy) is not fully prohibited, there are many obstacles to it and multiple rules negate the legal acknowledgement of surrogacy.¹⁹⁶ In *Czechia*, surrogacy has never been regulated or acknowledged by medical law. However, private clinics provide surrogacy without any legal regulation. It is important to note that civil law also rejects surrogate motherhood as a legal institution, as the Civil Code declares that the mother is the woman who delivered the child. The Civil Code stipulates that adoption is excluded among persons who are relatives in the direct line and siblings 'except for kinship based on surrogate motherhood' (§ 804, CC).¹⁹⁷ Slovak law stipulates the woman who gives birth to a child is recognized as its mother. Any agreements

194 Andrzejewski, 2024.

195 Art. 58 paras. 1 and 2 of Civil Code.

196 Florian and Floare, 2024.

197 Králíčková, 2024.

or contracts contradicting this principle are deemed null and void. However, if there is uncertainty regarding maternity, the court will adjudicate based on factual evidence related to the child's birth.¹⁹⁸

Direct prohibition can be found in *Serbia*, where the Family Act does not contain any concrete regulations on surrogacy.¹⁹⁹ That said, surrogacy is explicitly prohibited by the Law on Biomedical Assisted Fertilisation of 2017,²⁰⁰ and performing surrogate motherhood is a criminal offence punishable by imprisonment.²⁰¹ A similar method of regulation can be observed in *Croatia*, where surrogate motherhood is prohibited by the Medically Assisted Reproduction Act.²⁰² The Criminal Code of *Slovenia* also regards surrogacy as a felony, with the Criminal Code stipulating that anyone who illegally carries out the procedure of fertilisation with biomedical assistance using surrogacy shall be imprisoned for up to three years.²⁰³ In *Hungary*, surrogacy is not accepted, as stipulated by the Civil Code through recourse to the 'mater semper certa est' rule.²⁰⁴ Additionally, a direct prohibition can be found in the Criminal Code under the felony of 'Illegal Use of a Human Body', which stipulates that '*Any person who illegally acquires, sells or trades for pecuniary gain human genes, cells, gametes, embryos, organs, tissues, or a cadaver or part(s) of such, or a deceased fetus, is guilty of a felony punishable by imprisonment not exceeding three years.*'²⁰⁵

Table 10. Summary of the regulation of surrogate motherhood²⁰⁶

Country	Direct prohibition	Indirect prohibition
Czechia	–	– Civil Code
Croatia	– Medically Assisted Reproduction Act	
Hungary	– Criminal Code	– Civil Code – Healthcare Ac
Poland	–	– Family and Guardianship Code
Romania	–	– Civil Code
Serbia	– Law on Biomedical Assisted Fertilisation – Criminal Code	

198 Garayova, 2024.

199 Kovaček Stanić, 2024.

200 Art. 49/18.

201 On the topic, cf. Kovaček Stanić, 2013, pp. 35–57.

202 Korać Graovac, 2024.

203 Kraljić, 2024.

204 Art. 4:115 of the Hungarian Civil Code.

205 Art. 175 of the Hungarian Criminal Code.

206 Source: Author's own work.

Country	Direct prohibition	Indirect prohibition
Slovakia	–	– Family Law Act
Slovenia	– Criminal Code – Infertility Act	

5.3. The financial framework

Recent research funded by Human Reproduction Programme (HRP) and WHO has examined the costs associated with infertility treatments in low- and middle-income countries.²⁰⁷ Analysis found that the direct medical costs paid by patients for a single round of IVF are often higher than the average annual income—indicating the prohibitive costs of such treatment for most people around the world. Some countries have turned to the financial support system to promote reproduction. According to the country reports, several countries have reformed their financial support systems over the last two to three years after governments recognised the need to financially support medically assisted reproduction. Broadly speaking, few couples can comfortably cover the cost of medically assisted reproduction procedures.

In *Czechia*, assisted reproduction is covered by the general health insurance system.²⁰⁸

In *Serbia*, access to biomedical assisted fertilisation processes have increased since 2020. For couples trying to have their first child, a limitless number of stimulation procedures are available *free of charge* and women under the age of 43 are entitled to *three embryo transfers free of charge*.²⁰⁹ For the second child, women are entitled to two stimulation procedures and one embryo transfer free of charge.²¹⁰

In *Croatia*, the Croatian Health Insurance Fund covers *four intrauterine insemination* (IUI) and *six IVF attempts*, with an obligation that two attempts must be performed in a natural cycle. Generally, a woman cannot be older than 42 years of age, unless justified by health reasons. In an effort to increase the birth rate, several Croatian cities *co-finance more medically assisted reproduction attempts* in the amount of 40–80 percent of the total costs (e.g. Osijek, Makarska, Split, Sisak, and Umag).²¹¹

Under *Slovenian* law, the state pays for at least 80% of the value of health care services. If a person does not have supplementary health insurance, they will have to bear 20% of the costs of ART procedures. In the case of IVF, a woman is entitled

207 Njagi et al., 2023.

208 Králíčková, 2024.

209 State Instructions for conducting biomedical assisted fertilisation, *Official Gazette of Serbia* No. 06/2020.

210 Kovaček Stanić, 2024.

211 Korać Graovac, 2024.

to a maximum of six procedures for the first live birth and up to four procedures for subsequent births.²¹²

In *Hungary*, the control and institutional background of ART has shifted in recent years.²¹³ These procedures now receive full social security support, namely, six insemination and five IVF treatment procedures. However, there are groups who are completely deprived of free access, such as women over 45 and those who have already undergone five implantation procedures.

6. Closing thoughts

6.1. Lessons from the relationship between family policy and EU law

The lessons to be drawn from the relationship between family policy and the law of the European Union are the subject of a separate chapter in this volume.²¹⁴ Given the crucial role of the substantive law and judicial practice of the EU, it is worth briefly summarising these conclusions here. There are two main areas to focus on: demographic measures that can be implemented through the pension system, and measures that take family status into account. Although this is a matter for EU Member States, the case law of the Court of the Justice of the European Union (CJEU) shows that family policy aimed at promoting population growth can be seriously influenced by EU law and that the CJEU has given a very broad interpretation to the relevant EU provisions.

In the area of demographic subsidies of the pension system, the EU legislation on the prohibition of discrimination between men and women does not allow national legislators to recognise the fact that women usually spend more time raising children compared to men in the respective pension systems. This tendency usually has a negative impact on the pensions of women. This study also found that while the relevant EU legislation provides for the possibility of maternity allowances, the practice of the CJEU strictly limits this possibility to the birth and the weeks following the birth of the child.

The second issue concerns the granting of benefits on the basis of family status. In this respect, the chapter again draws attention to the fact that the practice developed by the CJEU on the basis of primary and secondary EU legislation does not allow for the achievement of demographic objectives, as CJEU practice does consider having children a public interest that would constitute an exception to the prohibition of discrimination. As a result, countries where only spouses can take

²¹² Kraljić, 2024.

²¹³ Sági, 2024.

²¹⁴ Korom, 2024.

advantage of family support benefits will likely find themselves in conflict with the interpretation of the CJEU on the prohibition of discrimination.

6.2. A final conclusion

As a general conclusion to this chapter, it can be established that all of the Central European countries studied in this book have implemented family policy measures aimed at encouraging childbearing.

Table 11. Fertility rate of the Central European countries between 2010-2022²¹⁵

Country	Fertility rate	
	2010 ²¹⁶	2022
Croatia	1.5	1.4
Czechia	1.5	1.6
Hungary	1.4	1.5
Poland	1.4	1.4
Romania	1.4	1.7
Serbia	1.4	1.5
Slovakia	1.4	1.5
Slovenia	1.5	1.6

Looking again at the fertility data for the last decade, although not consistent or necessarily dramatic, it is clear that fertility rates have increased in the reviewed countries over the last 10 years. Findings suggest that family policies have a positive impact on encouraging childbearing. Several of the Central European countries have strong family policies, such as Slovenia, Hungary, and Croatia, where—as this book shows—some elements of family policy are genuinely family-friendly.

However, we need to recognise that the number of births does not depend on family policies alone. In recent years, several events have had a negative effect on childbearing. In this respect, geopolitics can be understood as playing an important role in the propensity to have children, perhaps even more so than family policy measures. Arguably, had the major events of recent years—such as the COVID-19 pandemic, Russian–Ukrainian war, Israeli conflict, and resulting energy and financial crises—not taken place, the positive effects of family policies may have been

²¹⁵ Source: Author's own work.

²¹⁶ WHO, 2014.

much more visible. The sense of insecurity created by these events and their impact on the energy and economic crises, as well as their effect on psychological well-being, should not be underestimated.

Nonetheless, family policy measures are still necessary. Where there are no real family policies, the demographic winter could be much longer and colder. Attention should also be paid to the fact that the effects of family policies are long-term, influencing our evaluations of their efficacy. As the geopolitical situation improves, we can hope for an increase in the number of births and for the demographic winter to give way to spring.

Bibliography

- Andrzejewski, M. (2024) 'Poland: Ineffectiveness of legislation in defeating the demographic crisis' in Barzó, T. (ed.) *Demographic Challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 477–523; https://doi.org/10.54237/profnet.2024.tbdecce_14.
- Arsenović, D. (2024) 'Population of the World' in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 23–46; https://doi.org/10.54237/profnet.2024.tbdecce_1.
- Barta, J., Novoszáth, P. (2024) 'The impact of the demographic ice age on economic growth, public policy, and the sustainability of pension systems' in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 253–304; https://doi.org/10.54237/profnet.2024.tbdecce_9.
- Barzó, T. (2017) 'A családjog alapelvei és érvényesülésük nehézségei', *Miskolci Jogi Szemle*, 2017/special issue, pp. 37–57.
- Bielecki, M. (2024) 'Christian ethics promoting factors of the traditional model of the family, with special regard to canon law' in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 169–198; https://doi.org/10.54237/profnet.2024.tbdecce_6.
- Census of Population, Households, and Dwellings. Law on the 2022 Census of Population, Households, and Dwellings, *Official Gazette of Serbia*, No. 9/2020, 35/2021.
- Czech Statistical Office (n.d.): Population [Online]. Available at: <https://www.czso.cz/csu/czso/population> (Accessed: 16 February 2024).
- Engler, Á., Pári, A. (2022) 'A család jövője – az elsődleges szocializációs közeg társadalmi szerepváltozása', *Századvég*, 2(3), pp. 11–33 [Online]. Available at: https://szazadvegfolyoirat.hu/wp-content/uploads/2023/09/Szazadveg_2022_03_02_A-csalad-jovoje-%E2%80%93-az-elsodleges-szocializacios-kozeg-tarsadalmi-szerepvaltozasa.pdf (Accessed: 23 December 2023).
- Eurostat (2010) *European demography – EU27 population 501 million at 1 January 2010 – More than 5 million children born in the EU27 in 2009*. [Online]. Available at: <https://ec.europa.eu/eurostat/documents/2995521/5044858/3-27072010-AP-EN.PDF/pdf/df81f663-ca1f-4147-9021-ef3742ea8847?t=1414683137000> (Accessed: 15 February 2014).
- Eurostat (2022) File: Tab 1 rev Demographic balance, 2022 (thousands). png [Online]. Available at: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Tab_1_rev_Demographic_balance,_2022_\(thousands\).png](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Tab_1_rev_Demographic_balance,_2022_(thousands).png) (Accessed: 15 February 2014).
- Eurostat (2023a) *Key figures on Europe -2023 edition*. Luxembourg: Publications Office of the European Union, p. 11; <https://doi.org/10.2785/494153>.
- Eurostat (2023b): Population and population change statistics [Online]. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Population_and_population_change_statistics (Accessed: 14 February 2024).
- Florian, E., Floare, M. (2024) 'Romania: Positive law and top-down social engineering of families through legal means' in Barzó, T. (ed.) *Demographic Challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 525–580; https://doi.org/10.54237/profnet.2024.tbdecce_15.

- Fűrész, T., Molnár, B. (2020) 'A családbarát Magyarország építésének első évtizede az Európai Unióban', *Kapocs*, 3(3–4), pp. 3–11.
- Garayova, L. (2024) 'Slovakia: Safeguarding the future – Legal and policy solutions to demographic trends' in Barzó, T. (ed.) *Demographic Challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 623–680; https://doi.org/10.54237/profnet.2024.tbdecce_17.
- Gas-Aixendri, M. (2024) 'Spain: Intergenerational solidarity – Exploring the impact of demographic change on family dynamics and social policy' in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 725–753; https://doi.org/10.54237/profnet.2024.tbdecce_19.
- Harcza, I. (2014) 'A családformák változásának trendjei és azok értelmezése – a pluralizáció színe és fonákja', *Kapocs*, 13(4), pp. 2–13 [Online]. Available at: https://epa.oszk.hu/02900/02943/00063/pdf/EPA02943_kapocs_2014_4_02-13.pdf (Accessed: 23 December 2023).
- Jakab, N. (2024) 'Demographic challenges – Labour law responses' in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 229–251; https://doi.org/10.54237/profnet.2024.tbdecce_8.
- KINCS (n.d.) 'Kopp Mária Intézet a Népesedésért és a Családokért – Tevékenységünk: Kutatás', koppmariaintezet.hu [Online]. Available at: <https://www.koppmariaintezet.hu/hu/tevenyseguenk> (Accessed: 16 February 2024).
- Korać Graovac, A. (2024) 'Croatia: Demographic policy and family law combatting demographic decline' in Barzó, T. (ed.) *Demographic Challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 331–374; https://doi.org/10.54237/profnet.2024.tbdecce_11.
- Korom, Á. (2024) 'Family policy aimed at demographic incentives in EU law' in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 305–328; https://doi.org/10.54237/profnet.2024.tbdecce_10.
- Kovaček Stanić G. (2014) 'Comparative Analysis of ART in the EU: Cross-border Reproductive Medicine', *Medicina in pravo, sodobne dileme III* / [uredniki Suzana Kraljić, Jelka Reberšek Gorišek, Vesna Rijavec], Maribor, Pravna fakulteta, pp. 151–169.
- Kovaček Stanić G., Samardžić, C. (2019) 'Assisted Reproductive Technologies: New Family Forms and Welfare of Offspring in Comparative Family Law' in Rogerson et al. (eds.): *Family Law and Family Realities*. Hauge: Eleven, pp. 235–250.
- Kovaček Stanić, G. (2013) 'State Regulation of Surrogate Motherhood: Liberal or Restrictive Approach', *The International Journal of Jurisprudence of the Family*, 2013/4, pp. 35–57.
- Kovaček Stanić, G. (2024) 'Serbia: Legal Solutions in Family Law to Existing Serious Demographic Problems' in Barzó, T. (ed.) *Demographic Challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 581–622; https://doi.org/10.54237/profnet.2024.tbdecce_16.
- Kráľíčková, Z. (2024) 'Czechia: Demography, family policy, and law instruments to protect and support families' in Barzó, T. (ed.) *Demographic Challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 375–427; https://doi.org/10.54237/profnet.2024.tbdecce_12.

- Kraljić, S. (2024) 'Slovenia: Empowering families – legal instruments for supporting children, parents, and Families Amidst Demographic Challenges' in Barzó, T. (ed.) *Demographic Challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 681–723; https://doi.org/10.54237/profnet.2024.tbdecce_18.
- Lenkovics, B. (2024) 'The background of population decline' in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 129–168; https://doi.org/10.54237/profnet.2024.tbdecce_5.
- Michalski, M. A. (2024a) 'Macroeconomic impacts of demographic change' in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 83–101; https://doi.org/10.54237/profnet.2024.tbdecce_3.
- Michalski, M. A. (2024b) 'The Economy begins in the family' in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 103–127; https://doi.org/10.54237/profnet.2024.tbdecce_4.
- Molnár, B., Szarvas, A., Gellérné Lukács, É. (2022) 'Az előző 12 év magyar családpolitikája európai fénytörésben', *Századvég*, 2(3), pp. 86–106.
- Navratyil, Z. (2011) 'Az asszisztál reprodukciós eljárások főbb fajtái és történeti kialakulásuk az etikai-jogi reakciók tükrében', *Iustum Aequum Salutare*, 2011/1, pp. 109–121.
- Njagi, P. et al. (2023): 'Financial costs of assisted reproductive technology for patients in low- and middle-income countries: a systematic review', *Human Reproduction Open*, 2023/2, hoad007 [Online]. Available at: <https://doi.org/10.1093/hropen/hoad007>.
- Novák, K., Fűrész, T. (2021) *Családbarát évtized 2010-2020*. Budapest: Kopp Mária Intézet a Népesedésért és a Családokért (KINCS).
- Pap, T. (1982) *Magyar Családjog*. Budapest: Tankönyvkiadó.
- Pári, A., Rövid, I. (2023) 'Családra vágyunk! A Kopp Mária Intézet a Népesedésért és a Családokért felméréseinek eredményei 2018 óta', *Máltai Tanulmányok – A Magyar Máltai Szeretetszolgálat Tudományos Folyóirata*, 5(4), pp. 20–35; <https://doi.org/10.56699/MT.2023.4.2>.
- Pári, A., Rövid, I., Fűrész, T. (2024) 'Population of Europe – from a Hungarian perspective', in Barzó, T. (ed.) *Demographic challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 47–79; https://doi.org/10.54237/profnet.2024.tbdecce_2.
- Sápi, E. (2024) 'Hungary: Hungaricums of the family law policy' in Barzó, T. (ed.) *Demographic Challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 429–475; https://doi.org/10.54237/profnet.2024.tbdecce_13.
- Sauvy, A. (1963) 'Demographic ageing', *International Social Science Journal*, XV, 3, p. 355.
- Sobczyk, P. (2024) 'Constitutional foundations of family policy' in Barzó, T. (ed.) *Demographic Challenges in Central Europe: Legal and Family Policy Response*. Miskolc–Budapest: Central European Academic Publishing, pp. 199–227; https://doi.org/10.54237/profnet.2024.tbdecce_7.
- Szeibert, O. (2024) 'Családjog – Alapelvek' in Gárdos, P., Vékás, L. (eds.) *Nagykommentár a Polgári Törvénykönyvről szóló 2013. évi V. törvényhez*. Jogtár Edition. [Online] Last update: 1 January 2024.
- The Census of Population, Households, and Dwellings in the Republic of Croatia, 2021.

- United Nations (2019) *2018 Active Ageing Index, Analytical Report*. Geneva: United Nations, 2019. [Online]. Available at: https://unece.org/DAM/pau/age/Active_Ageing_Index/ECE-WG-33.pdf. (Accessed: 14 February 2024).
- United Nations, Department of Economic and Social Affairs (2014) *World Fertility Patterns*. New York: United Nations [Online]. Available at: <https://www.un.org/en/development/desa/population/publications/pdf/fertility/world-fertility-patterns-2013.pdf> (Accessed: 15 February 2024).
- WHO (2023a): Infertility prevalence estimates, 1990-2021. Geneva: World Health Organization, p. 5 [Online]. Available at: <https://iris.who.int/bitstream/handle/10665/366700/9789240068315-eng.pdf?sequence=1> (Accessed: 2 December 2023).
- WHO (2023b) '1 in 6 people globally affected by infertility: WHO', who.int, 3 April [Online]. Available at: <https://www.who.int/news/item/04-04-2023-1-in-6-people-globally-affected-by-infertility> (Accessed: 2 December 2023).

