

# **Substitute maintenance in theory and practice**

## **Abstract**

The author of the present work focuses on a new social security benefit that expanded the state social welfare system starting from 1 July 2021. Substitute maintenance is a blanket benefit intended to cover the costs of maintenance and care of dependent children for whom maintenance responsibilities arising from a court decision have not been properly fulfilled. In addition to presenting a new public-law institute in the context of its historical roots and ways in which it is projected into the valid legal order of the Czech Republic, this work also aims to assess the degree of state interference into the private-law sphere of family rights.

The introduction and the first part of the text focus on introducing maintenance responsibilities of parents towards children with an emphasis on the consequences of failure to pay maintenance. The author provides a detailed analysis of the issue of interest accrual on maintenance in court practice. The second part of the text presents the new legislation of substitute maintenance and takes an excursus into the history of the issue. This is followed by an analysis of Slovak legislation in the field. Part four of the text deals with impacts of substitute maintenance on selected legal areas and on the practice of the affected entities in exercising public authority. In the final, strictly practical chapter, the author addresses questions and requests to the competent state administration bodies, in accordance with the Act on Free Access to Information, to demonstrate from the obtained data the functioning of substitute maintenance over the period from 1 July 2021 to 30 April 2022.

By analysing maintenance responsibilities in the context of traditional functions and social significance of the family and the institute of substitute maintenance, the author finds that no clear conclusions can be drawn as yet on the specific consequences of public-law interference in private rights due to the short period of time that the substitute maintenance has been in effect. We can only speculate with reference to historical context and the consequences of weakening the importance of family relationships for the society and their role in educating an individual with responsibilities to the family and the society. The author also concludes that the relevant state administration bodies do not have adequate data through which the efficiency, economy and economic consequences of the institute could be assessed. This may be both because of the short time for which the

institute has been in force and because of the large scope of data registration for the purpose of statistics, reporting and publication.

The main finding of this work, therefore, points to a conceptual problem of the state's approach to adopting solutions to anticipated social situations, without requiring proof of need, through state support provided beyond the current system of social care for families with dependent children.

**Keywords**

Maintenance responsibilities

Substitute maintenance

Social benefit

Dependent child