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My Child Has Moved In with Me. Can I Claim Backdated Child Support?

> *Alternating care has broken down and your child now lives with you. How far back you can claim child support, what the court deducts and why you should not wait.*

MGR. BÁRA BARTOŇKOVÁ

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Alternating care worked for a couple of years. A week with one parent, a week with the other, and because it was "half and half", you agreed that neither of you would pay child support. Then something shifted. Your child started staying with you for longer, brought their school things over to your place and now goes to the other parent at weekends, if at all. The other parent still pays nothing, because "that's what we agreed".

Parents often come to me with this situation. The breakdown of alternating care is one of the most common reasons for a dispute over child support. The short answer is that you can claim child support for the past too, but for no more than three years before you file your application. From which day exactly depends mainly on whether a court approved your agreement. How much it comes to depends on both parents' incomes and on what the other parent has paid for the child in the meantime.

I write about how courts set child support in general in Child support after the 2026 reform — how much, how long, and what if they don't pay.

The old agreement covers the old arrangement

An agreement "without child support" rests on the parents caring for the child roughly equally, with each of them paying for what the child needs while the child is with them. As soon as the child starts living with one of them, that premise no longer holds. The law anticipates this. If circumstances change and the parents cannot agree, the court decides afresh on both care and child support, even without an application (Sections 909 and 923(1) of the Czech Civil Code and Section 475 of the Act on Special Court Proceedings).

What matters, though, is what kind of agreement you have. If a court approved it, it did so by judgment; that judgment can be enforced, and the court changes it when circumstances change. An agreement made only between the parents is not a court decision. Once you no longer agree on child support, the court sets it under the general rules (Section 919(1) of the Civil Code), possibly even for the period when care was still working.

Neither enforcement by a bailiff (*exekuce*) nor court enforcement is possible on the basis of an agreement the court has not approved. You need an enforcement title, which for child support for a minor is typically a judgment approving the agreement or setting child support (Section 40(1) of the Czech Enforcement Procedure Code and Section 251 of the Czech Code of Civil Procedure). Without one, you cannot get substitute maintenance from the Labour Office (*Úřad práce*) either, because it requires child support to be already under enforcement by a bailiff or by the court (Section 3 of the Czech Substitute Maintenance Act). I say more about it in Child support after the 2026 reform.

Even equally shared care never guaranteed zero child support. In finding file no. III. ÚS 1952/25 of 12 February 2026, the Czech Constitutional Court reiterated that child support is the child's income and should reflect the parents' standard of living (a finding, or *nález*, is a Constitutional Court ruling on the merits of a constitutional complaint). It can therefore be set even where care is shared equally. There is more on this in "I've Got Nothing to Pay With." Child Support When the Other Parent Claims to Have Nothing.

How far back

Child support can be awarded from the day the court proceedings began and, for children, also for up to three years before that day (Section 922(1) of the Civil Code). Proceedings begin on the day the application reaches the court (Section 82(1) of the Code of Civil Procedure). Child support can also be changed retrospectively where a court has already ruled on it. In the case the Constitutional Court dealt with in finding file no. II. ÚS 438/17 of 23 January 2018, the courts increased child support for exactly three years back from the date of the application.

Within those three years, what counts is the day circumstances changed. Where a change in circumstances is proven, child support is as a rule awarded from that change, including retrospectively, and the court cannot refuse it merely because the parent did not write to the other parent first or did not apply straight away (finding file no. I. ÚS 871/24 of 25 September 2024, paragraphs 49 and 52). In your case, that change is the child moving in with you. If your agreement was only between the two of you, however, the court can go back the full three years, even into the period of alternating care, especially where the other parent enjoys a markedly higher standard of living. In III. ÚS 1952/25 the courts, with care alternating, set child support from the month in which circumstances changed: the parents separated in April 2024.

So you need to be able to prove the date of the move. Useful evidence includes:

- confirmation from the school of which home the child travels to school from, who excuses their absences and who deals with the school,
- reports from the doctor and from after-school activities,
- a change of the child's address or place of residence,
- messages and emails in which the other parent acknowledges the new arrangement,
- bank statements showing who pays for school lunches, activities and clothes.

Above all, **don't wait**. The three-year limit moves forward with every day your application is not with the court, and whatever falls outside it, no one will award you. Money you spent in the other parent's place is hard to recover any other way. In finding II. ÚS 438/17 the Constitutional Court said that a parent's claim for unjust enrichment would most likely fail where no court has yet ordered the other parent to pay child support in that amount. The safer way to recover it is a child support claim made on the child's behalf.

What gets deducted

When setting child support for the past, the court takes into account what the other parent provably paid for the child during that time. In III. ÚS 1952/25 the regional court reduced the child support arrears owed by the mother because she herself had been paying her daughter's nursery school fees. The Constitutional Court described this correction as right and criticised the courts for failing to take into account that she was still paying those fees (paragraph 28). It nevertheless quashed the child support judgment, because the courts had not stated reviewably which incomes of the two parents they had used to calculate the amount (paragraphs 25, 26 and 30).

I see this regularly in practice. In court, the other parent produces statements showing payments for a summer camp, a phone or the dentist, and the amount the applicant asked for shrinks. Expect this in advance and put figures in your application that will survive that scrutiny.

Your care counts

The parent the child lives with largely meets their maintenance duty by looking after the child. The court must take into account that the parent personally cares for the child, and the extent to which they do so (Section 913(3) of the Civil Code). In finding III. ÚS 1952/25 the Constitutional Court stressed that the court must establish which parent personally cares for the child and to what extent (paragraph 22).

Caring for the child does not release you entirely, though. Where several people owe maintenance, the extent of each one's duty corresponds to the ratio of their financial circumstances, abilities and opportunities to those of the others (Section 914 of the Civil Code). The court therefore looks at both parents' incomes and can order both of them to pay child support. In III. ÚS 1952/25 the district court, with care shared equally, ordered each parent to pay CZK 6,000 a month; the Constitutional Court, however, quashed the judgment upholding that amount for insufficient reasoning.

Two observations from practice. The result tends to be lower than what the parent asked for in the application, because the court sets the two incomes side by side. And a great deal depends on what you yourself say at the hearing. If you describe the household budget in a way that suggests you have money left over, the court will take that into account. So prepare a real breakdown of the child's and the household's expenses and speak from it.

When the child turns 18 during the proceedings

Child support proceedings drag on, and a teenager may reach adulthood in the meantime. That does not end the proceedings. If a child reaches majority in the course of proceedings on their maintenance, the court completes the proceedings under the rules for minors (Section 477 of the Act on Special Court Proceedings).

What does change is the child's position. Under finding II. ÚS 438/17, on coming of age the child becomes fully capable of acting in the proceedings, and child support for the period after their eighteenth birthday always depends on the child's own application. The court must decide on the merits on child support for the period of minority, even if the adult child withdraws the application. Arrears for that period are then, as a rule, paid to the child, not to the parent. The money therefore goes to the child, not to the parent who has been covering their upkeep alone in the meantime.

In practice the court will hear the adult child, including on how much their hobbies cost. You will not be speaking for them, but you can talk through with them beforehand what the proceedings are about and what expenses they really have. Child support after 18 continues for as long as the child is unable to support themselves (Section 911 of the Civil Code).

What to do now

1. Write down the date from which your child has been living with you and start gathering evidence.
2. Send the other parent a letter setting out since when the child has lived with you, how much a month you propose and which costs you are basing it on. A letter is not a condition for backdated child support (I. ÚS 871/24), but a documented attempt to reach agreement helps in court.
3. If you reach an agreement, have it approved by the court. The court will approve it unless it clearly does not serve the child's interests (Section 919(4) of the Civil Code). It does so by judgment, and the parents cannot appeal against the part of the judgment approving the agreement (Section 476 of the Act on Special Court Proceedings).
4. If you do not reach an agreement, apply to the court to set the arrangements for care and child support, or to change them if a court has already ruled on them. There is no court fee (Section 11(1)(a) of the Czech Court Fees Act). Attach a breakdown of the child's costs, evidence of the move, your correspondence and everything you know about the other parent's income. State from which day you are claiming child support, no more than three years before you apply, and ask expressly for default interest, on which the court only rules if asked to (Section 472a of the Act on Special Court Proceedings). I explain how high it has been since 2026 in the article on child support when the other parent claims to have nothing.
5. Allow for time. The law requires the court to decide as a rule within six months of the start of proceedings (Section 471(2) of the Act on Special Court Proceedings); in practice it can take more than a year from the first letter to the judgment. A judgment on child support is, however, provisionally enforceable, and arrears must be paid within 15 days of its service unless the court sets a longer period or allows payment in instalments (Section 473 of the Act on Special Court Proceedings).

If the other parent does not accept the new situation and care needs to be arranged straight away, read You've received an application for a provisional decision on your child. What now? If your child has moved with you to another town, I explain how courts weigh distance and travel in How far apart can parents live and still share care?

Your child already lives with you and the other parent still isn't paying? I practise family law and will help you work out from when and how much child support it makes sense to claim, and prepare an application that holds up. Call me on +420 732 464 372 or email bartonkova@iustoria.cz.

This article describes the law as at 3 November 2026. It is for information only and does not replace legal advice on a specific matter.

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