

The issues of maintenance between parents and children (comparative study)

This diploma thesis deals with the issues of maintenance between parents and children. The maintenance is a traditional institute of civil law, which systematically belongs to family law. The family law concerns in general way more or less an everyday life of individual in society. The issues of maintenance are current and constantly developing topic, which the society pays traditionally significant attention to. The specific type of maintenance that is maintenance between parents and children represents from the point of frequency the most widespread type of maintenance, which is exercised in the society, especially as regards maintenance obligation of parents to children. It is possible to state, that the maintenance is a legal institute which is not the object of interest only of the legal public, but it is the topic which is discussed and closely watched by the entire society

This diploma thesis is held as the comparative study, the legal regulation of the Czech Republic is compared through the diploma thesis with the legal regulation of Federal Republic of Germany. From the point of structure the thesis is divided into introduction, twelve main chapters and conclusion.

The first chapter deals with general issues of maintenance, it focuses on characteristics of maintenance according to Czech and German legal theory, particular types of maintenance, protection of right to maintenance and its manifestations in the legal order and finally on fundamental conditions of right to maintenance and maintenance obligation. The second chapter concerns relations in direct line. The third chapter focuses on the needs (dependence) of rightful person. It deals with incomes and property of rightful person, its life needs and amount of maintenance. The attention is paid to specific institutes of German legal regulation, like Düsseldorf table, minimal maintenance for minor and counting of child allowance. The fourth chapter deals with the capacity of obliged person to fulfil maintenance obligation. It concentrates on incomes and property of obliged person and on minimal means for own sustenance of obliged person. The fifth chapter examines various cases of exclusion, reduction and discharge of right to maintenance and maintenance obligation. It contains the regulation of clause of undue hardship, maintenance performed back to the past, surrender the right to maintenance and the issue of limitation of action. It also concerns

discharge of right to maintenance and maintenance obligation as a consequence of death of rightful or obliged person. The sixth chapter concentrates on contracts regarding the maintenance. The seventh chapter deals with relations of priority, namely both with plurality of obliged persons and plurality of rightful persons. The eighth chapter describes the regress of maintenance in the German and Czech legal regulation. The ninth chapter deals with the forms of performance of the maintenance obligation. In the tenth chapter there is described the specific obligation to provide information, regulated only in BGB. The eleventh chapter is focused on the German and Czech legal regulation of proceedings in the cases of maintenance. The final twelfth chapter deals with the relation of maintenance to the social security law according to the German regulations.

The Czech and German legal regulation of maintenance are not significantly different. In general it can be stated that German legal regulation, respectively German legal theory, goes into greater details and examines certain issues in greater depth.