

Incomplete adoption and its legal consequences

Abstract

This diploma thesis focus on the analysis of Czech legislation of incomplete adoption and its legal consequences. Incomplete adoption in Czech legislation is understood as a adoption of full age person. This legal institut was adjusted in the Czech legal system until 1950, then it disappeared from the Czech legal adjustment and was re-introduced with approval of Act No. 89/2012 coll., The Civil Code. Contemporary legislation distinguishes between two types of a full age adoption, namely adoption, which is similar to the adoption of a under age person, and adoption, which is not similar to the adoption of a under age person. The distinction between these two types of a full age adoption, in contrast to the distinction between complete and incomplete adoption, is evident from the legal adjustment in The Civil Code, where each of the mentioned types of full age adoption is adjusted in a separate legal provision.

The first part of the work deals with the single concept of adoption, its development and possible ways of division, most of which in this part of the work focus on the division of adoption into complete and incomplete. What can be considered as incomplete adoption in the Czech legislation has already been stated, it is therefore necessary to state that the adoption of a under age person is considered as a complete adoption.

The second part of the thesis is already completely focused on the analysis of the legal adjustment of adoption of full age person. The beginning of this part is briefly dedicated to the historical development of this law institute, its very name, which in the context of general legislation of the Civil Code, can be described as not quite accuretly chosen. Then I deal with legal adjustment of two types adoption of the full age person where I analyse reasons and conditions under which the adoption of an full age person may be possible.

At the same time, I point out on the legal shortages that occur in the legislation adjustment which deals with one of the types of full age adoption and provide possible solutions to how can be shortages eliminated from the legal adjustment.

In the third part is analysed the legal adjustment of legal consequences which are associated with the full age adoption. This part explains the legal adjustment of the consequences full age adoption of, their significance, possible difficulties of their application, which is usually caused by insufficient legal adjustment or its absence.

The fourth part of the thesis is devoted to the procedural adjustment of the law institute of full age adoption, which is regulated in Act No. 292/2013 Coll., about special court proceedings and points out on several legal shortages appearing in this procedural regulation.

At the end of the work is provided a certain basic framework of legal adjustments for the full age adoption in European countries, specifically in Germany, England, Switzerland and France.

One of the partial goals of this thesis is to find an answer to the question whether the division of adoption into complete and incomplete adoption should not be explicitly regulated in the Civil Code. The result of this work should be, among other things, to provide an answer to the question and, in case of affirmative answer, to suggest a possible form of such an adjustment.

Another goal is, with consideration on the fact that a large part of society mistakenly identifies the adoption of an under age person with the full age adoption, to analyze in detail the individual differences between these types of adoption, especially to focus on analyzing legal consequences and examining whether it is obvious and whether they need to be explained by interpretation.

The result of the work should be to provide an overview of the most fundamental differences between the under age and full age adoption, through a comparison and analysis of legislation adjustments related to the adoption of an under age or full age person.

The last goal of the thesis is to clarify what is the different legal adjustment between adoption, which is and which is not similar to the adoption of an under age person.

The result should be, on the basis of the concerned regulation analysis, a clarification of what can be seen as differences and on the contrary in what is the legal regulation of both types of adoption identical.

Key words: adoption, adult adoption, family law