

Restriction of legal capacity proceedings

Abstract

This diploma thesis deals with the legal regulation of legal capacity proceedings. Integral part of this thesis is also analysis of related legal capacity substantive law and also other supportive measures such as preliminary declaration, representation of household member and assistance contract. The procedure which leads either to restriction of legal capacity, time extension, change or cancellation of the restriction is however the main point of this thesis.

The goal of this thesis is to provide comprehensive view on this type of proceedings in the context of relevant case law and courts practice. Thesis also shows the practical use of this institute in Czech Republic. It also contains the issue of mental illness and its impact on the daily life, the number of persons restricted in their legal capacity, the length of court proceedings and the issue of ID cards not containing the information about restricted legal capacity and its possible associated negative consequences. The author tries to suggest possible solutions to the problematic aspects of the legislation and current praxes.

The thesis is divided into four chapters. In the first chapter, the author writes about the possible alternatives the legal regulation offers to people who are not fully able to legally act. In the second chapter, author focuses mainly on the substantive law – what are the main conditions for restriction of legal capacity, in which areas of life is the legal capacity restricted and who could potentially be the legal guardian. The third chapter deals with the proceedings from its initiation through evidence to the decision or possible remedies. In the next chapter, the author focuses on the mental illness state of the population in the Czech Republic, the number of persons restricted in their legal capacity, the average length of court proceedings and the ID card issue. The conclusion contains the main points of the thesis enriched by the author's own view and experience and her proposed solutions.

Key words:

Legal capacity

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