

# **Legal position of a child and registered partners within the framework of foster care**

## **Abstract**

The aim of this diploma theses is to analyse the legal position of a child and registered partners within the framework of foster care and to reply to the question whether the current legal regulation of foster care ought to be altered in favour of registered partners.

The first chapter of the theses provides with the explanation of terms family and parenthood and closely deals with legal duties and rights of parents and children. It defines the constitutionally guaranteed right to family life of a child and registered partners and development of judicature concerning this issue. And this chapter also defines the crucial term of the best interests of the child.

The second chapter focuses on the legal institute of registered partnership. It deals with the legal regulation and its development, the development of the legal regulation in the European countries, especially in Germany. This chapter also analyses the issue of discrimination and unequal legal position of registered partners compared to spouses. Subsequently both institutes, registered partnership and matrimony, was compared.

The third chapter is fundamental. It focuses on particular forms of foster care with respect to the purpose of the legal regulation. Within the framework of analysing of particular forms of foster care it deals with the legal position of a child and registered partners and it especially deals with the issue of accessibility of foster care also for registered partners. This chapter presents German legal regulation as a potential source of inspiration for the Czech legislator.

In the last chapter we presented considerations *de lege ferenda* and evaluate the bill concerning so called marriage for all which is actually debated in The Chamber of Deputies.

Analysing constitutional and statutory legal regulation, we have arrived at a conclusion that there is no legitimate reason for current unequal legal position of registered partners compared to spouses and this unequal legal position is not in compliance with the constitutional order of the Czech Republic. Taking into consideration the purpose of the legal regulation of foster care and the best interests of the child as the paramount consideration in all actions concerning child we conclude that registered partners ought not to be in our conviction excluded *a priori* from the custody of a child within the framework of all forms of foster care.