

Abstract: The process of establishing a guardianship council – a comparison of statutory regulation and practical implications

This thesis focuses on the institution of guardianship council, included in the Czech legal regulation within the framework of the recodification of private law, aiming mainly at the question of the process of its establishment. The first part of the thesis is devoted to the currently available theoretical knowledge on the topic, which, in view of the more modest number of sources, is based mainly on commentary literature, internet sources and court decisions, in some parts supplemented by the opinions of the author of the thesis, as a person with the experience as a member of the guardianship council.

The author further takes advantage of his study stay in Finland and introduces the legal regulation of this Nordic country in matters of guardianship, compares Czech and Finnish legislation, looks for similarities and differences in both systems and reflects on their advantages and disadvantages. The two different systems are thus compared, with the guardianship court and a body composed of persons close to the ward and his friends playing the main role in one of the systems and the guardianship court and the state authority with delegated powers in the other system.

The focus of this work is then its practical part, approaching the possible course of the establishment of the guardianship council in practice, within the framework of the analysis of a real case in which the author was involved. This case demonstrates some of the possible pitfalls posed by the still imperfect legal framework on certain issues, full of vague legal terms that have not yet been interpreted by the professional community or by judicial practice in such a way that they do not continue to cause problems. There is therefore a significant difference between “law in books“ and “law in action“, where the process of establishing a guardianship council and the subsequent issues relating to the performance of duties of guardianship council are not easily grasped by the general public, including often the persons applying for the establishment of a guardianship council, but also by legal experts themselves.