

Parental Responsibility and Restrictive State Interventions

My thesis deals with the institute of parental responsibility. It describes and explains legal relations between parents and their children. Parental responsibility is a summary of mutual rights and obligations of parents and their children, where children as weaker subjects are more widely protected. Protection of children and their best interests is one of the most important principles of entire family law.

Nowadays the source of legal regulation of parental responsibility is mainly Act No. 94/1963 Coll., Family Act. It defines parental responsibility as a summary of rights and obligations a) while taking care of minor child, including especially taking care of child's health, physical, emotional, intellectual and moral development, b) while representing minor child, c) while administrating child's assets. Parents' rights mostly constitute also at the same time the obligations, i.e. parents are not only allowed to exercise their rights, but are also obliged to exercise them, if child's interest requires so. Some of the rights can be exercised by each parent independently, but parents must agree in the important matters.

My thesis also deals with possible restrictive interventions of state authorities, namely with suspension, limitation or deprivation of parental responsibility. All of these interventions must be duly justified by the best interest of the child and take place when parents do not exercise their rights and obligations according to law and in child's favour. Sometimes, a child can be endangered by staying with his or her family and it is in his or her best interest to be separated from his parents. These interventions should be used as ultima ratio; when possible, family should be preserved with providing help. If parents can not duly exercise their rights and obligations pertinent to their parental responsibility, another person or state has to substitute them. This has to happen under the scrutiny of a court.

New codification of civil law has been consulted and prepared. New codex will cover, among other, the entire area of family law and the current Family Act will be cancelled. The proposal of new regulation is more or less consistent with the current regulation.