

FOSTER CARE IN PRIVATE AND PUBLIC LAW

RÉSUMÉ

As a topic of my my diploma thesis I chose "Foster care in private and public law" because it is current and discussed matter. Czech Republic is often subject to criticism due to many children placed under the institutional care. Newly faces the issues of children taken away from their parents due to social reasons. Recently enacted new institute called „*the temporary foster care*“ suffers by the lack of more sophisticated details in a legal arrangement, especially the competencies and the conveniencies for prospective temporal foster parents, so the possible applicants are not motivated at all. At present is evident, that implementation of the temporary foster care went astray, and is totally ineffective.

This thesis describes and critically judges the legal regulation of foster care *de lege lata* and its practice in Czech Republic. The first chapter of this thesis briefly engages in the history of foster care with a focus on some significant historical landmarks.

The second chapter defines a concept, purpose and function of foster care, regarding children's rights, and informs about different types of foster care. Foster care is a state managed and state controlled form of substitute family care that guarantees sufficient material welfare of children and an adequate reimbursement for those who take care of the children. The main purpose of foster care is to provide an upbringing of the child in a family background, if he/she can't stay in own family because his/her parents cannot or are not able to take care of him/her. There are two types of foster care – individual and group foster care. Individual foster care is provided in families, group foster care is offered in foster care institutions or SOS children villages.

Next eight chapters deal with detailed description and analysis of the legal regulation of foster care *de lege lata*. Foster care is mostly designed for children who cannot be adopted due to health or social or legal reasons. It is often provided to older children or groups of siblings. Children can be placed under foster care of a natural person or under common foster care of a married couple; the only condition is the interest of the child. The foster parent has to give guarantees that he/she will provide proper upbringing of the child. The foster parent has the right to represent the child, and administer his/her matters only in relation to ordinary matters. Other specific acts (eg. application for passport) have to be approved by the legal representative of the child. In some cases the biological

parents are allowed to visit their child and have the right to decide in important matters related to the child (trips abroad, selection of schools etc.).

The relation between foster parent and foster child is created on the basis of a court verdict. This relation ends when the child reaches the legal age of majority. Foster care can be also annulled by court due to a significant fact. If the child is old enough to assess the content of foster care, his/her opinion should be taken into account.

Foster care is paid – there are four state subsidies: compensation for foster parents, allowance for the child's needs, allowance upon the acceptance of the child into foster care, or possibly allowance for the purchase of a car. The eighth and ninth chapter describe the process of mediation of foster care and its control. First, foster care is usually handled by state agencies (child-welfare agencies), though the state may in some cases outsource responsibilities to a private agency.

The last part of my thesis deals with the legal regulation of foster care in connection with the bill of new Civil Code whose second part will be the family law. In my opinion, incorporation of the family law in the Civil Code is significant step as to our traditions since 1811. The continuity was interrupted in 1950, when the family law was separated from the Civil Code.

Klíčová slova:

rodinné právo – family law

náhradní rodinná péče – substitute family care

pěstounská péče – foster care