

Summary

This Master's degree thesis addresses the issue of "The custody of underage children and the right to be in contact with them." The main attention is paid to the Czech legal instruments concerning the protection of underage children whose parents are getting divorced or do not live together. The thesis deals with the historical Czech legal development as well as the relevant legislation in force, different types of post-divorce care of children, their contact with both parents and other family members. A special emphasis is placed on the established practice of courts as well as relevant key judgments of the Czech Supreme Court and the Czech Constitutional Court. In comparison to the Czech legislation is described also the Slovak divorce regulation. Furthermore, relevant alterations introduced by the new Civil Code coming into effect on 1 January 2014 are considered.

Due to the personal and emotional nature of family law relationships, the thesis discusses also the psychological impact of divorce on children and their parent's behavior. These are important especially for judges, social workers, mediators and family law lawyers.

The thesis is composed of the following eight chapters: Introduction; Dissolution of Marriage; Award of Custody of Children; Contact with Children; Slovak legal regulation of divorce with underage children; Conclusion; List of Abbreviations, Bibliography and Judgments.

Chapter One is introductory and considers the role of family in our society, the significance of the family law, its specifics and the importance of additional protection of underage children in family relationships.

Chapter Two examines the development of Czech divorce legislation, current legislation in force (Act No. 94/1963 Coll. on Family, as amended) and alterations introduced by the new Civil Code. The chapter describes different types of divorce, settlement of the relationship between spouses and their underage children after divorce and protection of these children's interests.

The following chapter looks at the legal regulation and psychological aspects of awarding custody of children to the care of one or both parents. The chapter starts with a description of the historical development of parental responsibility in the area of today's Czech Republic since the Austrian Civil Code of 1811 up to now. Then we examine various models of upbringing children after divorce as well as the criteria considered by the court when making a decision about awarding custody. Furthermore, the question of participatory rights of children is addressed, followed by the description of the established practice of

courts and necessary preconditions for the court decision. Finally, the legal regulation of the new Civil Code is introduced.

Chapter Four discusses the right of children to parental care and to regular contact with both parents as well as the visitation right of a parent who was not awarded of custody. This chapter examines legal regulations of contact between children and their parents or other family members; parental agreement and judgment regulating the visitation right; legal consequences of violating the visitation right and reasons for restriction or court ban of parental contact. Moreover, it deals with inciting of children against the other parent (i.e. parental alienation syndrome), making the children to visit their parent against their will and other relevant issues. The chapter then shifts the focus to the judgments of the European Court of Human Rights concerning complaints of parents against the Czech Republic for a breach of Article 8 of the Convention on Human Rights and Fundamental Freedoms (i.e. the right to respect for his/her family life). The end of this chapter then looks at the relevant decision-making practice of courts if circumstances change and legal regulation of visitation rights in the new Civil Code.

Chapter Five deals with Slovak legal regulation of divorce with underage children. The chapter starts with a description of the historical development of Slovak family law and it compares Czech and Slovak divorce legislation, legal regulation of award of custody of children and contact with children.

Conclusions are drawn in Chapter Six that summarizes the aims and goals of the current legislation and its key issues.

The final two chapters then offer lists of abbreviations, bibliography, judgments and on-line sources.

Key words:

divorce, custody of an underage child, contact with an underage child