

Guardianship and other forms of care of minors

Abstract

The objective of this thesis is to analyse the legal possibilities in problematic situations when parents are not capable of caring for their children due to objective or subjective barriers on their sides. These possibilities are enshrined in the second part, Title III., § 928 - § 975 of the Civil Code of the Czech Republic. In order to derive recommendations for the Czech legal system, particularly with regard to the work overload of judges for minors in the Czech Republic, these regulations will subsequently be compared to the legal situation in France which is mainly determined by the Code civil and the Code de l'action sociale et des familles.

The comparison namely includes critical juxtapositions of tutorship, curatorship, entrusting a child to the care of another person, foster care and placing a child in the children's home. Hereby, the content, purpose and requirements of the legal bases for these areas in both countries are presented and contrasted. Thus, the differences are highlighted, evaluated and analysed with regard to the effectiveness and the level of protection of rights which is assured in the countries.

This thesis is divided into fourteen chapters, starting with the first two chapters covering the topics tutorship and curatorship in both countries. After giving an overview of the civil procedure based on the most current version of code no. 292/2013 in chapter six, the main focus throughout this thesis is on the substantive law of entrusting a child to the care of another person, foster care and placing a child in a children's home. Every chapter starts with a presentation of the legal frame as enshrined in the Czech Civil Code and continues with a description of the legal frame in France. Subsequently, both regulations are compared and the most significant differences are highlighted at the end of the chapter.

As a result of the before mentioned considerations a legal frame *de lege ferenda* for organizing the entrustment of children to substitutional forms of child care, which is addressing the identified problematic aspects of the Czech legal order.

Ultimately, this dissertation is concluded by giving some progressive and inspirational short-term recommendations for future law-making activities of the Czech legislative power with the goal to assure the protection of human rights in family cases.

Key words: minor, care, family