

Legal status of parents in adoption

Abstract

The goal of this diploma thesis is the analysis of the Czech legal regulation of the position of the parent during an adoption. According to Act No. 89/2012 Coll., of the the Civil Code, essence of the adoption is primarily a status change in the legal status of the parent and child, which consists in the termination of family relationships, including obligations and rights to the adoptee's original family. The consequence of adoption is the termination of the relationship between parent and child, which is considered for the basic status relationship of family law. However, the termination of family relations will not occur in the case of adoption of an adult, which is not similar to the adoption of a underage.

The first part of the thesis is briefly devoted to the concept of family, it reflects on its importance and a possible definition of this concept.

The second part deals with parenthood in the legal sense, the purpose of this part is to determine to who can be considered as a parent in accordance with Czech legislation, to whom the parental duties and rights testify, and mainly who create the basic status relationship of parent and child. Within this part, the legal regulation of maternity and paternity is discussed separately. Regarding the legal institution of paternity, both the legal regulation of its determination and the father's right to deny his paternity are stated.

The third part is focused on the legal arrangement of mutual obligations and rights, which are the matter of the relationship formed between parent and child, and which are gradually weakened by adoption, until they completely vanish as a result of the adoption decision. A significant part is devoted mainly to the obligations and rights of parents towards children, as they form the main essence of this relationship.

The fourth part deals with the legal institution of adoption. The beginning of this part is briefly devoted to the concept of adoption, then to the basic terms and characteristics of both the adoption of the underage and the adoption of an adult.

The fifth part focuses in detail on the legal regulation of consent with an adoption, primarily on the legal regulation of parental consent. The right of parental consent to adoption is an important personal right that has a fundamental impact on the legal status of the parent, which is why it is given such attention in this work. This section is also devoted to the possibility of adoption without parental consent, as the Civil Code also regulates exceptions when parental

consent is not required for adoption. Within this part, the role of the parent is discussed both in immediate care and in care before adoption, which is a mandatory condition for adoption in our legal system. The conclusion of this part is devoted to the change in the legal status of parents in context with a positive adoption decision.

At the end of the thesis is discussed the German legal regulation of the legal status of parents during adoption, which is contained in the German Civil Code *Bürgerliches Gesetzbuch*. However, the purpose of this section is not to provide a detailed analysis of the legislation in this regard, but to focus on the key legal institutes affecting the legal status of parents

The main goal of this work is the analysis of the legal status of parents during adoption in the current legal system. I purport to answer these two basic questions: Does the position of the parents change during adoption? And if so, in what way? As part of the set goal, I clarify who can be described as a parent in the legal sense of the word and state what obligations and rights are associated with the legal status of the parent, not only in the context of adoption, and then it will be stated how the legal status of the parent will change after adoption.

Another sub-goal of the thesis is to try, within the framework of the analysis of the issue of the legal status of parents during adoption, to answer whether certain legal imperfections or difficulties in its application can be seen in some aspects of the legal status of parents, and if so, I will try to propose possible solutions. At the same time, in this context, I will outline the different opinions held by experts in the commentary literature.

The last sub-goal of the thesis is to compare the German legal regulation of the status of parents during adoption in the German Civil Code with the Czech legal regulation. Above all, I tried to focus on legislation that differs from the Czech legislation, and which could be an inspiration and at the same time a possible solution to the imperfections of the Czech legislation.

Key words: parents, adoption, family law