

Legal status of a child after break-up of their parents

Abstract

The goal of this thesis is to thoroughly elaborate about possible arrangements of situation of a child after the break-up of their parents, with focus on specifics of joint custody. The aim is also to critically evaluate corresponding practices of the Czech Constitutional Court and to put current legal regulations into historical and comparative context.

The topic of this diploma thesis is legal status of a child after break-up of their parents. It is focused both on children of married and unmarried parents. An extra chapter about legal status of children from atypical families is also included, which addresses unusual legal positions of children of same-sex parents, children born via surrogacy and children raised by foster and adoptive parents. In the first chapter the marriage, cohabitation and differences between these two is discussed. A brief description of how the law in question evolved is included as well. The interest of a child is also characterized, as it is the primary consideration when (not only) courts are deciding about children. Third chapter covers parental responsibility. The following part is mostly focused on the topic of custody including an overview of the historical context. In this part, forms of custody and their specifics are described and an overview of interpretation issues resulting from regulations and laws is given. The section is also supported by findings from the field of psychology regarding forms of custody with focus on joint custody and parent alienation syndrome. A section about child perception of a divorce is also included. Next chapter depicts visitations between a child and their parents and also between the child and other persons. Selected practices of the Czech Constitutional Court are also included as a supplement to the commentary in previous sections. Acquired knowledge is briefly compared with legal systems of Slovak Republic, Kingdom of Spain and United Kingdom of Great Britain and Northern Ireland. In the conclusion, I propose several changes to the current regulations.

The thesis uses especially analytical and synthetical methods, but also deductive and comparative methods.

Key words: child custody, child visitation rights, interest of a child