

Judicial Decision-Making in Proceedings of Judicial Care for Minors With a Focus on the Issue of Parental Manipulation of a Minor

Abstract

This thesis focuses on the issue of parental manipulation of a minor in proceedings of judicial care for minors, particularly in terms of proceedings regarding the child custody and personal contact with a parent. The objective of this thesis is to study the forms of parental manipulation and its consequences for a child, as well as analyze the role of parental manipulation in judicial decision-making in the aforementioned proceedings. The final aim of the thesis is to evaluate whether there is room for improvement of the situation of children affected by parental manipulation, and if so, bring up *de lege ferenda* proposals.

The first chapter describes the legislation of proceedings of judicial care for minors. It focuses mainly on procedural aspects of the proceedings, describing them from the moment of the initiation of the proceedings to the enforcement of the decision, including the description of interim measures. Special attention is devoted to amicable settlements, in particular to the Cochem model which has continued to gain significance in recent years. Substantive law issues addressed in this chapter include characteristics of the forms of child custody, their mutual relationship and suitability in various situations.

The second chapter deals with the term of manipulation and its occurrence in the legislation. Subsequently, it examines the forms of manipulation and the potential consequences which a manipulated child may experience. A subchapter is dedicated to the parental alienation syndrome, describing the original concept introduced by Richard Alan Gardner and studying its validity which has been widely questioned among experts.

In the third chapter, the thesis analyzes decisions of the courts in proceedings involving parental manipulation of a child. The chapter is divided into several subchapters addressing various situations that may occur in proceedings as a result of manipulation or suspected manipulation.

The fourth chapter is focused on the child's views, ways of ascertaining them as well as the weight given to them in decision-making regarding the child custody and personal contact with a parent. Subsequently, it analyzes situations where the child's

views are a result of previous parental manipulation. It poses a question, how the courts decide if the child's views influenced by a parent are contrary to the child's best interests. In this context, the thesis examines decisions of the Czech courts together with decisions of the European Court of Human Rights.

The thesis then provides general conclusions about the judicial decision-making in cases where a minor is found to have been manipulated by a parent and offers *de lege ferenda* proposals for the purposes of more effective child protection from parental manipulation.

Keywords: manipulation of a child, proceedings of judicial care for minors, child custody