

# **Proceedings concerning the legal capacity and guardianship of a person with limited legal capacity**

## **Abstract**

The thesis deals with the procedural regulation of the proceedings concerning the legal capacity in a narrower sense, i.e. the proceedings on the limitation of the legal capacity of a person and the subsequent proceedings on the appointment of his/her guardian. Legal capacity is closely linked to legal personality, and therefore any interference with legal capacity, especially its limitation, is a serious interference with the personal integrity of a person, and the process of such interference must be sensitively regulated by law.

The aim of the thesis is to map and analyse the legal regulation concerning the limitation of a person's legal capacity, primarily from the procedural law point of view, but also by analysing the relevant substantive provisions.

The first part of the thesis deals in detail with the institute of legal capacity, its definition and the various ways of acquiring it. In the second part, the thesis deals with more supportive (milder) measures that serve to safeguard a person's interests without having to limit his or her legal capacity. The related institutions such as preliminary declaration, assistance in decision-making and representation by a household member are inextricably linked to the process of limiting a person's legal capacity, as the court is always obliged to examine whether the person's interests cannot be secured by one of these measures. This section contains both the substantive prerequisites for each measure and the corresponding procedural rules. The third part of the thesis contains a detailed analysis of the substantive legal prerequisites that must be fulfilled in order for the court to be able to impose a restriction of legal capacity. The fourth and most extensive part is the centre of gravity of the thesis, in which the current procedural regulation of the proceeding concerning legal capacity is described and analysed in detail. The fifth part focuses on the proceeding on the appointment of a guardian to a person limited in his or her capacity. This part of the thesis also focuses on the related supervision of the guardian by the court and the often ongoing proceedings for the approval of legal actions on behalf of the ward (the person with limited legal capacity). The sixth and final part of the thesis deals in more detail with the sub-issues of the proceeding for the review of legal capacity.

In all parts, the author deals comprehensively with the relevant legislation, focuses on the problematic parts, which are still not clear and uniformly interpreted, and also offers insights and observations from his practice and outlines possible *de lege ferenda* solutions.

**Key words:** Legal capacity, limitation of legal capacity, guardianship of a person