

Proper Supervision of Minors under Civil Law

Abstract

This thesis deals with tort liability in the legal system of the Czech Republic, specifically cases when supervisors neglect to exercise proper supervision over a minor. The thesis is based on the relevant provisions of Act No. 89/2012 Coll., the Civil Code. From this law, the thesis infers when it is necessary to supervise minors. The thesis summarises that the regime of civil tort liability of the supervisor may arise in cases where the minor acts both as a tortfeasor and as a victim. In addition to the Civil Code, the thesis reflects the relevant provisions of the Charter of Fundamental Rights and Freedoms and the Convention on the Rights of the Child. The thesis also introduces other relevant legislation, especially in the field of administrative law.

The focus of the thesis lies in the analysis of decisions of courts in the Czech Republic, which have repeatedly dealt with cases of neglect to exercise proper supervision over a minor in the past. A systematic method is used to classify the individual evaluation criteria of neglect of proper supervision of minors. The work specifies the vague notion of proper supervision in such a way that it should be carried out in an appropriate manner; in recognition of the individuality and interests of the minor; with regard to specific conditions and objective possibilities; and with regard to the relationship between the supervisor and the minor. These sub-criteria are subsequently given attention, particularly in relation to cases which have been dealt with by the courts in the past or in which the establishment of tort liability can be expected.

The thesis further concludes that the standard of proper supervision has become more stringent over the last 100 years and that higher demands have been placed on supervisors over time. However, in 2015, the Constitutional Court of the Czech Republic issued a judgment ruling that highlights the importance of the constitutionally protected rights of children and their parents. The impact of different parenting styles on the psychological development of minors permeates the entire work. Excessive strictness in assessing the propriety of supervision could lead supervisors to supervise minors in a so-called hyperprotective manner. However, this type of supervision could have negative effects on the development of minors in the long term. The thesis concludes that courts should also take into account other evaluative criteria than mere immediate supervision when deciding on these cases and should examine more closely whether the children's constitutionally protected rights would be affected by a possible judgment on damages.

Key words: Standard of Care in Supervision, Minor as Tortfeasor, Minor as Victim