

VULNERABILITY AND FAMILY SOLIDARITY IN CZECH LAW

Zdeňka Králíčková¹

ABSTRACT

Human life unfolds in stages, in which the degree of dependence on the family gradually changes. Further, every human life has periods of vulnerability – being a minor child, a person with a disability, or an elderly person – which is expressed by the universal vulnerability thesis. In addition to this general thesis, the doctrine expresses the specific vulnerability thesis regarding refugees, both types of homelessness, and minorities. The law previously focused its attention on the protection of these vulnerable persons. However, this paternalistic paradigm is currently complemented by the demand to strengthen respect for the autonomy of the will of vulnerable persons. Therefore, the Czech Civil Code provides vulnerable persons with both the protection and the space for a dignified expression of their will. This extends beyond representation to include respect, assistance and support. This approach strengthens the material equality between people and the balance in private-law relations. Finally, the role of the family and family solidarity is gaining importance.

KEYWORDS

family law
vulnerability
autonomy of will
respect
support
protection
family solidarity

1. Introduction

Vulnerability and family solidarity are interdependent. Therefore, any family members may be vulnerable. This depends on factors like age, health, and family living circumstances in everyday life.

If a minor child is at risk, his or her parents and the family of his or her origin shall provide the child with care, protection, support, and maintenance, especially within the

1 | Full Professor, Faculty of Law, Masaryk University, Brno, Czechia; zdenka.kralickova@law.muni.cz; ORCID: 0000-0002-4838-4790.



concept of parental responsibility and according to other family law provisions reflecting respect for the child's autonomy of will and his or her participatory rights.² However, regarding adults as vulnerable people, there are many family law instruments and other special civil law concepts provided for those people who need protection as well as assistance, support, and respect for their autonomy and participatory rights. If a vulnerable adult is in crisis, his or her family members shall provide him or her with general protection and maintenance and become supporting persons or guardians with respect for the autonomy of will and the right to participate of these vulnerable persons. It is, therefore, not just a question of protection, but above all, of respect for previously expressed wishes or continuing powers of attorney.³

It may appear that the protection of other persons is unrelated to this topic. However, in addition to the abovementioned categories of vulnerable people, there are other family members who can be identified: an unwed mother of a child of tender age, an abandoned, divorced, or widowed spouse or partner, or a cohabitee. The term 'vulnerability' is generally not used in these situations. However, in the case of vulnerable persons, it is not only a matter of age or health – vulnerability in the strict sense of the word – but also of life situations, adverse circumstances, and so on.⁴ In this context, the right to maintenance, fair property settlement, and the division of community property and family housing after abandonment, separation, or divorce, for example, become more important and deserving of protection.⁵

The following sections are devoted to the many aspects of vulnerability: special instruments, supportive and protective measures, and application of the principles of family solidarity.

2. Human rights concepts of vulnerability, family and family solidarity

Every human life unfolds in stages and has periods of dependence on the family or vulnerability, for example, being a minor child, a person with a disability, or an elderly person. This is expressed in the universal vulnerability thesis. In addition to this general thesis, the doctrine discusses the concept of a specific vulnerability regarding refugees, both types of homelessness, and minorities.⁶ It is common knowledge that anyone can become vulnerable due to his or her life story, position in a family, and social ties.

Thus, there are many legal sources devoted to vulnerability, family and family solidarity. First, the discussion must be foregrounded with an introduction to two of the most

2 | Králíčková, 2022a, pp. 73–104.

3 | Králíčková et al., 2023.

4 | Králíčková, 2011, pp. 362–377.

5 | Králíčková, 2021a, pp. 77–109.

6 | Šimáčková, 2019, pp. 24 ff.

important special international covenants⁷ protecting the most vulnerable groups: minor children and adults with disabilities.

The United Nations Convention on the Rights of the Child⁸ states in the Preamble with reference to the Declaration of the Rights of the Child, that

The child, by reason of his or her physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth', that 'the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding' and that 'the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.

Regarding autonomy of will and participatory rights of the child, it is stated that

1. State parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The United Nations Convention on the Rights of Persons with Disabilities⁹ is the first international, legally binding instrument that sets minimum standards for the rights of people with disabilities. It provides the purpose of the Convention, which is

To promote, protect and ensure the full enjoyment of all human rights and fundamental freedoms by all persons with disabilities. People with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others,

and the general principles of the Convention are

...of respect for dignity; non-discrimination; participation and inclusion; respect for difference; equality of opportunity; accessibility; equality between men and women; and respect for children.

7 | Additionally, according to the Constitution of the Czech Republic, Promulgated treaties, to the ratification of which Parliament has given its consent and by which the Czech Republic is bound, form a part of the legal order; if a treaty provides something other than that which a statute provides, the treaty shall apply (Article 10 of Act No 1/1993 Sb. on the Constitution of the Czech Republic, as amended).

8 | In Czechia published under No 104/1991 Sb.

9 | In Czechia published under No 10/2010 Sb. m. s.

It must be stressed that the Convention is devoted to all persons with disabilities; however, the special provisions focus on women and children. Additionally, the Convention pays special attention to family life in that

people with disabilities have the right to marry and to found a family. Countries must provide effective and appropriate support to people with disabilities in bringing up children, and provide alternative care to children with disabilities where the immediate family is unable to care for.

However, the crux of the Convention is the provision that guarantees equal recognition before the law which is associated with respect for the autonomy of the will of vulnerable persons and a full range of support measures. This is a move away from limiting their autonomy and merely representing them. It is stated that,

States Parties shall recognise that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life', that 'States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity' and that 'States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

Mentioned in the literature, 'the problem is not limited to the protection of those suffering from lifelong or other learning disabilities ... it concerns us all, in the medium or short term.'¹⁰

Next, there is the universal human rights convention protecting European human rights values, life, and vulnerability in general, freedom, the right to marry, and especially the right to respect for private and family life without specifying it. The Convention for the Protection of Human Rights and Freedoms¹¹ constitutes the key starting point for the conception, regulation, and protection of families in the Czech Republic, as it protects the right to respect for the private and family life of everyone. The case law of the European Court of Human Rights describes the Convention as 'a living' instrument and provides protection for all forms of families and all models of family life.

We can say that the inner Charter of Fundamental Rights and Freedoms (Constitutional Act No 2/1993 Sb., as amended, further mainly 'Charter') is fully in harmony with the above-mentioned wide concept of protection of vulnerability in the broadest sense and family life guaranteed by international instruments. With reference to the above human rights conventions and their standards, it must be added that the Charter of Fundamental Rights and Freedoms recognises the inviolability of the natural rights of an individual, develops the universally shared values of humanity and equality of people in

10 | Frimstone et al., 2015, p. xi.

11 | In Czechia published under No 209/1992 Sb.

dignity and their rights, and stipulates that fundamental rights and freedoms are inherent, inalienable, not subject to a statute of limitations, and irrevocable. Further, everyone has the capacity to have rights (cf., in particular, the introductory articles, Charter). In addition to articles devoted to the protection of private and family life and parenthood and family, the Charter also stipulates that everyone has the right to the protection of their health, and that persons with a disability are entitled to special protection of their social rights. The right to judicial and other legal protection is enshrined in other provisions of the Charter.

Within the recodification of civil law in the new Civil Code, the aim of the new concept was to provide the individual with complex protection in all aspects of private life (Act No 89/2012 Sb., Civil Code, as amended, 'CC'). The introductory provisions of the Civil Code provide that

Private law protects the dignity and freedom of an individual and one's natural right to pursue happiness for oneself and one's family or people close to the individual in a manner that does not cause unjustified harm to others.

It further provides that 'everyone has a right to the protection of one's life and health, as well as freedom, honour, dignity, and privacy' and that 'no person may suffer unjustified harm due to insufficient age, mental state or due to dependence'.

The Civil Code also regulates the protection of personal rights quite extensively, including the right to mental and physical integrity, special provisions regulating the rights of persons admitted to a healthcare facility without their consent, and the rules on the disposal of parts of a human body. The primary aim of the authors of the Civil Code was to ensure that all individuals could exercise their rights in relation to the key principles of private law: the autonomy of will and freedom of contract. Simultaneously, they intended for the provisions of the Civil Code to provide comprehensive protection for the private rights of persons who find themselves vulnerable due to insufficient age, mental state, or dependence, especially those who are the weaker party. This protection is reflected in Book One – General Part, as well as in the special parts such as Book Two – Family Law of the Civil Code.

Notwithstanding the above human rights dimension, there are many provisions in the Czech Civil Code that provide broad and detailed protection to vulnerable people in many spheres. The individual provisions are based on and fully respect the principle of autonomy of will and family solidarity as universally recognised, unwritten, traditional, and fundamental bases of Czech Family and Civil Law.¹²

It must be stressed that there is no definition of family and family members in Book One – General Part or Book Two – Family Law of the Civil Code. The fact that the Civil Code provides explicit protection to the family established by marriage does not change the matter. Same sex status relationships are the subject of special legislation by the Act on the Registered Partnership (Act No 115/2006 Sb., as amended, further 'ARP'). In addition, there are explicit provisions in the Civil Code that apply to registered partners, or provisions that place registered partners in the same position as spouses or former spouses. And as a novelty, there have currently been changes in this area which will come into force on 1 January 2025. Same-sex partnerships will be regulated in the Civil Code, like

12 | Králíčková, 2010, pp. 10 ff.

marriage for opposite-sex couples, and a separate law will be partially repealed. The Civil Code, as amended, will provide that a partnership is a permanent union of two people of the same sex, which is concluded in the same way as marriage (Act No 123/2024 Sb.).

However, comprehensive legal protection for cohabiting persons – *de facto* unions – is lacking in the Civil Code.¹³ This is especially true because persons of different sexes can conclude a marriage, and persons of the same sex can enter into a registered partnership. The Civil Code and the Act on Registered Partnerships attach a number of rights and obligations to these status relationships. If some persons ‘refuse’ to enter these statutorily protected status forms, it is necessary for them to regulate their relationships contractually, as the Civil Code does not provide for any catalogue of mutual rights and obligations of cohabitants *de facto*. In this context, the Czech legal order does not discriminate in any way between children born in and out of wedlock; nor does it use the term ‘illegitimate child’.¹⁴ Regardless of whether a child is born in wedlock or not, the legal order guarantees the equal status of the child and his or her parents – reflected in terms of status and property.¹⁵

The principle of family solidarity can be considered alongside the principles of protection of a weaker party or vulnerable person and the autonomy of will – a fundamental principle of Czech Family and Civil Law.¹⁶ The concept of the autonomy of the individual will is central to human rights protection and a pillar of private law. Thus, the Civil Code emphasises the autonomy of the will in the broadest sense as the right to self-determination. It provides that everyone has the right to take charge of his or her own happiness and the happiness of his or her family or close people. The Civil Code regulates according to the principle that, unless expressly prohibited by the law, persons may agree upon rights and duties differently from the law. Only agreements contravening ‘good manners, public order or rights relating to the status of persons including right to protection of personality’ are prohibited. However, for the principle of the autonomy of the will to be fully realised, people must be equal. The Civil Code develops this constitutional idea and provides that no one may suffer unjustifiable harm because of his or her age, intellect, or dependence on his or her position, nor may anyone take unjustified advantage of his or her incapacity to the detriment of others. As mentioned in the literature, ‘The problem is not limited to the protection of those suffering from lifelong or other learning disabilities ... it concerns us all, in the medium or short term.’¹⁷

The balancing exercise is necessary in law (see the regulation for parental responsibility and supporting measures below) and in application practice using the principles and proportionality test – in particular, the test of liberty and decency. The principle of protecting the weaker party or vulnerable person follows from the above. This principle is reflected in several articles, in contract law, and in the emphasis on the general categories of good morals and public order. Anyone can become a weaker party or a vulnerable person; everyone has been a minor child at some time and anyone can be injured or become ill. However, privileging or positive discrimination against certain groups must not lead to self-serving privileges for those who are denied or those who are intended

13 | Králíčková, 2021a, pp. 77–109.

14 | Králíčková, 2022c, pp. 109–120.

15 | Králíčková, 2021b, pp. 83–100.

16 | Králíčková, Hrušáková and Westphalová, 2022, p. 26.

17 | Frimston et al., 2015, p. xi.

to benefit. This would constitute an intolerable restriction. The principle of solidarity permeates family law. If someone is legally (or *de facto*) attached to someone else, it is legitimate for them to endure various legal restrictions, such as sharing, especially in the property sphere. Thus, the purpose of many family law provisions is thus to limit the autonomy of the will and to limit the right of ownership (use or disposition) in favour of a third party – usually referred to as a weaker party. This may include a child dependent on personal care and maintenance, or a spouse unable to support himself or herself due to many years of all-day care for a common dependent child. This principle is thus closely related to the general principle of protecting the weaker party. The protection of family members takes precedence over the interests of the individual.¹⁸

3. On the protection of children

Significantly, the human rights dimension of family law was considered when preparing the Civil Code in the Czech Republic. The main authors of the Civil Code reflected on the ideas and guiding principles of the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the Convention for the Protection of Human Rights and Freedoms, and academic initiatives – the Principles of European Family Law regarding Parental Responsibilities (hereinafter ‘Principles regarding Parental Responsibility’)¹⁹ by the Commission on European Family Law (hereinafter the CEFL).²⁰ That is why minor children are protected primarily through the concept of parental responsibility regulated by the Civil Code.²¹ It should be emphasised that a minor child is not a passive object of parental responsibility or the property of his or her parent. The minor child has participation rights guaranteed by the Convention on the Rights of the Child. However, his or her actual vulnerability must not be forgotten. Therefore, a minor child enjoys comprehensive protection in the entire legal system, especially in the sphere of the socio-legal protection of children, as well as in court proceedings in which he or she has a specific position. Experts discuss child-friendly justice.²²

There are a few essential pieces of information regarding parental responsibility. The concept, or the scope of parental responsibility has extended from the previous legal regulation, to bring more balance, protection, and security to family ties.²³ The Civil Code provides that the parental responsibility includes, in reverse order, ‘duties and rights’ of parents consisting of (a) caring for the child – including care for his or her health, physical, emotional, intellectual, and moral development; (b) protecting the child; (c) maintaining personal contact with the child; (d) ensuring his or her upbringing and education; (e) determining the place of his or her residence; (f) representing him or her and (g) administering his or her assets and liabilities, or property. Additionally, the Civil Code identifies which issues are the most important – where the consent of both the

18 | Scherpe, 2016, pp. 132–133.

19 | Boele-Woelki et al., 2007.

20 | For more see: Commission on European Family Law, no date.

21 | Králíčková, 2021b, pp. 85–98.

22 | Šimáčková, 2019, pp. 23–24.

23 | Králíčková, 2022a, pp. 73–104.

child's parents is necessary. The list of the child's significant matters is demonstrative and includes: (a) non-routine medical and similar interventions; (b) the determination of the child's place of residence and (c) the child's choice of education and employment. Additionally, the duty and the right to decide on these matters 'extends' the content of parental responsibility.²⁴ It is very important that parental responsibility arises from, and belongs (only) to, both the legally established parents of the minor child – without any discrimination based on gender or sexual orientation. The duties and rights of the child's parents are equal regardless of whether they are married, divorced, or separated. The parents must jointly exercise their duties and rights belonging to parental responsibility and in harmony with the best interests of the child and his or her welfare, well-being, and participation rights.

If the child is at risk, for instance, the child's parents are not able to exercise their duties and rights properly because of objective reasons (they are minors, do not have full legal capacity, or are in a coma) or even subjective reasons (they are socially immature or inadapted, drug addicted, or violent), the Civil Code also provides special rules for solving difficult life situations. Many provisions are applied by the operation of law (*ex lege*) and many articles give the state administrative authorities and the courts rights, and duties, to intervene to the family ties with a wide range of measures and remedies, or sanctions.²⁵ In this context, the family is understood in the broader sense of the word – in particular, the grandparents of the minor child or his or her older adult siblings – who often become the *de facto* caregivers of the child in crisis, as they take him or her personally and voluntarily fulfil the duty of maintenance towards him or her. The State or its state authorities, in the best interests of the child and in relation to the child's rights of participation, often respect this facticity and appoint family members as foster parents or guardians.²⁶ Statistical data have long shown that unmediated kinship in foster care between grandparents and minor children is far more widespread than state-mediated foster care between strangers and minor children.²⁷

The legal provisions regarding parental responsibility anchored in the Civil Code protect minor children and their parents. Anyone can be in the position of a weaker party, for example, a minor or not-fully capable parent, a single mother, a putative father, a left-behind parent (in the case of international child abduction, or inter-country unlawful relocation of a child). Therefore, vulnerability is reflected in the Civil Code in the broadest sense. The general protection of the family and family life according to the wishes, choices, preferences, and special needs of family members is guaranteed in relation to constitutional law and human rights conventions.²⁸

In addition to the concept of parental responsibility and other protecting provisions, the most detailed regulation is devoted to the maintenance duty of parents and grandparents towards children. The maintenance duty of parents towards children has not been traditionally part of parental responsibility as both parents have a duty to maintain and support their child until he or she is independent. Even adult children have the right to maintenance. The scope of maintenance is intended to be within the extent of the same

24 | Šínová, Westphalová and Králíčková, 2016, pp. 98 ff.

25 | Radvanová, 2015, pp. 15 ff.

26 | Králíčková, 2022b, pp. 83–100.

27 | Ministry of Labour and Social Affairs data, see: Kyzlinková, 2023.

28 | Králíčková, 2014, pp. 71–95.

standard of living as the family including the option of saving the maintenance. Thus, the Civil Code fully respects the principles of solidarity and the non-consumption aspect of maintenance. However, in practice, it is sometimes difficult to determine maintenance. Therefore, the Civil Code introduced the legal presumption of the income of the liable parent (or grandparent) to improve the child's position. The law states that a parent must prove his or her income in court by submitting documents necessary for the evaluation of his or her property situation and must enable the court to discover other facts necessary to make decisions by making the data protected by special acts accessible. If a parent fails to fulfil this duty, his or her average monthly earning shall be presumed to amount to the 25-multiple of the life minimum required for ensuring the maintenance and other fundamental personal needs of such a parent pursuant to a special law (Act No 110/2006 Sb., on Living and Subsistence Level, as amended). In contrast, as an expression of the principle of solidarity, the law stipulates that children are to provide decent maintenance to their parents in need and necessary maintenance to other relatives in the direct line.²⁹

Children in specific situations are considered a special group of vulnerable children.³⁰ These include, for example, unwanted and abandoned children; children who are neglected, abused, or who witness domestic violence; Roma children, and children of various minorities or refugee children. These children, in specific vulnerable situations, are given special attention in the legal order, in particular, social and legal protection. Many measures for the protection and realisation of their rights can be applied by state powers, even against the will of the parents of these children.³¹

4. On the protection of an unwed mother of a child of tender age

It is common knowledge that in the Czech Republic, as in other developed countries, many children are born out of wedlock. Sometimes, these children are born into unmarried *de facto* cohabitation, and sometimes to women who live alone and find themselves in difficult life situations. In the spirit of the tenet 'If I protect the mother, I protect her child', the Civil Code regulates the special property rights of unmarried women under the title 'Maintenance and support, and provision for the payment of certain costs for an unmarried mother'.³²

It is provided that,

If the child's mother is not married to the child's father, the child's father shall provide her with maintenance for two years from the birth of the child and provide her with a reasonable contribution to cover the costs associated with pregnancy and childbirth.

Regarding property rights of a pregnant woman, the law states that,

29 | Králíčková, Hrušáková and Westphalová, 2020, pp. 958 ff.

30 | Šimáčková, 2019, p. 24 and literature there listed.

31 | Králíčková, 2022b, pp. 95–97.

32 | Králíčková, 2009, pp. 281–291.

A court may, on the application of a pregnant woman, order the man whose paternity is probable to provide an amount needed for maintenance and a contribution to cover the costs associated with pregnancy and childbirth in advance. A court may, on the application of a pregnant woman, also order the man whose paternity is probable to provide in advance an amount needed for the maintenance of the child for a period for which the woman would be entitled to maternity leave as an employee under another legal regulation.³³

These provisions are often used in practice, as statistics show that almost 50% of children are born to unwed mothers.³⁴ Regarding the amount of the maintenance obligation of 'illegitimate' fathers towards their children, or the content and exercise of their parental responsibility, the law does not put these children at any disadvantage compared to children born into marriage.

However, when the unwed mother of the child or the pregnant woman is vulnerable (not only poor), proceedings in property matters can only be initiated at her request. In the relevant court proceedings, she bears the burden of proof of the financial circumstances of the obligated father of the child, which is typical in contested proceedings. Her procedural situation in this respect is similar to that of women seeking maintenance between spouses or divorced spouses through the courts.

5. On the protection of spouses, registered partners and *de facto* cohabitantes as weaker parties

As an expression of respect for the principle of solidarity, the Civil Code provides in particular that the spouses are obliged to respect each other, to live together, to be faithful, to mutually respect their dignity, to support each other, to maintain the family union, to create a healthy family environment, to jointly take care of their children, to represent each other, and to jointly manage the issues of the family. The law states that either spouse has the right to be told by the other about his or her income and the state of his or her property, as well as the existing and planned work, studies, and similar activities. Further, either spouse is obliged, when choosing work, studies and similar activities, to consider the interests of the family, of the other spouse and of the minors who have not yet attained full legal capacity and who live with the spouses in the family household, and, potentially, the interests of other members of the family.³⁵

Concerning the property aspects of marriage, the Civil Code first states that each spouse contributes to the needs of the family and the family household according to each person's personal and property conditions, abilities, and possibilities, so that the standard of living of all members of the family is the same. Providing property is as important as providing personal care for the family and its members. In addition to the duty to contribute to the needs of the family, the law also establishes the mutual maintenance duty of the

33 | It would be 28 weeks, in case of siblings or more children 37 weeks. For details see the Act No 262/2006 Sb., the Labour Code (Art. 195, para. 1).

34 | For more see Czech Statistical Office, 2022.

35 | Králíčková, Kornel and Zavadilová, 2019, pp. 122–159.

spouses to the extent of having a right to the same living standard. Further, the Civil Code regulates the concept of things forming the usual equipment of the family household. It is established that regardless of the ownership of things that fulfil the necessary life needs of the family, a spouse needs the consent of the other when dealing with them; this does not apply if the thing is of negligible value. A spouse may claim invalidity of a legal act if the spouse managed the usual equipment of the family household without his or her consent.

Next, there is a special regulation for a family enterprise. It is defined as an enterprise in which the spouses work together, or at least with one of the spouses work with their relatives to the third degree, or persons related to the spouses by marriage up to the second degree; and the enterprise is owned by one of these persons. Those who permanently work for the family, or the family enterprise are considered members of the family who participate in the operation of the family enterprise. These people also participate in its profits and in the things gained out of those profits, as well as in the growth of the enterprise, to the extent that it corresponds to the amount and kind of their work. This right may only be waived by a person with full legal capacity making a personal declaration. If the family enterprise is to be divided, a member participating in its operation has a pre-emptive right to it.

Finally, special attention is paid to the regulation of community property as a key concept of Czech Marital Property Law.³⁶ As in other jurisdictions, this concept can be viewed as family property law.³⁷

For many reasons, the legal regime for community property is regulated first. It includes what one of the spouses has gained or what both spouses have gained in the course of their marriage except for: (a) what serves the personal needs of one of the spouses, (b) what only one of the spouses has gained by gift, succession or bequest unless the donor or the testator in the will expressed a different intention, (c) what one of the spouses has gained as compensation for a non-proprietary infringement of his or her natural rights, (d) what one of the spouses has gained by legal dealings relating to his or her separate property, (e) what one of the spouses has gained as compensation for damage to or loss of separate property. Additionally, community property includes profit from what is separate property of one of the spouses. It does not include an interest of a spouse in a company or a cooperative if that spouse has become a member of the company or the cooperative during the marriage, except for housing cooperative. Community property also includes debts assumed in the course of the marriage unless: (a) the debts concern the separate property of one of the spouses – to the extent of the profit from that property, or (b) only one of the spouses has assumed them without the other spouse's consent and it was not within the fulfilment of everyday or common needs of the family.

However, the Civil Code enables modifications of the legal regime of community property and the creation of the agreed regime and establishing of the regime of separated property. As an innovation, it is possible to conclude arrangements for the case of termination of marriage due to divorce or death by making a contract of succession. Both would-be spouses and spouses may do so at any time before entering the marriage, as well as during the marriage. In this way, the lawmaker fully respects the principle of autonomy of the will to create a wedding contract, which was completely curbed by communist legal

36 | For details see Psutka, 2015, pp. 1–9.

37 | Barzó, 2021, pp. 23 ff.

regulations. The parties to the contract are required to keep the formality of a public deed. A record in the public list is optional.

The protection of a weaker spouse and third person is expressly established in the Civil Code in a separate provision. It is regulated that a wedding contract of marital property regime may not, due to its consequences, exclude the spouse's ability to maintain the family and may not affect, by its content or purpose, rights of a third person unless the third person agrees with it; the contract made without the third party's consent has no legal effects for such a party.

The law further establishes that, if during the existence of community property, a debt has arisen for one of the spouses, the creditor may achieve satisfaction in the execution of the judgement recovering the debt from the community property. If a debt has arisen only for one of the spouses against the will of the other spouse (who communicated his or her disagreement to the creditor without unnecessary delay after becoming aware of the debt), the community property may be affected only up to the amount which would be the share of the debtor if the community property were cancelled and divided. This also applies in the case of the spouse's duty to pay maintenance or if the debt comes from an illegal act of one of the spouses, or in the case of the debt of one of the spouses having arisen before entering the marriage.

The Civil Code regulates special protecting provisions according to a regime established by a court decision, to protect the weaker party. In the case of serious reasons, a court shall, on the application of a spouse, cancel community property or reduce its scope. A serious reason means that a spouse's creditor requires his or her claim to be secured in an amount that exceeds the value of what belongs exclusively to that spouse, that a spouse may be considered prodigal, or that the spouse constantly or repeatedly takes unreasonable risks. The fact that a spouse has started pursuing business activities or become a partner of a legal person with unlimited liability may also be a serious reason. Finally, a court decision may not exclude or amend provisions governing the concept of things that form the usual equipment of a family household. Further, the consequences of a court decision on the change, cancellation or renewal of community property must not exclude the ability of a spouse to provide for the family, and its content or purpose may not affect the rights of a third person, unless the third person has consented to the decision.

There are also special rules regarding family dwellings. If the family house or apartment belongs to the community property of the spouses, their position is equal, and protection is provided by the regulations analysed above. If not, the situation of the economically weaker spouse is addressed in the Civil Code by defining the so-called derived legal reason for housing (family dwelling). The law establishes that if the spouses' dwelling is a house or an apartment in which one of the spouses has an exclusive right to live, and if it is a different right from the contractual one, the other spouse obtains the right to housing by entering into marriage. If one of the spouses has an exclusive contractual right to the house or the apartment, especially the lease right, both spouses obtain jointly the lease right ensuring the equality of rights and duties by entering marriage. Nevertheless, it may be contractually agreed in a different way, which is fully in harmony with the principle of autonomy of will. This can be accomplished within the scope of a wedding contract.

Additionally, the Civil Code law regulates the prohibition of the disposal of the family dwelling following similar principles to the rules relating to the equipment of the family household. If at least one of the spouses has the right to dispose of the house or the

apartment in which the family household is situated and the house or the apartment is necessary for the dwelling of the spouses and the family, that spouse must refrain from and prevent anything that may endanger the dwelling or make living in it impossible. A spouse cannot, without the consent of the other spouse, misappropriate such a house or apartment or create a right to the house, to part or the whole of an apartment, the exercise of which is incompatible with the dwelling of the spouse or the family, unless he or she arranges a similar dwelling of the same standard for the other spouse or family. Further, if a spouse acts without consent of the other spouse contrary to this rule, the other spouse may claim invalidity of such legal conduct. And finally, if the spouses have a joint right to a house or an apartment in which the family household of the spouses or of the family is situated, the above-mentioned prohibition applies similarly.³⁸

It is noteworthy that many provisions of the Civil Code mentioned above find their application, particularly in the 'pathological' phase of marriage: in the phase of the *de facto* separation of the spouses, in the period before the dissolution of the marriage, at a time when the content of pre-divorce property agreements and after divorce property contracts are being negotiated, or in the period when one of the spouses resists the divorce in the manner provided for by law.

Regarding divorce, the legal regulations are based on the irretrievable breakdown of marriage which has been the only reason for divorce since 1963. The Civil Code sets forth that marriage may be dissolved if the joint life of the spouses is deeply, permanently and irretrievably broken down and its recovery cannot be expected.³⁹ Unfortunately, the concept of divorce suggested by the Principles of European Family Law regarding Divorce and Maintenance Between Former Spouses⁴⁰ created by the Commission on European Family Law was not considered when preparing the draft Civil Code.⁴¹

If the spouses have agreed about the divorce, or the other spouse has joined the petition for divorce, the court does not examine reasons for the breakdown when the statements of the spouses about the breakdown of their marriage and about their intent to achieve divorce are identical and true.⁴² The following requirements for an uncontested (agreed) divorce must be met: (a) on the day of the commencement of the divorce proceedings, the marriage has lasted for at least one year, and the spouses have not lived together for more than six months; (b) the spouses, who are parents of a minor child without full legal capacity, have agreed on arrangements for the child for the period after the divorce, and the court has approved their agreement;⁴³ (c) the spouses have agreed on the arrangement of their property, their housing, and, if necessary, the maintenance for the period after the divorce. The pre-divorce property agreement must be in writing with officially authenticated signatures, comply with the general requirements for a contract, and respect the special provisions on the division of the matrimonial property aimed at protecting third parties. The settlement of assets and liabilities must not affect any right of a third person. If the rights of a third person have been affected by a settlement, the

38 | Králíčková, Hrušáková and Westphalová, 2022, pp. 107 ff.

39 | Králíčková, Hrušáková and Westphalová, 2020, pp. 426 ff.

40 | Boele-Woelki et al., 2004.

41 | Králíčková, 2021b, pp. 85–98.

42 | The Czech legal regulation does not recognise the 'divorce on the basis of agreement', i.e. consensual divorce unlike the Principles of European Family Law. For more Boele-Woelki et al., 2004.

43 | There should be changes presented earlier, see Králíčková, 2022b, pp. 83–100.

third person may claim that the court declared that the settlement was ineffective with respect to this third person. This means that settlement of debts is effective between spouses only. As the autonomy of the will of the divorcing spouses is paramount, the court deciding on the divorce reviews it, but does not approve it. The contract must be made by notarial deed with a clause of direct enforceability.

However, if one of the spouses does not agree with the divorce, or property and housing settlement, the court must examine the reality of irretrievable breakdown of marriage, and the reasons leading to it. Then, this divorce 'option' must be seen only a 'status solution' – the spouses will be divorced by the court, but there will be neither division nor settlement of their joint property and housing, nor determination of post-divorce alimony. This concept is particularly disadvantageous for the weaker party, namely the economically dependent spouse.

It should be added that since 1998, there have been '*clauses against harshness*' which have not been used very often in practice.⁴⁴ The first protects one of the spouses – the weaker party. The law sets forth that despite the irretrievable breakdown of their living the marriage cannot be dissolved if it is against the interest of the spouse who was not predominantly involved in the breach of marital duties and who would suffer an especially serious harm by the divorce and there are extraordinary circumstances supporting the existence of marriage, unless the spouses have not lived together for three years at least.⁴⁵ The principle of family solidarity is applied in these cases. However, this 'divorce ban' is not absolute. After three years of *de facto* separation of the spouses, the court must make a divorce judgement.

Unless a property and housing agreement is reached soon after the divorce judgement becomes final, it will be the responsibility of the spouses to bring actions before the court in separate proceedings for both the settlement of community property, the regulation and adjustment of the use of the former family home, and where appropriate, maintenance for the period after the divorce. As mentioned regarding the unwed mother of the child or pregnant woman (see above), court proceedings in property matters can

44 | Haderka, 2000, pp. 119–130.

45 | There is another 'clause against harshness' that provides that the couple cannot be divorced due to the interest of a minor child of the spouses. This case requires special reasons. The court examines the child's interest in the existence of the marriage by inquiring of the custodian who is appointed by the court for the proceedings on the arrangement of the child's custody for the period of the divorce (Art. 755, para 2 of CC). This formal protection of children is not used in practise. It must be explained that if the spouses have a minor child, the court will not grant a divorce until the 'special' court dealing with the agenda on minors decides on the 'personal' custody and visiting rights of the child – and for the maintenance for the child – for the period after the divorce (Art. 755, Sub-Sec. 3 of CC). The court dealing with custody of the minor child may decide on or approve the agreement of the spouses in the matter of entrusting the minor child into individual (sole) custody of one parent, alternating (serial) custody or joint custody of the parents (Art. 907 of CC). It is necessary to emphasize that both the parents of the child are principally holders of rights and duties resulting from parental responsibility (Art. 865 and further of CC) and the decision on after-divorce custody only determines who the minor child will live in the common household with (besides the maintenance duty towards the child and visiting rights). However, there should be changes according to the pending drafts; these should make the divorce law simpler and favourable for those spouses who are able to reach mutual agreement in the best interests of the child. For more, see Králíčková, 2022b, pp. 83–100.

only be initiated upon request. In the relevant court proceedings, even a weaker party bears the burden of proof in contested proceedings.

Regarding the property aspects of marriage, if the marriage is terminated by divorce, it is first necessary, to settle and adjust the community property of the spouses. As a rule, the law prescribes agreements between the divorced spouses. When the agreement is not achieved, the court will decide, based on quantitative and qualitative criteria. These include: the interests of unsupported children or the extent to which a spouse was involved in achieving and maintaining the property values falling within the community property of the spouses. The principle of family solidarity applies especially in these cases. However, if no agreement is made within three years of the divorce or petition filed, a legal presumption will be applied. It provides that

If, within three years from reduction, cancellation or extinction of community property, no settlement of what was formerly part of the community property takes place, even by agreement, and no application for settlement by a court decision is filed, the spouses or former spouses are conclusively presumed to have settled as follows: (a) corporeal movable things are owned by the spouse who uses them exclusively as an owner for his own needs or the needs of his family or family household, (b) other corporeal movable things and immovable things are under undivided co-ownership of both spouses; their shares are equal, (c) other property rights, claims and debts belong to both spouses jointly; their shares are equal.

The spouses' dwellings after divorce depend on the legal basis of the marital housing. If the house or apartment used as a family dwelling was in the community property of the spouses, the clause above will be applied. If there is a joint lease of an apartment by the spouses, they may cancel it by rescinding the contract or having recourse to the court that will determine the manner of compensation for the loss of the right – also considering the situation of the unsupported children and the opinion of the lessor, among others. If one of the spouses is an exclusive owner of the house or apartment used for a family dwelling, the other spouse loses the 'derived legal reason' for housing in the divorce and the court may decide about his or her moving out.

Regarding the maintenance duty between divorced spouses, the Civil Code regulates the 'dependence on maintenance', or the incapacity to maintain oneself independently, as a basic prerequisite. Such an incapacity to maintain oneself independently must have its origin in the marriage or in connection with the marriage. In addition, a list of factors should be considered when deciding on maintenance. The court will consider how long the marriage lasted, how long it has been dissolved and whether: (a) the divorced spouse has remained unemployed while not being prevented from finding a job by serious reasons, (b) the divorced spouse could have ensured maintenance by properly managing his or her property, (c) the divorced spouse participated during the marriage in care of the family household, (d) the divorced spouse has not committed a criminal act towards the ex-spouse or his or her close person, or (e) whether there is another, similarly serious reason. The scope of maintenance is achieved through adequate maintenance. The right to maintenance for the period after the divorce terminates only when the beneficiary enters a new marriage or upon the death of the obligor or beneficiary. If a substantial change occurs, the court may decide to decrease, increase, or abolish the mutual duty of maintenance between the divorced spouses. Additionally, the Civil Code establishes an exceptional right to so-called sanctioning maintenance to ensure the same living

standards. The spouse who did not cause the divorce or did not agree to the divorce and who suffered serious harm due to the divorce may file a motion with the court to determine a maintenance duty on the former spouse to the extent that the ex-spouse can have the same living standard. The divorced spouse's right to maintenance may be justified for a period adequate to the situation and for, at most, three years after the divorce.⁴⁶

Registered partnerships among same-sex persons are regulated by the Act on Registered Partnerships. Some rights and duties of registered partners are similar to rights and duties of spouses, for example, mutual maintenance duty based on the same living standard, or former spouses, for example, mutual maintenance duty of the scope of adequate maintenance or the same living standard in the case of sanctioning maintenance. However, in many aspects the rights and duties of registered partners are identical to those living in informal unions, and *de facto* cohabitations.⁴⁷ Next, there is a special rule in the Civil Code that stipulates that 'The provisions of Book One, Book Three and Book Four on marriage and on the rights and duties of spouses apply by analogy to registered partnership and the rights and duties of partners'. In harmony with this special rule, the provision regulating Family Law in Book Two of the Civil Code does not apply to registered partners. This means that, for instance, there is no community property, no common lease of apartments by operation of law, no protection of family dwellings, and no protection by the provisions regulating things forming the usual equipment of the family household in a registered partnership. As mentioned above, there have currently been changes in this area which will come into force on 1 January 2025. Same-sex partnerships will be regulated in the Civil Code, like marriage for opposite-sex couples, and a separate law will be partially repealed. The Civil Code, as amended, will provide that a partnership is a permanent union of two people of the same sex, which is concluded in the same way as marriage. Unless the law or another legal regulation provides otherwise, the provisions on marriage, rights and obligations of spouses, widows and widowers apply *mutatis mutandis* to the partnership and the rights and obligations of the partners (Act No 123/2024 Sb.).

Regardless of how the Civil Code expressly protects the family established by marriage, informal relationships also enjoy protection in connection with the Convention for the Protection of Human Rights and Freedoms as they are guaranteed by the right to respect for private and family life. However, due to the limited concept of 'family' regulated in the Civil Code, there are no articles that establish mutual rights and duties between the cohabitees. For example, there is no duty to help one another, no community property, no protection of family dwellings and of a common household, and no mutual maintenance duty by operation of law.⁴⁸ Unfortunately, there are often no property contracts between cohabitees. This causes many problems for the 'weaker parties' upon the dissolution of the relationship *de facto*. Regarding the unwed mother of the child or the pregnant woman and the divorced spouse (see above), court proceedings in property matters can only be initiated upon request. In the relevant court proceedings, even the weaker party bears the burden of proof in contested proceedings.

However, there is no discrimination against children born out of wedlock. This is why the rights and duties of the parents of any child are equal. If an unmarried man and an

46 | Králíčková, 2009, pp. 281–291.

47 | Holub, 2006, pp. 313 ff.

48 | For a different concept, see Boele-Woelki et al., 2019.

unmarried woman 'have a child together', they both are principally holders of parental responsibility by operation of law without being discriminated against in comparison with married parents of a minor child. However, parenthood must be established legally. There are no differences between the children in the personal or property spheres in the Czech legal order.⁴⁹

6. On the protection of vulnerable adults and supportive measures

The main authors of the Civil Code included a comprehensive and detailed regulation for the protection of vulnerable persons based on universally recognised values and the development of human rights.⁵⁰ In harmony with the Convention on the Rights of Persons with Disabilities, the relevant provisions are included under the heading 'Supportive Measures for Cases where the Ability of an Adult to Make Legal Acts Is Impaired', followed by the provisions governing the 'Restriction of Legal Capacity' and the regulation of 'Representation and Guardianship'.

The Civil Code is based on the principle that every individual should be protected, and that it is necessary to protect the uniqueness, needs, and wishes of the individual. The key underlying principles in this specific area are the autonomy of will of individuals who anticipate their own incapacity to legally act (continuing power of attorney), the freedom of contract of individuals who have difficulties due to their mental disorder (assisted decision-making), as well as family solidarity (representation by a member of the household).

Legal regulations emphasise assisted decision-making, which involves the vulnerable person. As a result, 'Supportive measures for cases where the ability of an adult to make legal acts is impaired' must, as a rule, take precedence over the provisions on guardianship, or even restriction of legal capacity. Furthermore, 'Supportive measures for cases where the ability of an adult to make legal acts is impaired' must be preferred, in particular, over the restriction of legal capacity as a rather radical judicial decision that may be made – *inter alia* – only where less invasive and less restrictive measures would not suffice with respect to the interests of the vulnerable person who would otherwise be at risk of suffering significant harm. The legal capacity of a vulnerable person may be restricted only where such a measure is in the interest of the person and where the person suffers from a mental disorder, not only of a temporary nature, after the person has been seen by the court and always only for a fixed period.

Notably, the Czech legal regulation does not recognise the representation of a vulnerable person *ex lege*, only by operation of law. In all cases that the law provides for, a competent state body must decide on the representation by *ex offio*. Nevertheless, *ex lege* representation is regulated by the Civil Code in several cases. Besides *ex lege* mutual representation between spouses and registered same-sex partners in daily matters, there are representation rights belonging to the minor child's parents within the concept

49 | Králíčková, 2022c, pp. 109–120.

50 | Eliáš and Zuklínová, 2001; Eliáš and Zuklínová, 2005.

of parental responsibility. The parents represent their minor children without full legal capacity through the operation of law in all acts for which the children do not have legal capacity. Once children reach the age of majority, or acquire legal capacity, the parents' right to represent and parental responsibility ceases. Unfortunately, the law does not allow for the 'prolongation' of parental rights and duties belonging to parental responsibility (especially representation) of a child suffering from a serious mental disorder or illness when he or she reaches maturity.

With regard to NGOs, the Shadow Report for the UN Committee on the Rights of Persons with Disabilities⁵¹ critically noted that the appointment of a guardian (in the absence of legal capacity restrictions) is often considered as the only alternative to the restriction of legal capacity.⁵² In time, all supportive measures may be applied more frequently in decision-making in practice as a result of raising awareness of their benefits for vulnerable persons among professionals and the general public. However, when a vulnerable person's family is functioning, the family members take on the vulnerable person, becoming their guardians, supporters, and even personal caregivers in the family environment. They are usually the spouses, partners, children, and parents of vulnerable individuals. However, if family solidarity does not work, the state, municipalities, and other actors must step in and provide all-round care for vulnerable people in accordance with the above human rights standards.

7. Conclusion

The article is devoted to many aspects of vulnerability, special instruments, and supportive and protective measures, according to the Czech Civil Code, reflecting the principle of family solidarity as a universal principle. It is noteworthy that anyone can be a vulnerable person due to circumstances, and that vulnerability deserves special attention, not only in private law.⁵³ It is primarily family members who should provide vulnerable people with respect, assistance, support, and protection. However, the autonomy of the will of these vulnerable persons must always be respected and their best interests are of paramount consideration.

51 | See Česka Republika, 2011.

52 | Králíčková et al., 2023.

53 | Šimáčková, 2019, pp. 18–25.

Bibliography

- Barzó, T. (2021) 'From Marital Property Law to Family Property Law – Theoretical and Practical Aspects of Property Law Regulations Protecting Families', *Law, identity and Values*, 2021(1), pp. 23–29; <https://doi.org/10.55073/2021.1.23-39>.
- Boele-Woelki, K., Ferrand, F., González-Beilfuss, C., Jänterä-Jareborg, M., Lowe, N., Martiny, D., Pintens, W. (2007) *Principles of European Family Law Regarding Parental Responsibilities*. Antwerpen-Oxford: Intersentia.
- Boele-Woelki, K., Ferrand, F., González-Beilfuss, C., Jänterä-Jareborg, M., Lowe, N., Martiny, D., Pintens, W. (2004) *Principles of European Family Law regarding Divorce and Maintenance Between Former Spouses*. Antwerpen-Oxford: Intersentia.
- Boele-Woelki, K., González Beilfuss, C., Lowe, N., Martiny, D. (2019) *The Principles of European Family Law Regarding the Property, Maintenance and Succession Rights of Couples in De Facto Unions*. Cambridge: Intersentia; <https://doi.org/10.1017/9781780689111.002>.
- Česka Republika (2011) 'Alternativní zpráva pro Výbor OSN pro práva osob se zdravotním postižením' *Česka Republika*, 2011 [Online]. Available at: https://www.mpsv.cz/documents/20142/225526/Zprava_NGO_o_plneni_Umluvy_CZ.pdf/00861696-7bb6-a66f-a86f-3b56ff32de0d (Accessed: 18 April 2023).
- Commission on European Family Law (no date) *CEFL* [Online]. Available at: <http://ceflonline.net/> (Accessed: 15 March 2023).
- Czech Statistical Office (2022) 'Statistical Yearbook of the Czech Republic – 2022. 4. Population' *Czech Statistical Office*, 2022 [Online]. Available at: <https://www.czso.cz/csu/czso/4-population-1wxjps15gt> (Accessed: 21 April 2023).
- Eliáš, K., Zuklínová, M. (2001) *Principy a východiska nového kodexu soukromého práva*. Praha: Linde.
- Eliáš, K., Zuklínová, M. (2005) *Návrh občanského zákoníku*. Praha: Ministry of Justice.
- Frimston, R., Ruck Keene, A., Van Overdijk, C., Ward, A.D. (eds.) (2015) *The International Protection of Adults*. Oxford: Oxford University Press; <https://doi.org/10.1093/9780198727255.001.0001>.
- Haderka, J.F. (2000) 'A Half-Hearted Family Law Reform of 1998' in Bainham, A. (ed.) *The International Survey of Family Law 2000 Edition*. Bristol: Jordan Publishing, pp. 119–130.
- Holub, M. (2006) 'Registrované partnerství? Ani ryba, ani rak', *Právní rozhledy*, 2006/9, pp. 313–317.
- Králíčková, Z. (2009) 'Legal Protection of Unmarried and Divorced Mothers in the Czech Republic' in Verschraegen, B. (ed.) *Family Finances*. Wien: Jan Sramek Verlag, pp. 281–291.

- Králíčková, Z. (2010) *Lidskoprávní dimenze českého rodinného práva*. Brno: Masarykova univerzita.
- Králíčková, Z. (2011) 'Ochrana slabší strany v rodinném právu', *Právník*, 2011/4, pp. 362–377.
- Králíčková, Z. (2014) 'New Family Law in the Czech Republic: Back to Traditions and Towards Modern Trends' in Atkin, B. (ed.) *The International Survey of Family Law 2014 Edition*. Bristol: Jordan Publishing, pp. 71–95.
- Králíčková, Z. (2021a) 'On the Family and Family Law in the Czech Republic' in Barzó, T., Lenkovic, B. (eds.) *Family Protection From a Legal Perspective. Analysis on Certain Central European Countries*. Budapest–Miskolc: Ferenc Mádl Institute of Comparative Law – Central European Academic Publishing, pp. 77–109; https://doi.org/10.54237/profnet.2021.tbblfl_3.
- Králíčková, Z. (2021b) 'Changes in Czech Family Law in Light of the Principles of European Family Law', *Law, Identity and Values*, 1(1), pp. 85–98; <https://doi.org/10.55073/2021.1.85-98>.
- Králíčková, Z. (2022a) 'Czech Republic: The Content of the Right to Parental Responsibility' in Sobczyk, P. (ed.) *Content of the Right to Parental Responsibility. Experiences – Analyses – Postulates*. Budapest–Miskolc: Central European Academic Publishing, pp. 73–104; https://doi.org/10.54237/profnet.2022.pscrpr_4.
- Králíčková, Z. (2022b) 'The Rights of the Child at Risk', *Law, Identity and Values*. Budapest: Central European Academic Publishing, 2(2), pp. 83–100; <https://doi.org/10.55073/2022.2.83-100>.
- Králíčková, Z. (2022c) 'Czech Republic: On Couples in de facto Unions in the Czech Republic' in Wilson, R.F., Carbone, J. (eds.) *International Survey of Family Law 2022. International Survey of Family Law*. Cambridge–Antwerp–Chicago: Intersentia, pp. 109–120; <https://doi.org/10.1017/9781839703386.008>.
- Králíčková, Z., Kornel, M., Zavadilová, L. (2019) 'Czechia' in Ruggeri, L., Kunda, I., Winkler, S. (eds.) *Family Property and Succession in EU Member States. National Reports on the Collected Data*. Croatia: Rijeka, pp. 122–158 [Online]. Available at: https://www.euro-family.eu/documenti/news/psefs_e_book_compressed.pdf (Accessed: 15 September 2023).
- Králíčková, Z., Hrušáková, M., Westphalová, L. (eds.) (2020) *Občanský zákoník II. Rodinné právo (§ 655–975). Komentář*. 2nd edn. Praha: C. H. Beck.
- Králíčková, Z., Hrušáková, M., Westphalová, L. (eds.) (2022) *Rodinné právo*. 3rd edn. Praha: C. H. Beck.
- Králíčková, Z., Lach, K., Elischer, D., Frinta, O. (2023) *The Empowerment and Protection of Vulnerable Adults. The Czech Republic* [Online]. Available at: https://fl-eur.eu/working_field_1__empowerment_and_protection/country-reporters (Accessed: 15 September 2023).

- | Kyzlinková, R. (2023) *Využívání a fungování institutu svěření do péče jiné osoby (svěřenectví) v praxi*. Praha: RILSA [Online]. Available at: https://katalog.vupsv.cz/fulltext/ul_2500.pdf (Accessed: 15 September 2024).
- | Psutka, J. (2015) *Společné jmění manželů*. Praha: C. H. Beck.
- | Radvanová, S. (ed.) (2015) *Rodina a dítě v novém občanském zákoníku*. Praha: C. H. Beck.
- | Scherpe, J.M. (2016) *The Present and Future of European Family Law*. Cheltenham (UK) – Northampton (MA, USA): Edward Elgar; <https://doi.org/10.4337/9781785363078>.
- | Šimáčková, K. (2019) 'K pojmu zranitelnost v českém právním prostředí, zejména v judikatuře Ústavního soudu', *Jurisprudence*, 2019/5, pp. 18–25.
- | Šínová, R., Westphalová, L., Králíčková, Z. (2016) *Rodičovská odpovědnost*. Praha: Leges.