

Objective of the project:

The research team is interested in the legal situation of a minor child, specifically as regards its rights and duties in relation to other members of the family and the state. The objective is to assess the degree to which and the manner in which the principle of the child's best interests is implemented, as well as the principle of participation, meaning the possibility of a child to give its opinion on matters by which it is affected directly. In this respect, analysis will be undertaken primarily of substantive legal solutions. Nevertheless, procedural regulations, which perform a secondary but significant role in ensuring the materialization of the aforementioned principles, will also be examined. These principles are expressed in both the Constitution and the Convention on the Rights of the Child.

The planned research is intended to help in assessing normative regulations and judicial practice (of both Polish courts and the European Court of Human Rights in Strasbourg), as well as to aid in capturing those solutions worthy of praise, potential loopholes in the law, and imperfections in present regulation. The authors would like to propose a more coherent interpretation than the present one regarding norms that derive from legal regulations in various branches of the law which, taken together, comprise the body of law addressing families (Z. Ziemiński, *Szkice z metodologii szczegółowych nauk prawnych*, Ossolineum 1982). Another objective is to determine the potential compliance of existing solutions with international standard and the Polish Constitution, as well as to assess the adequacy of current applicable law in the face of contemporary challenges.

The provision of answers to questions on the protection of children's rights in a broad range of areas concerning their legal situation will contribute both to improving standards of protection for those rights, as well as to the discourse surrounding the implementation of the Convention on the Rights of the Child and other international treaties.

What research will be performed:

The primary research question for the project is "In what manner are the two principles implemented in Polish law, and to what extent – if at all – would the best interest of the child be served by further expansion of the scope in which the principle of participation is applied in proceedings concerning the child directly?" The research team will seek answers through an elucidation of the diversity of contemporary legal aspects of relations in the parents-child-state triad, as well as by re-examining the scope of reciprocal competencies, duties and rights of the child, its parents and the state.

In the normative dimension, the project is grounded in a conception of the law addressing the family, and brings together studies in various branches of the law. International sources of law which oblige Poland to engage in efforts to protect the rights of the child will also be analysed. In this context, the project will address compliance of Polish law with international standards.

The planned research places primary focus on legal issues. That said, the authors are adhering to methodological principles demanding the exploration of legal phenomena concerning the family in the context of scholarship in such fields as sociology, pedagogy, psychology and medicine.

Exploratory research will encompass the following fields of study: the legal situation of minor parents, legal relations between parents and children in light of contemporary adoption regulations, contacts between children and parents living in separation, the legal situation of a minor child in the event of parental divorce, educational contexts of exercising custody of a minor, medical law relations between parents-child-state, the situation of a child as a victim of domestic violence, and the situation of a child in foster care.

Reasons for undertaking the research topic:

Analysis of the subject literature and observation of practice lead to the conclusion that regulations contained in particular legal acts are perceived as being autonomous in relation to one another, which ultimately leads to a lack of axiological, formal and pragmatic cohesion in existing solutions, during both their creation and their application. In the context of the challenges faced by family members and public authorities in the contemporary world, this does not benefit efforts to protect the child's best interests. Minors are not always provided with a forum to express their opinion on matters that concern them directly. Meanwhile, such authorities as the UN Committee on the Rights of the Child propose expanding the scope of activities which children may do so into successive spheres of life. It is necessary in these conditions to assess the current legal regulations regarding materialization of the principle of the child's best interests, in order to facilitate the selection of solutions proportional to needs as well as to prevent trivializations and violations of the rights of the young.