

## **THE NORMATIVE CONSTRUCT OF “THE GOOD OF THE CHILD” AND ITS JUDICIAL APPLICATION**

The good of the child (the interest of the child, the well - being of the child) is an interdisciplinary concept in the humanities and interbranch in jurisprudence. In legal doctrine and theory, the good of the child is treated as a general reference clause within a provision of law. On the plane of the Polish family and guardianship law, the good of the child principle is recognized as the basic criterion in the interpretation of provisions of family law. This special role of the good of the child construct was repeatedly emphasized by the Supreme Court judicature.

The objective of the project is to analyze the two essential issues concerning the application of the aforementioned normative construct. First, the aim of the research is to show the perception and understanding of the normative construct the “good of the child” by Polish legal doctrine and Polish courts as well as the European Court of Human Rights. Second, the objectivization of the content of the construct will be addressed. The author assumes that objectivization is the conversion from subjective to objective understanding of the content of the "good of the child" construct in the process of judicial application.

In the course of this project the issues concerning the meaning of the good of the child will be thoroughly examined in common and legal language and language of the law planes. Moreover, the author will attempt to categorize the construct as a principle of law, general reference clause, or normative construct of a mixed type. The next objective of the research is to show the role of the good of the child in the process of judicial application of the law, as well as answering the question whether the objectivization of the content of the construct is established in the course of judicial application. Tackling the topic of objectivization is essential to address, among other things, the issues such as: Children’s Rights, principles of law, establishing the hierarchy of normative constructs in the legal system, case-law referring to the good of the child, the development of consistency of judicature and legal certainty, the elasticity of jurisprudence. The research will include the analysis of theory of law literature and views of legal doctrine, as well as an in-depth analysis of judicature. A comparative analysis in reference to the German and Slovak legal systems will be carried out. Due to the interbranch\_nature of the construct, the research will encompass the judicatures of courts of law, the Supreme Court, Voivodeship Administrative Courts, Supreme Administrative Court, Constitutional Tribunal, and, in contrast, the international judicial authority – the European Court of Human Rights.

The reason for choosing the research topic ensues from the scientific interests of the project leader. Furthermore, taking into consideration the current study of jurisprudence, it should be stated that the understanding of the normative construct of the "good of the child" is not entirely consistent. The good of the child is still identified with private law, analyzed with regard to cases of domestic violence, or in reference to the Convention on the Rights of the Child of 1989. The findings will be extended on the scope of the entire legal system because of the interbranch character of the issue. The study of the subject will allow for a complex and detailed depiction in reference to the theoretical, comparative and judicature aspect. Furthermore the role of the normative construct of the “good of the child” will be depicted from a different angle, i.e. judicial application of the law, which has not been made so far.