

Doc. JUDr. Ondřej Frinta, Ph.D.,
JUDr. Dita Frintová, Ph.D.,
Doc. JUDr. et PhDr. David Elischer, Ph.D.¹

Children and Their Debts: Current Situation in the Czech Republic. Part One: General Findings and Particular Types of Debts*

*'Pupillus omne negotium recte gerit, ut tamen, sicubi tutoris auctoritas
necessaria sit, adhibeatur tutor, veluti si ipse obligetur'*²

1. GENERAL COMMENTS

The introductory quotation from a four-volume textbook of law (*Institutionum comentarii*) by Gaius shows that issues related to the capacity of immature persons to make juridical acts and the consequences of such acts have been debated in private law since its very beginning. It comes as no surprise that the relation between the maturity of an individual's reason and will, determined by their age and his capacity to cause legally significant consequences by their own manifestations of will, must somehow be addressed in every legal order. The specific solution to this problem influences the scope of matters in which an individual of a certain age may make juridical acts independently and thus cause specific legal consequences in various aspects of their life, such as personal status (e.g. entering into marriage) or assets (e.g. acceptance of a gift, entering into a sales contract, and so forth).

^{*} The manuscript was submitted by the authors on 16 March 2020; the manuscript was accepted for publication by the editorial board on 15 April 2020.

¹ The authors are members of the Department of Civil Law of the Law Faculty of Charles University in Prague. The paper is an outcome of PROGRES Q03 programme: Private Law and Contemporary Challenges research at the Faculty of Law, Charles University in Prague.

² Gai. Inst., III, 109: 'All juridical acts of an infant are binding, however where consent of a tutor is required, the tutor must be present, such as when the infant enters into an obligation.' Quoted from J. Kincl, *Gaius: Učebnice práva ve čtyřech knihách* [*Gaius: The Textbook of Law in Four Books*], 1st ed. Plzeň 2007, pp. 206–207 [own translation from Czech].

In terms of assets, the juridical acts of a minor are not the only legal fact whose consequences influence the total of their assets and liabilities, i.e. debts³. Of course, the property circumstances of minors are affected not only by their own juridical acts (including unlawful acts such as violations of legal duties or breaches of contractual obligations), but also by the juridical acts of their legal representatives (typically parents or tutors) made on behalf of the minors, and also by other facts (e.g. succession, various taxes, and other charges arising from public-law regulations, etc.).

An obligee should perform the obligation duly and in time⁴. There are various mechanisms providing minors with the necessary protection as they are not fully mature in terms of reason and will and in making juridical acts they are generally treated as the weaker party⁵. In private law, it is in particular the regulation of their capacity to make juridical acts and the rules concerning the administration of their assets and liabilities by their legal representatives.

However, in recent years, in the Czech Republic we have been facing situations where these rules, at least at first glance, seemed to be inappropriate for the given purpose or situation (which could not be resolved in a satisfactory way by applying these rules). This issue first emerged several years ago in relation to the duty to pay a fee for communal waste, which was imposed by the Local Fees Act No. 565/1990 Sb. on all natural persons having permanent residence in the given community irrespective of their age, i.e. inclusive of all young children who are indigent, orphans, and are often placed in a children's care home. In practice this often resulted in enforcement orders being issued against children as soon as they acquired full legal capacity, enforcing the monetary debts arising from failure to comply with the duty to pay those fees. Obviously, the public perception of such a situation was distinctly negative and the act was amended to resolve this issue partially (see below for details). However, the issue has recently reappeared in the Czech Republic⁶ in an exacerbated form. This time it concerns minors riding on public transport without a valid ticket (i.e. fare evasion or fare dodging) or to a marginal extent also debts resulting from failure to pay fees in public libraries or to mobile network operators⁷. News on enforcement proceedings against minors or adults whose debt arose when they were minors (and rose due to additional costs) again stirred up the public opinion. The often emotional⁸ public debate⁹ has intensified to such an extent that it has become a political topic and currently there are two¹⁰

³ The terminology of the current Civil Code (Act No. 89/2012 Sb.) makes a distinction between *assets* as a sum of everything which belongs to a person, and *assets and liabilities* consisting of a total of assets and debts (cf. Article 495).

⁴ Cf. Article 3(2)(b) of the Civil Code.

⁵ Cf. Article 3(2)(c) of the Civil Code.

⁶ In April 2019.

⁷ Cf. in particular A. Vlachová, M. Snížek, *Typické dluhy nezletilých [Typical Debts of Minors]*, *Soukromé právo*, (10)2018, p. 2 et seq.

⁸ Cf. e.g. J. Hovorka, *Velká prasárna. Stát vyrobil tisíce dětských dlužníků, teď vymyslí pomoc [What a Disgrace. The State Produced Thousands of Infant Debtors, Now it is Designing a Solution]*, www.penize.cz [online], 16 May 2019. Available at: <https://www.penize.cz/exekuce/406350-velka-prasarna-stat-vyrobil-tisice-detskych-dluzniku-ted-vymysli-pomoc> [accessed on: 22 June 2019].

⁹ For an illustrative summary expert opinion cf. in particular K. Eliáš, *Vychováváme generaci negramotů? [Are We Bringing up a Generation of Illiterates?]*, *Lidové noviny*, 20 May 2019, p. 15.

¹⁰ The first drafted amendment was a private member's bill to amend the Civil Code; the Ministry of Justice of the Czech Republic started to address the issue and prepared its own proposal in reaction to certain problematic aspects of this proposed amendment (see below). The text of the former amendment is available as the Chamber of Deputies print No. 456 at: <http://www.psp.cz/sqw/text/tiskt.sqw?O=8&CT=456&CT1=0> [accessed on: 22 June 2019]. The proposal prepared by the Ministry of Justice of the CR is available at: <https://apps.odok.cz/veklep-detail?pid=ALBSBE7KPCPZ> [accessed on: 1 October 2019].

legislative proposals aiming to resolve the problems described below¹¹, despite the fact that according to the latest figures¹² published by the Judicial Officers Chamber Czech Republic there were a total of 3,476 enforcement proceedings against minors (i.e. persons below the age of 18) in the Czech Republic, of which 2,200 were against children younger than 15, so it is by no means a mass issue¹³.

The above paragraphs introduce the purpose of this paper, which is to acquaint readers with a current issue briefly referred to as ‘child debtors’. First, it is necessary to analyse the legal regulation on the capacity of minors to make juridical acts and the rules applicable to the administration of their assets and liabilities. Then it is possible to provide a detailed report on the individual above-mentioned problems, which have spurred social demand for a legislative solution, and to evaluate the proposed legislative changes.

2. JURIDICAL ACTS OF MINORS, THE ADMINISTRATION OF THEIR ASSETS AND LIABILITIES, AND PARENTS’ DUTY TO PROVIDE MAINTENANCE TO THEIR CHILDREN

2.1 Historical overview

Ancient Roman Law, which still influences continental law, eventually settled on a solution based on several fixed age limits that formed the basis for the scope of an individual’s capacity to make juridical acts. *Infantes* (children) up to seven years could not make any juridical acts. *Impubes infantia maiores* (minors older than children) could acquire either for themselves (if they were *sui iuris*), or for the person in power (typically for *patris familiae*, if they were *alieni iuris*); however they could not assume obligations (and thus worsen their legal position) either by themselves or with the consent of the person to whose power they were subordinated. The age of majority (*pubertas*) was set differently according to gender: girls reached the age of majority when they were twelve years old and boys at the age of fourteen. Persons who reached the age of majority originally had full legal capacity. Over time, several mechanisms were designed to protect adult yet inexperienced persons against the potential negative consequences of their juridical acts. So minors, i.e. persons who reached the age of majority but were younger than 25 years (*minores quam viginti quinque annis natu*), could use the action under *lex Plaetoriae* (*actio*

¹¹ To provide a comprehensive overview it is necessary to add that while we were writing this paper (April to October 2019) Act No. 230/2019 Sb. was adopted, which amended Act No. 182/2006 Sb., to regulate insolvency and the solutions (the Insolvency Act). This amendment added paragraph 6 to Article 412a containing a special provision on discharge from debts owed by minor debtors to unsecured creditors (for a simple explanation, cf. below).

¹² As of end-March 2019.

¹³ According to current data (i.e. as of 31 December 2018), a total of 1,693,060 persons below the age of 15 live in the Czech Republic. The 2,200 enforcement orders therefore represent 0.123% of the total number of persons below the age of 15. There is a total of 467,391 persons aged between 15 and 19 years (the Czech Statistical Office does not register separately the category between 15 and 18), meaning that 1,276 enforcement orders represent 0.273% of the relevant age bracket even though we are aware that it is an age group including citizens aged 19. Sources: Czech Statistical Office and Czech Television, data available at: https://vdb.czso.cz/vdbvo2/faces/index.jsf?page=vystup-objekt&z=T&f=TABULKA&katalog=30845&pvo=DEMD003&str=v1525&c=v3~2_RP2018MP12DP31 [accessed on: 22 June 2019] and <https://ct24.ceskatelevize.cz/domaci/2775392-v-exekuci-je-tri-a-pul-tisice-deti-vetsine-jeste-nebylo-ani-15-let> [accessed on: 22 June 2019].

legis Plaetoriae) to seek compensation for damage caused by the other party through intentional fraudulent conduct (however the juridical act remained valid). Even in other cases, if a minor suffered damage to property as a result of their juridical acts, the *praetor* granted restitution (*restitutio in integrum*). Over time, within the curatorship of minors (*cura minorum*), the alienating acts of such persons were made conditional upon the consent of the curator (*consensus curatoris*)¹⁴. Hence, the Roman law approach was based on fixed age limits. In addition, in case of minors older than children, a distinction was made between the capacity to acquire (for themselves or for the person who had power over them), which was awarded to them, and the capacity to enter into obligations, which they did not have. This solution could be appropriate for the needs of society at the time; however, it did not withstand further historical development, when social relations became more and more complex. Concerning children's own assets, it is worth mentioning at least briefly *peculium*, i.e. assets that were allocated by the *pater familias* to his sons (or slaves) to be managed either following the instructions of the father or according to their own will. However, this was merely a factual allocation, the father remained the owner of the assets and could withdraw *peculium* from the son at any time. In terms of the father's duty of maintenance, it is necessary to mention that as the traditional Roman family developed (where the unlimited authority of the father – *patria potestas* – was a determining factor of the fates of children) a duty to provide dowry for daughters and reasonable maintenance to all the children was imposed on the father during the reign of Octavius Augustus¹⁵.

The conception of fixed age limits was also taken over by the Austrian Civil Code *Allgemeines bürgerliches Gesetzbuch*¹⁶, which was applicable on the territory of the Czech Republic until the middle of the 20th century. Under Article 21 ABGB it was possible to distinguish: (a) children below the age of seven, (b) minors below the age of fourteen, and (c) minors below the age of twenty-four¹⁷. In connection with Article 865 ABGB, the conception was based on the assumption that children below the age of seven could not perform any legally binding acts¹⁸. Children aged between seven and fourteen could not enter into binding obligations without their father's explicit or at least tacit consent (Article 152 ABGB). At the same time, a minor was entitled to acquire by their own lawful acts, even without the cooperation of his tutor (or father), however he could not alienate assets or assume obligations (Article 244 ABGB) without the latter's consent. An exception was made in the case of minors below the age of fourteen lacking maintenance from their parents who could independently enter into obligations

¹⁴ For more details cf. for example M. Boháček, *Nástin přednášek o soukromém právu římském. III. Část všeobecná. Sešit první* [An Outline of Lectures on Private Roman Law. General Part III. Book One], 1st ed. Praha 1947, p. 35 et seq. or O. Sommer, *Učebnice soukromého práva římského. Díl I. Obecné nauky* [A Textbook of Private Roman Law. Part I. General Studies], 1st ed. Praha 1946, p. 184 et seq.

¹⁵ Cf. J. Kincl, V. Urfus, M. Skřejpek, *Římské právo* [Roman Law], 2nd ed. Praha 1995, p. 145.

¹⁶ Imperial Patent No. 946/1811 Sb. z. s. *Allgemeines bürgerliches Gesetzbuch für die gesammten Deutschen Erbländer der Österreichischen Monarchie*, hereinafter also referred to as 'ABGB'.

¹⁷ The age limit of 24 years was later reduced to 21 years by Act No. 447/1919 Sb. z. a. n., which reduced the age of minority.

¹⁸ Cf. J. Sedláček, *Komentář k § 152* [A Commentary on Article 152] [in: F. Rouček, J. Sedláček (eds.), *Komentář k Československému obecnému zákoníku občanskému a občanské právo platné na Slovensku a v Podkarpatské Rusi. Díl první (§§ 1 až 284)* [A Commentary on Czechoslovak General Civil Code and the Civil Law Valid in Slovakia and Carpathian Ruthenia. Volume one (Articles 1–284)], 1st ed. Praha 1935, p. 782.

to provide services, i.e. in the then applicable terminology both the contract to work as a labourer (contemporary employment contract) and the contract for services (Article 152, second sentence, ABGB). The authority of the father (Article 146 et seq. ABGB) included, without limitation, administration of the assets and liabilities of a child (Article 149 ABGB)¹⁹. Article 865 ABGB stipulated that minors (above the age of seven) could independently enter into contracts only if it provided for a promise for their benefit. If the contract contained a promise made by the minor or if the minor accepted a burden related to the promise, it usually required the consent of the representative or, at the same time, of the court for the contract to be valid. Legal capacity (full legal capacity) was attained at twenty-four years of age (and later twenty-one years, *cf.* n. 18 *supra*), on condition that the individual was mentally healthy²⁰. In terms of maintenance of children, it is possible to refer to Article 139 ABGB, which provided that '[p]arents have the duty to bring up their legitimate children, that is, to care for their lives and health, to provide decent maintenance, to develop their physical and mental faculties, and to lay the basis of their future welfare by teaching religion and useful knowledge' and in particular to Article 141 ABGB, which in reference to a father's authority emphasises that '[i]t is primarily the father's duty to care for the maintenance of his children until they are able to make their own living.'. The above clearly indicates that the ABGB related to the legal constructs introduced as early as in ancient Rome.

After World War II, the Czechoslovak Republic was in the sphere of influence of the Soviet Union. The year 1948 was a major milestone in the post-war period as power was seized by the communist party. Then, social and economic changes were made which resulted in a totalitarian state with a centrally-planned economy. This development obviously also had an impact on the law. Within the so-called 'legal two-year plan' the entire legal order was restated so that it was in line with the new political, social, and economic circumstances. Private law was divided into two legal regulations. **Family law was covered in the Family Law Act (Act No. 265/1949 Sb.²¹) and the remaining private law was regulated by the Civil Code (Act No. 141/1950 Sb.²²)²³**. Despite the declared effort to depart as much as possible from the previous (bourgeois) conception of private law²⁴, the capacity to make juridical acts²⁵ was still based on fixed age limits. It was stipulated that persons below the age of six had no legal capacity (Article 11 of the 1950 CC). When the person reached six years of age, they had the capacity to make juridical acts for their benefit and to enter into contracts which were performed at the moment when they were made and which were appropriate to their age (Article 12(1) of the 1950 CC). Upon attaining fifteen years

¹⁹ Under Article 149 ABGB, children (above the age of seven) were the owners of everything they acquired in any legal manner, however as long as they were under their father's authority, the father administered the assets and liabilities of the children (unless the father was not competent to administer or was excluded from administration by those who gave the assets and liabilities to the children, in such a case the court had to appoint another administrator).

²⁰ For the sake of completeness, it is necessary to add that it was possible to attain full legal capacity also earlier by the waiver of age. For details *cf.* Article 174 ABGB and the above-quoted Act No. 447/1919 Sb.

²¹ Hereinafter also referred to as the 'FLA'.

²² Hereinafter also referred to as the '1950 CC'.

²³ This at the same time resulted in the repeal of ABGB, with a minor exception of the labour contract (contemporary employment contract), as employment law was not restated until 1965.

²⁴ *Cf.* e.g. V. Knapp, *Hlavní zásady československého socialistického občanského práva [The Main Principles of Czechoslovak Socialist Civil Law]*, 1st ed. Praha 1958, p. 4.

²⁵ The Czech expression *právní jednání* was replaced by *právní úkon*. [Translator's note: Both terms mean 'making juridical acts' in English.]

of age, the individual also acquired the capacity to enter into employment contracts and to dispose of the remuneration for their own work (Article 12(2) of the 1950 CC). Full legal capacity was attained upon reaching the age of majority, i.e. when the person turned eighteen (or, before that, by entering into marriage, Articles 9 and 10 of the 1950 CC). Compared to the previous legal regulation, there was a reduction of the age limits. With respect to the introduction of the equal status of men and women in marriage, the institution of the father's authority was replaced by the institution of parental authority, which entailed primarily the rights and duties of the parents to control the conduct of children, to represent children, and to administer their property (Article 53 FLA); parents also had the duty to administer the property of the child with due managerial care and in case of matters beyond the limits of such care parents could not act without consent of the court (Article 58 FLA). The maintenance duty was provided for in Article 70 et seq. of FLA, the scope of the duty was determined by the justified needs of the entitled person and by the earnings and property circumstances of the obligee (Article 73 FLA).

In 1960, a new Constitution of the Czechoslovak Socialist Republic²⁶ was adopted and, as a result, laws in all legal branches were restated. Among others, a new Family Act (Act No. 94/1963 Sb.²⁷) and a new Civil Code (Act No. 40/1964 Sb.²⁸) were adopted. The main change compared to the former regulations was the removal of fixed age limits in terms of the capacity to make juridical acts²⁹. It was then stipulated that minors had the capacity to make only such juridical acts which were appropriate to the intellectual and volitional maturity of their age (i.e. irrespective of whether a minor of four years or fifteen years was concerned, *cf.* Article 9 of the 1964 CC). Full capacity for juridical acts was acquired in the same way as under the 1950 Civil Code, i.e. upon reaching the age of majority either when the person turned eighteen or entered into marriage earlier. Due to a shift in the perception of a child as a person having rights and duties³⁰ (rather than a mere object of the exercise of the father's or parental authority) parental authority was not carried over to the Family Act³¹, but parents still administered the matters (therefore also the assets and liabilities) of children (Article 36 FA). Disposal of assets required approval from the court, unless it involved matters of ordinary administration (Article 28 of the 1964 CC). Mutual maintenance duty between parents and children was regulated in Article 85 et seq. of the FA. The original

²⁶ The Constitutional Act No. 100/1960 Sb., which solemnly declared the victory of socialism and indicated further progress of the society and the state towards communism.

²⁷ Hereinafter also referred to as the 'FA'.

²⁸ Hereinafter also referred to as the '1964 CC'.

²⁹ The explanatory memorandum of the 1964 Civil Code stated: 'The capacity of a citizen to acquire through his own acts rights and to owe duties (capacity to make juridical acts) is, as opposed to the status so far, simplified in the bill. Only one age limit of 18 years remains in place. Upon attaining this age, the person reaches a majority and thus also full capacity to perform juridical acts. The other age limits that existed so far are cancelled as they turned out to be mechanical and unpractical and in ordinary juridical acts, such as purchase of consumer goods were not checked at all. Instead, the bill places emphasis on the intellectual and volitional maturity of the minors and the nature of juridical act involved.' Available at: http://www.psp.cz/eknih/1960ns/tisky/t0156_10.htm [accessed on: 22 June 2019].

³⁰ *Cf.* Declaration of the Rights of the Child of 10 December 1959.

³¹ The Family Act in its original wording mentioned simply 'rights and duties of parents and children', and only after the amendment of the Family Act by Act No. 91/1998 Sb., was the concept of 'parental responsibility' introduced as an aggregate of the rights and duties consisting in (a) care for the minor, including in particular care for their health, physical, emotional, intellectual, and moral development, (b) representing the minor child, and (c) administering their assets and liabilities.

wording of the Family Act explicitly stated only a general criterion for determining the maintenance: the justified needs of the entitled person and the abilities and possibilities of the obligee (Article 96 FA). Only after amendments introduced into the Family Act by Act No. 91/1998 Sb. amending the Family Act No. 94/1963 Sb., as amended, and amending other laws, did Article 85 include a specific criterion for determining the amount of maintenance owed by parents to a minor child, that is, that the child was entitled benefit from the living standard of the parents.

Even though the specific legal regulation of the capacity of minors to make juridical acts as well as the legal regulation of the administration of assets and liabilities of the minor and their maintenance arises from the social realia of the given historical epoch, the findings from the historical outline may be summarised by a general statement that the law protected the property of minors by limiting their capacity to make juridical acts (*a contrario* full capacity to make juridical acts of adult persons after reaching the age of majority), and by setting rules for the administration of assets and liabilities of the minor by their legal representatives, mainly by requiring the consent of the court for such disposal of the minor's assets and liabilities that exceeded the limits of ordinary administration.

2.2 Current legal regulation

After the events of November 1989, when the communist regime and its state finally collapsed and pluralist democracy and market economy returned, it became clear that it would be necessary to substantially restate (not only) private law as the previous legal regulation had been based on the postulate of achievement of socialism (*cf.* above). This happened in the Czech Republic after more than twenty years³², with the adoption of the current Civil Code (Act No. 89/2012 Sb., the Civil Code³³) with the date of effect of 1 January 2014.

As for the basic rule concerning the capacity of minors to make juridical acts³⁴, it remained (in principle) unchanged in the spirit of the previous regulation of the 1964 Civil Code (and also in the spirit of the civil codes of the Netherlands or Germany)³⁵. Article 31 CC stipulates that every minor who has not acquired full legal capacity is presumed (which is a rebuttable presumption) to have the capacity to make juridical

³² For the history of restatement *cf.* for example K. Eliáš, *Nový občanský zákoník s aktualizovanou důvodovou zprávou a rejstříkem* [*New Civil Code with an update explanatory memorandum and an index*], 1st ed. Ostrava 2012, p. 11 et seq.

³³ Hereinafter also referred to as the 'CC'. It is worth mentioning that the number '89' in the Collection of Laws is not a coincidence and commemorates the year 1989.

³⁴ In contrast to previous regulations, a distinction is now made between minors who have not acquired full legal capacity yet and minors who have full legal capacity. In the past a minor above the age of 16 who entered into marriage became an adult and therefore had full capacity to make juridical acts before reaching 18 years of age. According to the current Civil Code, majority is acquired only by turning 18 years of age. Therefore, a minor who for example enters into marriage at the age of 17 has full legal capacity, but until they reach 18 years of age they will remain a minor (*cf.* Article 30 CC). Even though it is not explicitly stated, the following text only applies to minors who do not have full legal capacity (which is in practice the majority of minors in the Czech Republic).

³⁵ Even though in the discussions on the prepared wording of the Civil Code a requirement to reintroduce fixed age limits was mentioned (*cf.* V. Zvánovec, *Právní úprava svéprávnosti nezletilců v návrhu nového občanského zákoníku* [*Legal Regulation of Legal Capacity of Minors in the Draft New Civil Code*], Bulletin advokacie, (1–2)2011, pp. 53–57), this solution was not considered in the restatement (*cf.* O. Frinta, *Pojetí svéprávnosti v návrhu nového občanského zákoníku* [*The Conception of Legal Capacity in the Draft New Civil Code*], Bulletin advokacie, (1–2)2011, pp. 58–66).

acts appropriate in nature to the intellectual and volitional maturity of minors of that age. Minors therefore acquire legal capacity gradually: a newborn child has no capacity, a five-year-old child is definitely able to understand the meaning of a gift and a fourteen-year-old child is able to understand the meaning of more complex juridical acts and their consequences. Although the Civil Code does not state it explicitly, it is possible to consider the legal capacity of minors as partial legal capacity (*a contrario*, adults have full legal capacity). The consideration of intellectual and volitional maturity is based on an objective conception whereby a specific minor has the intellectual and volitional maturity of an ‘average’ minor of that age (the argument is based on the wording: ‘minor of that age’)³⁶. This is the essence of the construction of this rule as a rebuttable presumption: it is generally presumed that a minor has ‘average’ intellectual and volitional maturity, however in a specific case it is possible to prove the opposite, i.e. that the intellectual and volitional maturity of the specific minor is different from the average one.

In contrast to former regulations, this general rule is supplemented with further ‘subsidiary’ rules. The first one increases the legal certainty in cases when it is in ordinary life customary for the legal representative to give consent to the minor to make certain juridical acts or to achieve a certain purpose (e.g. to purchase school supplies at the beginning of the school year). If such consent is granted, the minor has the capacity to make juridical acts within the scope of the consent. In this case it is not an irrebuttable presumption. Therefore, if the consent was granted in accordance with the assumptions of this provision, it is not possible to challenge the validity of the juridical acts relying on the lack of intellectual and volitional maturity of the minor (*cf.* Article 32 CC). The second subsidiary rule concerns the operation of a business by a minor. If a legal representative of a minor grants consent for the independent operation of a business or for another similar entrepreneurial activity, the minor acquires capacity to making juridical acts related to such activities. A leave of court is required for the consent to be valid. Such leave at the same time substitutes the condition of having attained a certain age if it is stipulated for carrying on certain business activities in another legal regulation (Article 33 CC). The third rule concerns the capacity of a minor to enter into a contract establishing a relationship similar to employment. After the amendment by Act No. 460/2016 Sb., to change Act No. 89/2012 Sb., the Civil Code, and other related laws, the new wording of this provision is such that the minor who attained fifteen years of age may enter into contracts establishing a relationship similar to employment under another legal regulation. The commencement date of such relationship must not precede the date when the minor completed compulsory school education (Article 35). And finally, the last subsidiary rule stipulates that a minor, irrespective of the contents of other provisions, never has the capacity to act independently in those matters which would require even the minor’s legal representative to get a leave of court (Article 36, see below). This rule also contributes to the legal certainty in legal relations with minors as it contains a negative definition of situations when the minor

³⁶ For the same approach see E. Dobrovolná, *Komentář k § 31 [Commentary on Article 31]*, [in:] P. Lavický et al., *Občanský zákoník I. Obecná část (§§ 1–654). Komentář [Civil Code I. General Part (Articles 1–654). Commentary]*, 1st ed. Praha 2014, p. 197; for a different approach see R. Šínová, *Komentář k § 31 [Commentary on Article 31]*, [in:] F. Melzer, P. Tégl et al.: *Občanský zákoník – velký komentář. Svazek I. § 1–117 [Civil Code – Great Commentary. Volume I. Articles 1–117]*, 1st ed. Praha 2013, p. 357.

does not have the capacity to act independently. For the sake of completeness, it is worth adding that a minor may be awarded (full) legal capacity before attaining majority also by a decision of the court, providing that their ability to make a living and to make their arrangements is confirmed (Article 37). However, the person remains a minor until 18 years of age (even if with full legal capacity, see above).

Care for the child's assets and liabilities³⁷ forms part of parental responsibility³⁸. The child's assets and liabilities are cared for by the parents or a tutor in their place (Article 928 et seq. CC) or a curator for the administration of the child's assets and liabilities (Article 948 et seq. CC). The parents have a duty and a right to care for the assets and liabilities of the child, i.e. primarily to administer those assets and liabilities with due managerial care³⁹. It is explicitly stated that a violation of the duty of due managerial care by the parents gives rise to their liability to compensate for the damage caused to the child (Article 896 CC). If the parents fail to agree on the essential matters of care for the child's assets and liabilities, the decision is made by the court upon an application by a parent (Article 897 CC). Juridical acts concerning the existing and future assets and liabilities of a child or individual assets and liabilities require that the parents receive the consent of court, unless said acts involve ordinary matters or exceptional matters concerning assets and liabilities of negligible value (Article 898(1) CC). It is necessary to point out that the legal construction of Article 898(1) CC is such that the general rule states that the consent of court is required for juridical acts of parents, while the cases when such consent is not required are exceptions to this rule. As an explanation, Article 898(2) CC contains an indicative list of situations when consent of the court is always required for juridical acts. It is required when the child: (a) acquires/disposes of an immovable property or a part of it, (b) encumbers the assets as a whole or a substantial part of it, (c) acquires /refuses a gift, inheritance, or legacy of a substantial financial value, or makes such a gift or a gift representing a substantial part of the child's assets, or (d) enters into a contract creating an obligation to perform on a recurring long-term basis, a loan contract or a similar contract, or a contract concerning housing, in particular a lease. A parent's juridical act lacking consent of the court is not considered, it is therefore a non-existent juridical act (Article 898(3) CC). For the sake of completeness, it is necessary to mention that in juridical acts concerning a child's individual asset or liability, the parents act as their representatives (Article 896(2) CC), and therefore a parent cannot represent the child if it could give rise to a conflict of interests between the parent and the child or between the children of the same parents.

³⁷ This involves both assets and liabilities, i.e. debts (*cf.* above).

³⁸ During the private law restatement, the Czech term *rodičovská zodpovědnost* introduced in 1998 was replaced by *rodičovská odpovědnost*, both of which are translated as 'parental responsibility'. The parental responsibility under the current Civil Code includes the duties and rights of a parent, consisting in (a) care for the child, primarily including the care for the child's health, physical, emotional, intellectual, and moral development, (b) protection of the child, (c) promoting personal contacts with the child, (d) ensuring the child's education and upbringing, (e) determining the child's place of residence, (f) representing the child, and (g) administering the child's assets and liabilities; it arises upon the birth of the child and ends as soon as the child attains full legal capacity. The duration and scope of the parental responsibility may be changed only by the court (Article 858 CC).

³⁹ The standard of due managerial care is defined in Article 159 CC, which provides: 'By accepting an office of a member of an elected body the person agrees to discharge the office with the required loyalty and the necessary knowledge and care'. Due managerial care therefore implies care with loyalty and the necessary knowledge.

In such a case the court appoints a curator for the child (Article 892(3) CC and also in general Article 437 CC)⁴⁰.

With reference to the distinction mentioned in the introduction between assets on the one hand, and assets and liabilities on the other hand, it should be noted for the sake of completeness that it is necessary to distinguish whether the child's assets and liabilities actually include any assets. If the child has no assets, i.e. is indigent (which is almost always the case in practice), the parents settle the debts of the child with their own assets within their maintenance duty (*cf.* Article 910 et seq. CC). Only if the child does have assets can the parents use those assets to settle the debts of the child, however they must follow the rules (limitations) stated above⁴¹.

The regulation of the maintenance duty also shows continuity with the development of the legal regulation to date, despite certain shifts in both the general and the special regulation. In general terms it is necessary to consider justified needs of the entitled person and (newly also) the property circumstances and abilities of the entitled person, and the possibilities and property circumstances of the obligee (Article 913 CC). This is based on the fact that in some cases it is possible for the child to have greater assets than the parents. However, this does not mean that the child is not entitled to maintenance. On the contrary, due to the increased protection of children it is explicitly stipulated that a minor child who does not have full legal capacity is entitled to maintenance even if the child owns assets but the profit from the assets combined with the income from business activities is not sufficient for the child's subsistence (Article 912 CC). With respect to the specific criterion for determining the amount of maintenance between parents and children, it is stipulated that the standard of living of the child must in principle be equal to the standard of living of the parents. However, there is another change in that it is stipulated that this criterion is superior to the criterion of the justified needs of the child (Article 915 CC). However, this cannot be interpreted as the child being automatically, without any further considerations, entitled to have for instance the same amount of financial resources as their wealthy parents: 'it is necessary to distinguish between the realised standard of living and the possible, potential, standard of living. It is impossible to force the parents of the entitled child to live on the standard directly proportional to their assets. The substance of equal standard of living is that all family members should be perceived equally and that their position in using the family resources should be at least similar, if not identical. Equal standard of living does not mean that the children must have available, for example, the same amount of financial resources as their parents. It is necessary to consider that the higher income of the parents is usually related to a demanding job and the higher responsibility they carry. On the other hand, for the child it would be an unearned income deserved only by nature of being a child of the parents. Equality of the standard of living between the parents and the children should be seen primarily in the way of life, and access to cultural, sports, and social possibilities. Equal standard of living must enable the child to live such a lifestyle that does not exclude the child from the family as a whole

⁴⁰ In general, concerning legal representation *cf.* also Article 436 et seq. CC and in particular Article 457 et seq. CC. Article 457 CC establishes the essential principle that the purpose of both legal representation and curatorship is to protect the interest of the person represented and their rights.

⁴¹ The possibility to use the assets of a child to provide maintenance of parents and siblings is regulated (including the pre-requisites, that must be complied with) in Article 900 CC.

if compared to the other members, or that does not create unjustified differences between the parents and the children⁷⁴².

We may conclude that the current legal regulation as a whole may be evaluated as the most detailed compared to the previous regulations, as in addition to general rules it contains supplementary rules, adding precision with the aim of further increasing the legal certainty of juridical acts involving minors who do not yet have full legal capacity. This means that even more prudence is required when researching the real causes of the phenomenon of ‘child debtors’. It is even more urgent because the proposed legislative solution, which is currently being debated by a group of members of the Chamber of Deputies focuses on resolving the problem through an intervention in the conception of minors’ capacity to make juridical acts.

3. CURRENT ISSUES

3.1 Issues of fees for communal waste

As already indicated in the introduction to this paper, the issue of child debtors emerged first in relation to the duty to pay fees for communal waste⁴³. Article 10b of the Local Fees Act (‘LFA’) (in the wording effective up to 30 June 2012) stipulated that the fee for communal waste was to be paid by (a) a natural person having permanent residence in the community⁴⁴; the fee may be paid for a household by a joint representative, for a family house or a block of flats it may be paid by the owner or administrator; these persons have a duty to inform the community of the names and the dates of birth of the persons on whose behalf they pay the fee; and (b) a natural person who owns a building designed or serving for individual recreation in which no natural person has permanent residence; if several persons have ownership rights in the building they all have the duty to pay jointly and severally the fee equal to the fee for one natural person. From the point of view of the issues discussed in this paper, (a) is of key importance, as it states that the only criterion for creating the duty to pay the fee by a natural person consists in the permanent residence in the community, clearly as a consequence of a belief that every citizen in the community must necessarily use the community system of waste management. As a result, the fee was assessed by the communities for example for children placed in children’s care homes in the territory of the community including, for example, orphans, most of whom are indigent. If the fee was not paid on behalf of the child by the legal representative, or the tutor or curator in their place, the community (having the duty to act with due managerial care) had to collect the fee directly from the child, hence, usually shortly after reaching the age of majority the child received an enforcement order for the purpose of enforcing this claim of the

⁴² Cf. The judgment of the Constitutional Court of the Czech Republic in case IV. ÚS 650/15. Available at: https://www.usoud.cz/fileadmin/user_upload/Tiskova_mluvci/Publikovane_nalezky/IV_US_650_15_an.pdf [accessed on: 23 June 2019].

⁴³ ‘A fee for communal waste’ is a shortened version of the official wording of the Local Fees Act No. 565/1990 Sb. it is a local fee for the operation of the system of gathering, collection, transport, separation, use, and disposal of communal waste (cf. Article 1 of the quoted Act).

⁴⁴ Permanent residence is regulated in Article 10 of Act No. 133/2000 Sb., to regulate the registration of citizens and the birth registration numbers and to change other laws (Citizens Registration Act).

community, the claim in the meantime rose due by default interest and the costs of enforcement and court proceedings⁴⁵. We must emphasise that the quoted legal regulation did not give the communities any other options, such as exempting the child from the duty to pay the fee based on administrative discretion.

As of 1 July 2012, this provision was amended by Act No. 174/2012 Sb., to change the Local Fees Act No. 565/1990 Sb., as amended. Article 12 LFA now stipulates that if the payer is a minor at the time when the duty to pay the fee arises, the liability to pay the fee is imposed on the payer and their legal representative and it is joint and several; in such a case the legal representative has the same procedural position as the payer. If the fee is not paid by either the payer or their legal representative, the local authority assesses the fee for one of them. However, the amendment did not solve the problem. It is a paradox that it confirmed the existing practice whereby the communities assessed the fee primarily against the children and later also enforced it against the children, assuming that they were not as burdened by other debts as their parents (we must remember that we are talking about children placed in care homes for various reasons, typically social ones).

In the meantime, the matter was considered by the Supreme Administrative Court of the Czech Republic based on a cassation complaint⁴⁶. In case No. 9 As 211/2014, the Supreme Administrative Court reached the following conclusion: ‘in a situation when a large group of payers has no assets and objectively cannot have any assets, there is not only destruction of their assets but even negation of the assets as upon reaching the age of majority they are burdened with liabilities which were not discharged by those who had the maintenance obligation towards them. [...] The state should not impose taxes and fees on minor persons, unless it is taxation of their assets or their income, because whether they pay them or not depends only on compliance with the maintenance duty by the obligees, rather than on the possibilities of the minor. The imposition of tax liability on indigent minors must be considered as extreme disproportionality of tax liability, prohibited by Article 4(4) of the Czech Charter of Fundamental Rights and Freedoms.’. Based on this consideration (and others) the Supreme Administrative Court turned to the Constitutional Court of the Czech Republic proposing that the quoted provisions of the Local Fees Act be declared unconstitutional. The Constitutional Court of the CR later agreed with the Supreme Administrative Court concluding that: ‘[m]inor payers had no effective means of protection of their rights within the trial proceedings, despite the fact that the imposition of the duty to pay the fee on them had unbearable (choking) effect’, where ‘the legal regulation which imposes on minors the duty to pay fees irrespective of whether they have the means to do so (or at least the possibility to gain such means), burdens them irrespective of the possibility to influence the imposition of the payment of duty (e.g. by refraining from the activities on which the fee is imposed) or at least to be released from the duty (e.g. by relying on the harshness clause), is contradictory to the second sentence of Article 32(1) in connection with Article 4(4) of the Charter of Fundamental Rights and Freedoms (absence of special protection of children and juvenile persons), with Article 3(1) (inadmissible discrimination based on social background), and with Article 11(1) in connection with Article 4(4) (the choking

⁴⁵ The aggregate amounts could be around CZK 15,000, i.e. approximately EUR 600 (using the exchange rate of CZK 25/EUR 1).

⁴⁶ Hereinafter in the text also referred to as the Supreme Administrative Court.

effect of the fee)⁴⁷. The related administrative practice and interpretation issues concerning the scope of the constitutional judgment (brought about by the above-mentioned amendment to the Local Fees Act), including the course of action of the fee administrator is appropriately summarised in the article by Jantoš and Těžký⁴⁸, which can be referred to for detailed information. The whole matter was finally resolved by Act No. 266/2015 Sb., to change the Local Fees Act No. 565/1990 Sb., as amended. Several mechanisms were incorporated into the Local Fees Act with the objective of resolving the unfortunate situation in reaction to the aforementioned judgments.

Firstly, a provision was inserted exempting from the fee *ex lege* certain groups of persons (briefly speaking, children in children's care homes, persons with disabilities, and elderly people placed in care homes)⁴⁹.

Secondly, concerning minor payers it was stipulated that if an outstanding payment arises against a payer who is, on the due date, a minor (does not have full legal capacity) or whose legal capacity is, on the due date, limited (due to mental disorder, *cf.* Article 55 et seq. CC) and a curator was appointed for that payer to administer their assets and liabilities, the duty of such payer to pay the fee passes onto the legal representative or the curator; the legal representative or curator has the same procedural position as the payer. In such a case, the local authority assesses the fee against the legal representative or the curator of the payer. If there is more than one legal representative or curator, they have to discharge the duty to pay the fee jointly and severally (*cf.* Article 12 LFA).

And finally, new provisions were inserted into the Local Fees Act, which now regulate the possibility of a total or partial waiver of the fee on an individual or *en bloc* basis: for one thing, the local authority, upon an application by the payer on the grounds of mitigating the harshness of the law, may waive the fee for communal waste in full or in part, or the accessories of the debt, if it can be justified considering the circumstances of the given case (Article 16a LFA), for the other thing the local authority may by its own motion (i.e. without application from the payer) waive the fee or the accessories in full or in part in the case of emergencies, especially natural disasters, where the fee is waived for all payers to whom the grounds for waiver apply, as of the date when the decision acquires legal force (Article 16b LFA).

Thus, the issue of 'child debtors' was resolved in the case of the fee for communal waste, so that now the above-described excessive cases do not occur. It is necessary to state that it was caused by completely inappropriate (ill-conceived and sketchy) provisions in the public-law

⁴⁷ The judgment was published on 16 October 2017 in the Collection of Laws under No. 338/2017 Sb. The dissenting opinions of judges Sládeček, Suchánek, and Fiala are also interesting. Among other things, they make it clear that they prefer the constitution-conforming interpretation of the challenged provisions of the Local Fees Act (which, according to the dissenting judges, was followed in the judgment of the Regional Court in Brno in case No. 62 Af 78/2013–48) to declaring the provisions unconstitutional and thus inapplicable. The judgment is available at: https://www.usoud.cz/fileadmin/user_upload/Pl_US_9_15_s_disenty.pdf [accessed on: 23 June 2019].

⁴⁸ M. Jantoš, V. Těžký, *K protiústavnosti vymáhání nedoplatků na místních poplatcích u nezletilých [On Unconstitutionality of Collection of Outstanding Amounts of Local Fees against Minors]*, Deník veřejné správy. [online], 27 November 2017, available at: <http://www.dvs.cz/clanek.asp?id=6744614> [accessed on: 23 June 2019]. Apart from other things, the authors raised the question as to the consequences the Constitutional Court judgment has on the fee administrator and payers and whether it makes sense to also consider the unconstitutionality of a part of the Local Fees Act in the wording effective up to the middle of 2012.

⁴⁹ To be precise, it was an exemption for natural persons (a) placed in a children's care home for children up to 3 years of age, special in-patient educational institutions or young offender institutions, or educational institutions providing preventive educational care upon a decision of court or based on a contract, (b) placed in an institution for children requiring immediate assistance upon the decision of a court, at a request of the local authority of a community with extended powers, the legal representative of a child or a minor, (c) as children lacking maintenance placed in a home for persons with disabilities upon the decision of court or a contract to provide social services, or (d) placed in a home for persons with disabilities, a home for elderly persons, a special care home or protected housing (Article 10b(2) LFA). For the sake of completeness, we must add that later this provision was slightly amended, however the contents remained unchanged.

regulation on local fees. This issue therefore had no relation to the private-law regulation of the capacity of minors to make juridical acts and therefore the solution of the issue did not require intervention in private law. To understand other problematic cases (primarily the sanctions for rides on public transport without a valid ticket) it was necessary to introduce the readers to this situation and its solution. In conclusion, it is worth mentioning that the above solution did not aspire to resolve the situation of ‘child debtors’ (at the time the issue of child debtors was not particularly serious in any other field), but it was limited in a minimalist fashion to a partial (i.e. non-universal) solution of a problem at the point where it originated. This may be perceived as a positive aspect of the situation, because partial, non-universal solutions do not entail unnecessary interventions in other legal institutions (private-law or public-law ones) and therefore cannot cause any unwanted ‘side effects’.

3.2 Issues of debts arising from rides without a valid ticket

With respect to the fact that claims arising from riding public transport without a valid ticket are currently perceived as the most burning part of the issue of ‘child debtors’, we decided to deal with this issue in detail in a separate part of this study (Frinta, Frintová: *Children and Their Debts: Current Situation in the Czech Republic. Part Two: Specific Aspects of Debts of Children Arising from Contracts of Transportation of Persons*).

Let us only briefly note here that this type of debt arises when in the course of transport a child is unable to show a valid ticket or to pay on the spot either the fare or the surcharge on top of the fare, which ticket controllers are authorised to charge in such a case. If such debt is not paid voluntarily within a set period, the amount starts to increase due to costs related to recovery of the debt and late payment interest. And if the debt is recovered through court proceedings, then the amount of the debt will also include the costs of the proceedings – including the costs of representation of the creditor by an attorney and possibly also the cost of enforcement (Czech: *exekuce*). The main issue identified in the study is the fact that the procedural rights of the minor child are insufficiently ensured (service of process, representation – for details see the relevant part of the study), as a result of which the child is informed about the debt usually after attaining full legal capacity and in particular when the child starts earning their own living. It then turns out that their income is affected by enforcement of the debt from his childhood.

3.3 Other similar debts

3.3.1 General comments

Apart from the debts of minors arising in relation to using public transport, there are other types of debts characterised by more or less identical features even if they represent a much lower number of cases compared to transportation debts.

3.3.2 Regulatory fees in healthcare

It is necessary to mention one of the issues of the past – i.e. regulatory fees for healthcare services. These fees are governed by Article 16a of Act No. 48/1997 Sb. to regulate public health insurance and to change certain related laws.

Currently, only a regulatory fee amounting to CZK 90 is paid for the use of emergency medical services or emergency services of a dentist⁵⁰. It is explicitly stipulated that the fee is paid by the insured or the legal representative on their behalf. At the same time it is stated that certain categories of persons are exempt from this fee⁵¹. This particular issue was also considered by the Constitutional Court of the Czech Republic. In its judgment in case No. II. ÚS 728/15, the Court stated that: ‘the legal representatives of the minor (child) are the persons having primary financial responsibility for the child. Usually it is the legal representative rather than the child who decides whether the minor would use services that are subject to a regulatory fee, where the child in principle has no realistic possibility of influencing whether the regulatory fee for their stay in the hospital would be paid by the legal representative or not, and it would be unreasonable to request the child to force their legal representative to make the payment. Moreover, younger children in particular are not necessarily aware of the duty to pay the fee. According to the Constitutional Court, unless the regulatory fee for the provision of medical care involving a stay in the hospital to a minor is paid voluntarily, it is not in accordance with the quoted content of the above cited Convention on the Rights of the Child that Article 16a(1)(f) of the Act to Regulate Public Health Insurance be interpreted so that the failure to pay the regulatory fee is considered the responsibility of the minor, or that the payment of such regulatory fee be enforced against a person who was a minor at the time when the duty to pay the fee arose. [...] The Constitutional Court therefore agrees with the conclusion expressed in the reasoning of the challenged judgment of the District Court stating that the duty to pay the regulatory fee for the provision of medical care involving a stay in the hospital to the minor enjoined party is incident exclusively on their legal representative under Article 16a(1)(f) of the Act to Regulate Public Health Insurance, where according to the Constitutional Court the wording of Article 16a(1)(f) of the Act to Regulate Public Health Insurance does allow for such interpretation as among other things stated in the above mentioned reasoning of the District Court⁵².

As a result of this judgment, the issue of these debts may in principle be considered resolved⁵³.

3.3.3 Contracts with cell phone operators

Another frequently mentioned type of debt is what minors owe to mobile operators. In contrast to the debts arising from rides without a valid ticket, this issue was not

⁵⁰ Let us add for the sake of completeness that formerly the scope of medical services subject to the regulatory fee was considerably more extensive.

⁵¹ To put it briefly and simply, they are children in care homes, the insured persons lacking means of subsistence (under the relevant legal regulations), persons living in homes for the elderly, and persons who will be immediately admitted to the hospital.

⁵² Available at: https://nalus.usoud.cz/Search/GetText.aspx?sz=2-728-15_2 [accessed on: 24 June 2019].

⁵³ It is worth noting that it is true that the interpretation in the judgment quoted is not applicable to all cases: ‘It is questionable how a case would be determined if it concerned a seventeen-year-old minor with earnings from employment and, as for their intellectual and volitional maturity, fully aware of the duty to pay the fee and able to pay it. I believe that in this case the duty to pay the regulatory fee would not be contrary to the interest of the minor, therefore it is necessary to consider every individual case separately.’ Cf. L. Chalupská, *Regulační poplatky už nelze vymáhat po nezletilých* [Regulatory Fees Can No Longer be Recovered from Minors], Právní prostor [online], 10 December 2015, available at: <https://www.pravniprostor.cz/clanky/obcanske-pravo/regulacni-poplatky-uz-nelze-vymahat-po-nezletilych> [accessed on: 24 June 2019].

considered as serious⁵⁴ as the debts of minors based on contracts of transportation of persons, even though the mobile voice and data services have been experiencing a great boom in the Czech Republic. Let us mention at least briefly by way of illustration that since 2004 the number of active SIM cards has been higher than the number of citizens of the Czech Republic, and in 2015 a total of 14 million SIM cards, or on average 1.33 SIM cards per citizen of the Czech Republic, were registered. In this context it will come as no surprise that in 2015, 7.8 million users accessed the Internet via mobile networks, whereas only 2.9 million users relied fixed network services⁵⁵. In 2018 in the Czech Republic, 96% of people aged 16 and above used a mobile phone and out of that number 63.1% used a so-called smartphone. Seventy percent of people aged 16 and above accessed the Internet every day or almost every day, while in 2015 ‘only’ 37% of people did so via a mobile phone; in 2018, 58.4% of people in this age range used a mobile phone for Internet access. In absolute figures, the number of users of Internet on mobile phones grew from 1.2 million in 2012 to 5.4 million in 2018⁵⁶.

This is how the Public Defender of Rights reports on a case that could be taken as a ‘reference’ case: ‘In the case considered there was a situation where a mother entered into a contract for a student tariff. In order to be able to use this cheaper tariff she had it registered in the name of her eight-year-old son. The son did not live with her in a common household – he had been in foster care from four years of age and the mother showed no interest in the son. The mother soon stopped paying the monthly bills. After three years, the operator applied to Czech Telecommunications Office to start proceedings against the debtor. The Czech Telecommunications Office approved the application and issued a decision on the basis of which the operator filed an application for enforcement of debt against the then eleven-year-old boy. [...] It could not be assumed that the mother – as his legal representative – would be able to act in his best interest. On the contrary, the mother exploited her son and it suited her that the enforcement proceedings were against her child⁵⁷. In this case the Czech Telecommunications Office reacted to the situation properly⁵⁸ and started to recover the debts from the legal representatives⁵⁹.

⁵⁴ Even if according to some sources there were actually dozens of cases of this type of debt. Cf. R. Vaculík, *Telefonní účty na děti? Stále to jde, ale dluhy už platí rodiče* [Telephone Bills in the Name of Children: Still Possible but Debts are Paid by the Parents], Novinky.cz [online], 20 February 2018, available at: <https://www.novinky.cz/internet-a-pc/mobil/463775-telefonni-ucty-na-deti-stale-to-jde-ale-dluhy-uz-plati-rodice.html> [accessed on: 24 June 2019].

⁵⁵ Source: Czech Statistical Office *Informační společnost v číslech 2017* [The Information Society in Figures 2017], 2017, available at: https://www.czso.cz/documents/10180/46014808/061004-17_S.pdf/b9a0a83e-7a6f-4613-b1df-33fe8b5d1a8e?version=1.1. [accessed on: 24 June 2019].

⁵⁶ Source: Czech Statistical Office, *Informační společnost v číslech 2019 – jednotlivci* [The Information Society in Figures 2019 – Individuals], 2019, available at: <https://www.czso.cz/documents/10180/90577061/06100419c.pdf/3f2e4e4e-cbdb-4e6c-8904-c21160ddaa8?version=1.2>. [accessed on: 24 June 2019].

⁵⁷ Public Defender of Rights, *Rodiče nemají zadlužovat své děti* [Parents Should Not Indebt their Children], 11 October 2016, available at: <https://www.ochrance.cz/aktualne/tiskove-zpravy-2016/rodice-nesmi-zadluzovat-sve-deti/> [accessed on: 25 June 2019].

⁵⁸ Based on Act No. 127/2005 Sb., to regulate electronic communications and to change certain related laws (Electronic Communications Act), the Czech Telecommunications Office is the central administrative authority for state administration in matters stipulated in this Act, including regulation of the market and setting the conditions for business activities in electronic communications and postal services. Failure to pay or the delayed payment of bills is regulated in Article 65 of the Act and the above-mentioned Office is at the same time the enforcement administrative body for the enforcement of duties stipulated in the Act or imposed *ex officio* and on the basis of the Act [Article 108(1)(aa) of the Act].

⁵⁹ Cf. T. Bystrý, *Ochrana před rodiči. Telekomunikační úřad už nebude moct vymáhat dluhy na dětech* [Protection against Parents. The Telecommunications Office will No Longer be Allowed to Recover Debts from Children] iROZHLAS.cz [online], 11 October 2016, available at: https://www.czso.cz/documents/10180/46014808/061004-17_S.pdf/b9a0a83e-7a6f-4613-b1df-33fe8b5d1a8e?version=1.1 [accessed on: 25 June 2019]. For a similar opinion, see A. Vlachová, M. Snížek, *Typické dluhy...*, p. 4.

The Office issued a consolidated opinion, which stated among other things: 'A contract for the provision of electronic communications services whereby the user agrees to make long-term recurring payments, and the amount of payment is practically unlimited, is a juridical act of which a six-year-old child is unable to understand and consider the consequences. Generally, the person having the obligation to pay is the contracting party, or the user, as stipulated in Article 64(1) of the Electronic Communications Act. However, a parent has a parental responsibility as defined in Article 31 of the Family Act⁶⁰, and it is the parent who is responsible for performing the obligations of a minor child'⁶¹. To support the reasoning, the Office appropriately recalled the judgment of the Supreme Court of the Czech Republic in case No. 28 Cdo 3429/2008: 'If a minor child is a party to a building savings contract, certain rights and obligations arise from such a contract for the child. The legal representatives are responsible for performing the obligations on behalf of the minor, [...]. Such obligations form part of the parental responsibility under Article 31 of the Family Act. If an obligation (in this case to make deposits of the agreed amounts with the building and loan society – Article 5(1) of Act No. 96/1993 Sb.) arises from a contract with a minor child as a contracting party, this obligation must be performed by the legal representatives of the minor'⁶². On this basis the Office concluded: 'In view of the above, the Czech Telecommunications Office deviated from the previously applied interpretation that the application should be issued against the minor, when in a case currently under consideration it rejected an application of O2 [mobile operator] stating that the capacity to be sued may only be rest with a parent'⁶³.

Let us add for the sake of completeness that out of the three main mobile operators, the above issue concerned only two (Vodafone and O₂), because in T-Mobile it was not possible to enter into a contract on behalf of a minor⁶⁴. This resolved the issue of 'child debtors' in this area only by means of interpretation of the meaning of parental responsibility and without the need for any legislative interventions.

From the perspective of the current legal regulation, the above-mentioned provisions on the administration of assets and liabilities of a minor by parents and in particular Article 898 CC, according to which parents need the consent of a court (among other things) to make juridical acts whereby the child enters into a contract creating an obligation to perform on a recurring long-term basis, a loan contract or a similar contract, or a contract concerning housing, in particular a lease, while a juridical act of the parent lacking the consent of the court is not considered (it is therefore a non-existent juridical act, only an apparent juridical act).

⁶⁰ Authors' note: The case was considered under the former legal regulation, i.e. under the Family Act. However, the same may be stated on the parental responsibility under Article 865 et seq. CC.

⁶¹ Czech Telecommunications Office, *Monitorovací zpráva. 2017, č. 2* [Monitoring Report. 2017, No. 2], Praha: ČTÚ, 2017, p. 27, available at: <https://www.ctu.cz/sites/default/files/obsah/ctu/monitorovaci-zprava-c.04/2017/obrazky/mz-2017-04.pdf> [accessed on: 25 June 2019].

⁶² The judgment is available at: <http://kraken.slv.cz/28Cdo3429/2008> [accessed on: 25 June 2019].

⁶³ Czech Telecommunications Office, *Monitorovací zpráva. 2017, č. 2* [Monitoring Report. 2017, no. 2], Praha: ČTÚ, 2017, p. 27, available at: <https://www.ctu.cz/sites/default/files/obsah/ctu/monitorovaci-zprava-c.04/2017/obrazky/mz-2017-04.pdf> [accessed on: 25 June 2019].

⁶⁴ For details cf. R. Vaculík, *Telefonní účty na děti? Stále to jde, ale dluhy už platí rodiče* [Telephone Bills in the Name of Children: Still Possible but Debts are Paid by the Parents], *Novinky.cz* [online], 20 February 2018, available at: <https://www.novinky.cz/internet-a-pc/mobil/463775-telefonni-ucty-na-deti-stale-to-jde-ale-dluhy-uz-plati-rodice.html> [accessed on: 25 June 2019].

3.3.4 Debts of minors in connection with books borrowed from public libraries

Another type of debts of minors are those arising from the late return (or failure to return) books or other items to public libraries. To start with, we should at least briefly introduce the system of libraries in the Czech Republic⁶⁵ and their use by the public. According to the available data (the latest currently available figures are for 2017) there were 5,339 libraries in the Czech Republic, at which a total of 1,383,786 registered readers borrowed a total of 55,364,431 library items (which means 40 borrowed items per average reader). In addition to public libraries, there are approximately 100 specialised libraries, out of which 85 participated in the statistical survey in 2017. A total of 145,686 readers were registered in these libraries and they borrowed a total of 428,529 items⁶⁶. On the whole, we are talking about at least 1,812,315 registered readers and 55,792,960 library items (on average, 30 borrowed items per reader). If we relate it to the total number of citizens in the Czech Republic as of 1 January 2017⁶⁷, a total of 17.13% were registered as readers.

From the private law perspective, there is a legal relationship between the library and a reader, the subject matter of which is primarily the right of the reader to use the services provided by the library in accordance with the rules of individual libraries; these services include in particular borrowing items to study them locally at the library or to take them away and return later. These loans are based on individual contracts of loan for use (under a contract of loan for use the lender delivers to the borrower a non-consumable thing and agrees to allow them to use it free of charge for a limited period of time, *cf.* Article 2193 *et seq.* CC), where the details arise from the rules of individual libraries⁶⁸. These individual loans are therefore free of charge, a debt, if any, may arise from a breach of obligations by the reader-borrower. The debt in the form of a contractual penalty (*cf.* Article 61 of the Library Rules) is therefore related to the breach of the obligations of the reader towards the library which consists mostly in the late return of, damage to, or loss of the library item. This contractual penalty in the Municipal Library of Prague currently amounts to CZK 5 per library item and per day the library is open⁶⁹. If we consider an example of two library items that were not returned for a period of 1 year, the penalty amounts to approx. CZK 2,510 (considering

⁶⁵ The fundamental legal regulation that stipulates the basic classification of libraries is Act No. 257/2001 Sb., to regulate libraries and the conditions of operation of public library and information services (the Library Act). For the sake of completeness, it is necessary to add that this act does not apply to libraries operated on the basis of a trade licence (*cf.* Article 1(2) of the Library Act). However, for the purposes of this paper it is not necessary to cover in detail the differences between the libraries operated on the basis of the Library Act and those operated on the basis of a trade licence.

⁶⁶ Source: National Information and Consulting Centre for Culture – Centre for Cultural Information and Statistics ('NIPOS'), *Základní statistické údaje o kultuře v České republice. 2017. III. díl. Knihovny a vydavatelská činnost [Basic Statistical Data on Culture in the Czech Republic. 2017. Volume III. Libraries and Editorial Activities]*, Prague 2018, p. 7, available at: https://statistikakultury.cz/wp-content/uploads/2018/10/Statistika_2017_III.KNIHOVNY_VYDAVATELE_web.pdf [accessed on: 25 June 2019].

⁶⁷ With the population of the Czech Republic of 10,578,820 as of 1 January 2017. Source of data: Czech Statistical Office. Available at: <https://www.czso.cz/documents/10180/45964084/13007217.pdf/16152f213984-4ada-8599-be35c0e31ad6?version=1.1> [accessed on: 25 June 2019].

⁶⁸ *Cf.* for example Article 33 *et seq.* of the Library Rules of the Municipal Library in Prague, available at: <https://www.mlp.cz/cz/sluzby/jak-se-stat-ctenarem/> [accessed on: 26 June 2019]. Hereinafter we will use these Library Rules as the model rules.

⁶⁹ *Cf.* Price list of services of the Municipal Library in Prague, available at: <https://www.mlp.cz/cz/sluzby/cenik-sluzeb/> [accessed on: 26 June 2019].

approx. 251 working days in a year). Additionally, there is a default interest of 0.5% of the outstanding amount for every calendar month of delay (*cf.* Article 62 of the Library Rules).

Theoretically, these debts could in the case of longer periods reach considerable amounts. It is necessary to mention that the quoted Library Rules contain clauses to make sure that any potential debts are not to be recovered from minors. Firstly, there is Article 17 of the Library Rules, according to which it is possible to register a person below the age of 15 as a reader irrespective of whether the person registers personally or through a legal representative; at the same time, such registration is not possible without a signature of a surety who guarantees compliance with the obligations of the reader arising up to the age of 15, where the surety may be also the legal representative. The purpose of the provision is clear: in the case of a debt the library proceeds under Article 2021 CC, i.e. sends a notice to the debtor – the minor – requesting them to pay the liability (the notice is not necessary if the creditor cannot accomplish it or if it is clear that the debtor will not pay the debt) and then requests the payment from the surety – typically the legal representative. This ensures that the library does not have to recover the debt from a child and enables it to recover the debt from the legal representatives, who provided suretyship. Additionally, we must also mention Article 67 of the Library Rules, which allows for an exceptional partial or full annulment of debt of a registered reader by the managing director of the library or by an employee designated by them. This is a convenient safety mechanism of last resort enabling the library to mitigate the harshness in individual cases.

It is therefore clear that in this way sufficient protection is achieved for the rights of the library (in terms of recovery of any potential claims) without at the same time having to sanction (indigent) minors and without having to postpone the resolution of their debts to the time when they attain majority, which would necessarily involve higher amounts of debt. Based on the available sources (*cf.* the examples mentioned in the introduction) it may be concluded that compared to the rides of minors without a valid ticket this is not such a frequent issue, therefore we believe that a majority of libraries proceed in this way (even though the timeframe of this paper makes it impracticable to support this statement with deeper research). And if some specific libraries do not do so, this mode of *balancing* the relationship among the library, a minor reader, and their legal representative is certainly an example of *good practice* worth pursuing, as it does not require any legislative changes.

We may consider whether it would be possible to transpose this *good practice* also to the field of the transportation of persons, which is perceived as the most serious issue. We believe that the *good practice* could be transposed even – if only to a limited extent, so the benefit of such transposition would also be limited. It could be considered that when a child buys a long-term pass (i.e. usually for a month, six months, or a year), it would be possible to make the sale of such a long-term pass conditional upon stating the name of the person who will act as a surety in cases when the transportation company needs to enforce the rights arising from a breach of obligations under the contract of transportation. Considering that the long-term pass is usually cheaper than the cost of tickets for individual rides and therefore it is a voluntary benefit provided by the transportation company to passengers, we believe that there are no obstacles to the transportation company's requesting such information from

the future passenger. Also considering that ticket controllers have no way of finding out whether the child is accompanied by the legal representative, and in principle have no possibility to obtain their personal data otherwise⁷⁰, it would be an option for the transportation company to obtain the data. Clearly, the possibility to transpose the solution is limited only to those children who would actually want to use the long-term pass (even if in the case of commuting pupils or students it may be a considerable percentage), but it would not be an option in case of minor passengers who use public transport *without* a valid ticket.

3.3.5 Debts arising from the lease of a flat or a house

For the sake of completeness, we consider it necessary to also mention the issue of debts related to the leasing of a flat or a house, as also in this respect there appear references to ‘child debtors’⁷¹. Even though, according to the quoted source, it is a one-off case, it requires attention because 19% of households live in leased premises⁷². and it may be expected that in the future the number of residential leases will grow due to the rising property prices.

Leases are regulated in Article 2201 et seq. CC, where Article 2235 et seq. contain special provisions concerning leases of flats or houses⁷³. The legal relationship in a residential lease consists in the obligation of the landlord to allow the tenant to use the premises for the purpose of meeting the housing needs of the tenant and their household members, if any, and the tenant agrees to pay rent to the landlord.

The first thing that may come to mind in connection with the lease may be a situation where a child (e.g. at the age of 17) enters into a lease agreement. At the age of 17, a child does not have the capacity to make such juridical acts, unless the child has full legal capacity. We must note that a minor who has not attained full legal capacity is never, irrespective of the content of other provisions, competent to act independently in those matters for which even their legal representative would require a leave of court (Article 36 CC). And a lease is one of the types of contracts where the legal representative would require a leave of court if they wanted to enter into such contract on behalf of the minor [*cf.* Article 898(2)(d) CC⁷⁴], and the parent’s juridical act lacking the required consent of court is not considered (Article 898(3)). This is why under

⁷⁰ For details *cf.* the above-mentioned paper dealing with debts of minors arising from contracts for the transportation of persons.

⁷¹ A. Skoupá, *Stát by měl dětem pomáhat, ne z nich dělat dlužníky, říká advokátka Vlachová* [The State Should Help Children Rather Than Make Children into Debtors, Says Attorney Vlachová], Aktuálně.cz [online], 23 September 2018, available at: <https://zpravy.aktualne.cz/domaci/stat-by-mel-detem-pomahat-ne-z-nich-delat-dluzniky-rika-advo/r~8b8a9bf8bd9e11e8b5b20cc47ab5f122/> [accessed on: 26 June 2019].

⁷² Out of a total of 4,394,869 households, approximately 835,025 households use leased premises. According to the data of the Czech Statistical Office, available at: <https://www.czso.cz/documents/10180/91839453/160021191d.pdf/74ca6046-8b6f-4738-a74f-4efb85764cae?version=1.2> [accessed on: 26 June 2019]. We can also state that this figure has not changed significantly over the last couple of years, *cf.* e.g. R. Novák, T. Hrtúsová, T. Kozelský, *Nájemní bydlení: jak žijí obyvatelé České republiky?* [Residential Leases: Where do the Citizens of the Czech Republic Live?], Česká spořitelna [online], September 2018, available at: https://cz.products.erstegroup.com/Retail/cs/AnaluC3uBDzy_a_prognuC3uB3zy/VyhleduC3uA1vuC3uA1nuC3uAD_analuC3uBDz/Detail_analuC3uBDzy/index.phtml?ID_ENTRY=104029 [accessed on: 26 June 2019].

⁷³ Hereinafter we will only use ‘residential lease’ to refer to both a flat and a house.

⁷⁴ ‘The consent of court is required in particular for juridical acts whereby the child [...] enters into a contract creating an obligation to perform on a recurring long-term basis, a loan contract or a similar contract, or a contract concerning housing, in particular a lease.’

the current Civil Code a child may be a party to a lease, irrespective of whether the child entered into the lease themselves or if the legal representative made the contract on their behalf, providing that the court consented to it. It is clear that the focus of interest of the court in such proceedings would be the financial circumstances of the child, in particular finding out whether they enable the child to pay a certain amount of rent on a regular basis.

In case of residential leases there is one more way in which a minor child may become a party to a lease as a tenant: passage of a residential lease. Article 2279 CC states that if a tenant dies (and it is not a joint residential lease by spouses), the lease passes to a member of the tenant's household who lived in the flat as of the date when the tenant died and does not have a home of his own. If such person is someone other than the tenant's spouse, partner, parent, sibling, son-in-law, daughter-in-law, child, or grandchild, the lease passes to such person providing that the landlord has agreed for the lease to pass to that person. The residential lease terminates no later than within two years of the date of such passage. This does not apply if the person to whom the lease passed was, on the day of passage of the lease, seventy years of age or more. Nor does it apply if the person to whom the lease passed had not yet attained the age of eighteen on the day of passage; in such a case the lease terminates no later than on the day when this person turns twenty, unless the landlord and the tenant agree otherwise. If more members of the tenant's household comply with the conditions for the passage of the lease, the rights and obligations of the lease pass to all of them jointly and severally. Every person who complies with the conditions for the passage of the lease may, within one month of the death of the tenant, notify the landlord in writing that they do not intend to continue the lease; the lease of such a person is discharged on the date when such notice is served on the landlord.

We may conclude from the above that a minor child who does not have full legal capacity may become a party (tenant) to a lease typically in the case of death of the child's parents since in such a situation the passage of the lease is not conditional upon the consent of the landlord. In the case of death of only one parent, the lease may pass to the other parent and the child jointly and severally, so it will be up to the landlord to decide from which of the two tenants to recover the outstanding amount of rent, if any⁷⁵. The law does provide for the tenant's possibility to notify within one month that they do not want to continue the lease (*cf.* above), however, a minor child (especially a younger one) cannot reasonably be expected to follow such a procedure. If the parents of a child die, the role of the tutor is performed by the so-called public tutor (i.e. the body in charge of social protection of children) up to the time when the court appoints a tutor for the child or until the tutor assumes office (Article 929 CC). It is hard to imagine that the body acting as a public tutor will be able to react within such a short period of time – perhaps with the exception of cases when in the vicinity of the child there would be a prudent person with sufficient knowledge of the law who would realise this need and would contact, with an explicit request, the body in charge of the social protection of children. We may agree with the opinion of Vlachová: 'Unfortunately the law does not take account of the fact that there may be children, even really young children, living in the household. Although the provision

⁷⁵ *Cf.* Article 1872 et seq. CC.

is motivated by an effort to protect other people against losing their home overnight due to the death of one member of the family, the lawmakers did not realise that the lease does not involve only rights, but also significant obligations, in particular the payment of rent, which may be a considerable amount. And if the remaining adult member of the family fails to pay the rent, the children become joint and several debtors⁷⁶. Even though, as mentioned above, that it is a one-off case, it could happen again in the future.

It seems that in this specific case there is not much space for a solution through interpreting the relevant provisions of the Civil Code, especially if the child is indigent (which will always be the case). And the situation will be even more serious if the lease passes only to a child (and not jointly and severally with, for example, the surviving parent). Even if we consider that the child will immediately be taken care of by, for instance, the grandparents, they cannot make any juridical acts on behalf of the child unless they are appointed as tutors. And if they do not request the body in charge of the social protection of the child to notify the landlord of the intention not to continue in the lease within one month, the lease – and therefore also the obligation to pay the rent – will continue. In addition, termination of a lease by the tutor (even if it is the body in charge of social protection of the child in the role of public tutor) does not fall within the scope of ordinary matters and therefore under Article 934 CC would require the consent of the court. It is clearly unrealistic to expect that the whole matter would be resolved within a month.

It may be expected that the child will inherit some property from the parents, but this does not have to be the case, as by the time the inheritance proceedings are completed the debt arising from unpaid rent may reach such an amount that the inherited property will be insufficient to pay the debt.

The legal regulation, even if with a good motive of making sure that the persons sharing the household with the tenants do not become homeless overnight, may in some cases easily turn against these persons. It is questionable whether such a situation may be resolved using for example the housing benefit under Article 24 et seq. of Act No. 117/1995 Sb., on state social support or using the additional housing benefit under Article 33 et seq. of Act No. 111/2006 Sb., on hardship assistance. For one, it is only a contribution which usually does not cover the housing costs in full and, additionally, only a tenant who has permanent residence in the flat is entitled to receive it (if additional prerequisites are met)⁷⁷. Therefore it seems that the given situation cannot be satisfactorily resolved without an appropriate amendment either in the field of state social support benefits (it may be possible to consider, for example, some compensation mechanism for the period until the situation of an indigent child can be resolved by a tutor) or by the limitation of liability of the child for a debt arising in this situation, for example, only to the amount of the inheritance received. However, this is just an initial imperfect consideration – it is necessary to find a solution that will protect the interests of the child, while respecting the landlord's rights. It is clear that finding such a solution would require a separate and in-depth analysis, which is outside the scope of this paper.

⁷⁶ A. Skoupá, *Stát by měl dětem pomáhat...*

⁷⁷ We do not cover this issue because it is outside the scope of this paper.

4. CONCLUSION

The above analysis of typical ‘child debts’ shows that in principle they can be solved in a satisfactory way under the existing legal regulation. The two exceptions include debts which may potentially arise if a residential lease passes to an indigent child (paradoxically, this type of debt has attracted little attention compared to the level of attention currently paid to the topic of child debt), as well as debts arising from using public transport without a valid ticket (which will be analysed in detail in the upcoming paper).

Abstract

Ondřej Frinta, Dita Frintová, David Elischer, *Children and Their Debts: Current Situation in the Czech Republic. Part One: General Findings and Particular Types of Debts*

The paper deals with the issue of the debts of minors. For this purpose, the current legal regulation of the capacity to make juridical acts of minors, the administration of their assets by legal representatives under parental responsibility, and the maintenance duty of parents to children are first analysed. Consequently, six problematic types of debts that arise for minors are identified. Regarding fees for municipal waste, regulatory fees in healthcare, debts from contracts with cell phone operators, and debts resulting from the use of public library services, these are already resolved or at least solvable without the need to amend the existing legislation. As for the debt arising from the transfer of the lease to a minor as a result of the tenant's death (usually a parent), this is a specific problem that will probably require a solution to change the legislation. However, due to the specificity of the problem, a deeper analysis will be needed. That being so, the main problem remains debts from public transport rides without a valid ticket, which are the focus of a separate paper.

Keywords: child, minor, debt, capacity to make juridical acts, litigation, draft, solution

Streszczenie

Ondřej Frinta, Dita Frintová, David Elischer, *Dzieci i ich długi – obecna sytuacja w Republice Czeskiej. Część I: Ustalenia ogólne i poszczególne rodzaje długów*

Artykuł dotyczy kwestii długów osób małoletnich. W tym celu w pierwszej kolejności analizowane są obowiązujące regulacje prawne dotyczące zdolności osób małoletnich do dokonywania czynności prawnych, zarządu ich majątkiem przez przedstawicieli prawnych w ramach wykonywania władzy rodzicielskiej, a także obowiązku alimentacyjnego rodziców wobec dzieci. Następnie autorzy wskazują sześć problematycznych rodzajów długów powstających u osób małoletnich. W zakresie opłat za gospodarowanie odpadami komunalnymi, opłat regulacyjnych w służbie zdrowia, długów wynikających z umów z operatorami telefonii komórkowej, a także długów wynikających z korzystania z usług bibliotek publicznych istnieją już rozwiązania lub możliwości rozwiązania tych problemów bez konieczności dokonywania zmian w obowiązujących przepisach. Długi wynikające z przeniesienia umowy najmu na osobę małoletnią wskutek śmierci najemcy (najczęściej rodzica) stanowią specyficzny problem, którego rozwiązanie będzie prawdopodobnie wymagało

zmiany przepisów prawa. Jednak ze względu na specyfikę tego problemu konieczna będzie pogłębiona analiza. W związku z tym głównym problemem pozostają długi wynikające z korzystania z transportu publicznego bez ważnego biletu, które są przedmiotem odrębnego artykułu.

Słowa kluczowe: dziecko, osoba małoletnia, dług, zdolność do podejmowania czynności prawnych, spór sądowy, projekt, rozwiązanie

Bibliography:

1. Boháček M., *Nástin přednášek o soukromém právu římském. III. Část všeobecná. Sešit první* [An Outline of Lectures on Private Roman Law. General Part III. Book One], 1st ed. Praha 1947;
2. Bystrý T., *Ochrana před rodiči. Telekomunikační úřad už nebude moct vymáhat dluhy na dětech* [Protection against Parents. The Telecommunications Office will No Longer be Allowed to Recover Debts from Children] iROZHLAS.cz [online], 11 October 2016, available at: https://www.czso.cz/documents/10180/46014808/061004-17_S.pdf/b9a0a83e-7a6f-4613-b1df-33fe8b5d1a8e?version=1.1;
3. Chalupská L., *Regulační poplatky už nelze vymáhat po nezletilých* [Regulatory Fees Can No Longer be Recovered from Minors], Právní prostor [online], 10 December 2015, available at: <https://www.pravniprostor.cz/clanky/obcanske-pravo/regulacni-poplatky-uz-nelze-vymahat-po-nezletilych>;
4. Dobrovolná E., *Komentář k § 31* [Commentary on Article 31], [in:] P. Lavický et al., *Občanský zákoník I. Obecná část (§ 1–654). Komentář* [Civil Code I. General Part (Articles 1–654). Commentary], 1st ed. Praha 2014;
5. Eliáš K., *Nový občanský zákoník s aktualizovanou důvodovou zprávou a rejstříkem* [New Civil Code with an update explanatory memorandum and an index], 1st ed. Ostrava 2012;
6. Eliáš K., *Vychováváme generaci negramotů?* [Are We Bringing up a Generation of Illiterates?], Lidové noviny, 20 May 2019;
7. Frinta O., *Pojetí svéprávnosti v návrhu nového občanského zákoníku* [The Conception of Legal Capacity in the Draft New Civil Code], Bulletin advokacie, (1–2)2011;
8. Hovorka J., *Velká prasárna. Stát vyrobil tisíce dětských dlužníků, teď vymyslí pomoc* [What a Disgrace. The State Produced Thousands of Infant Debtors, Now it is Designing a Solution], www.penize.cz [online], 16 May 2019. Available at: <https://www.penize.cz/exekuce/406350-velka-prasarna-stat-vyrobil-tisice-detskych-dluzniku-ved-vymysli-pomoc>;
9. Jantoš M., Těžký V., *K protiústavnosti vymáhání nedoplatek na místních poplatcích u nezletilých* [On Unconstitutionality of Collection of Outstanding Amounts of Local Fees against Minors], Deník veřejné správy [online], 27 November 2017, available at: <http://www.dvs.cz/clanek.asp?id=6744614>;
10. Kincl J., Urfus V., Skřejpek M., *Římské právo* [Roman Law], 2nd ed. Praha 1995;
11. Kincl J., *Gaius: Učebnice práva ve čtyřech knihách* [Gaius: The Textbook of Law in Four Books], 1st ed. Plzeň 2007;
12. Knapp V., *Hlavní zásady československého socialistického občanského práva* [The Main Principles of Czechoslovak Socialist Civil Law], 1st ed. Praha 1958;
13. Novák R., Hrtúsová T., Kozelský T., *Nájemní bydlení: jak žijí obyvatelé České republiky?* [Residential Leases: Where do the Citizens of the Czech Republic Live?], Česká spořitelna [online], September 2018, available at: https://cz.products.erstegroup.com/Retail/cs/AnaluC3uBDzy_a_prognuC3uB3zy/VyhleduC3uA1vuC3uA1nuC3uAD_analuC3uBDzy/Detail_analuC3uBDzy/index.phtml?ID_ENTRY=104029;
14. Sedláček J., *Komentář k § 152* [A Commentary on Article 152], [in:] F. Rouček, J. Sedláček (eds.), *Komentář k Československému obecnému zákoníku občanskému a občanské právo platné na Slovensku a v Podkarpatské Rusi. Díl první (§§ 1 až 284)* [A Commentary on Czechoslovak General Civil Code and the Civil Law Valid in Slovakia and Carpathian Ruthenia. Volume one (Articles 1–284)], 1st ed. Praha 1935;

15. Šínová R., *Komentář k § 31 [Commentary on Article 31]*, [in:] F. Melzer, P. Tégl et al.: *Občanský zákoník – velký komentář. Svazek I. § 1–117 [Civil Code – Great Commentary. Volume I. Articles 1–117]*, 1st ed. Praha 2013;
16. Skoupá A., *Stát by měl dětem pomáhat, ne z nich dělat dlužníky, říká advokátka Vlachová [The State Should Help Children Rather Than Make Children into Debtors, Says Attorney Vlachová]*, Aktuálně.cz [online], 23 September 2018, available at: <https://zpravy.aktualne.cz/domaci/stat-by-mel-detem-pomahat-ne-z-nich-delat-dluzniky-rika-advo/r~8b8a9bf8bd9e11e8b5b20cc47ab5f122/>;
17. Sommer O., *Učebnice soukromého práva římského. Díl I. Obecné nauky [A Textbook of Private Roman Law. Part I. General Studies]*, 1st ed. Praha 1946;
18. Vaculík R., *Telefonní účty na děti? Stále to jde, ale dluhy už platí rodiče [Telephone Bills in the Name of Children: Still Possible but Debts are Paid by the Parents]*, Novinky.cz [online], 20 February 2018, available at: <https://www.novinky.cz/internet-a-pc/mobil/463775-telefonni-ucty-na-deti-stale-to-jde-ale-dluhy-uz-plati-rodice.html>;
19. Vlachová A., Snížek M., *Typické dluhy nezletilých [Typical Debts of Minors]*, Soukromé právo, (10)2018;
20. Zvánovec V., *Právní úprava svéprávnosti nezletilců v návrhu nového občanského zákoníku [Legal Regulation of Legal Capacity of Minors in the Draft New Civil Code]*, Bulletin advokacie, (1–2)2011.