



MASARYKOVA UNIVERZITA
PRÁVNICKÁ FAKULTA

PARENTAL RESPONSIBILITY

Anna Horinova



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

© Anna Horinova, 2009



OVERVIEW

- PARENTAL RESPONSIBILITY - TERMINOLOGY, CONTENT
- LEGAL SOURCES
- EXECUTION OF PARENTAL RESPONSIBILITY
- SUSPENSION, RESTRICTION OF PARENTAL RESPONSIBILITY
- DEPRIVATION FROM PARENTAL RESPONSIBILITY
- OUTCOMES



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

HISTORY, CURRENT LEGISLATION

**TERMINOLOGY, CONTENT,
EXTENT**



PARENTAL RESPONSIBILITY - TERMINOLOGY, CONTENT, EXTENT

Ancient Rome - *patria potestas* - concept of *an authority*

Currently - mostly changed in „*responsibility*“ (includes rights as well as duties)

Czech Family Code 1963, § 31/1

= **body of rights and duties concerning:**

- **care of a child** including care of his/her health, psychological, emotional intellectual and moral growth +
- **representation of a child** +
- **management of a child's property**

Parental responsibility belongs to both parents.



PARENTAL RESPONSIBILITY - TERMINOLOGY, CONTENT, EXTENT

■ care of a child

- Right to have a child by herself/himself
- Right to control child's behavior
- Right to decide in the matters regarding a child on his/her behalf

■ representation of a child

- In the common matters
- In the matters exceeding scope of the common matters
- Conflict of interests

■ management of a child's property

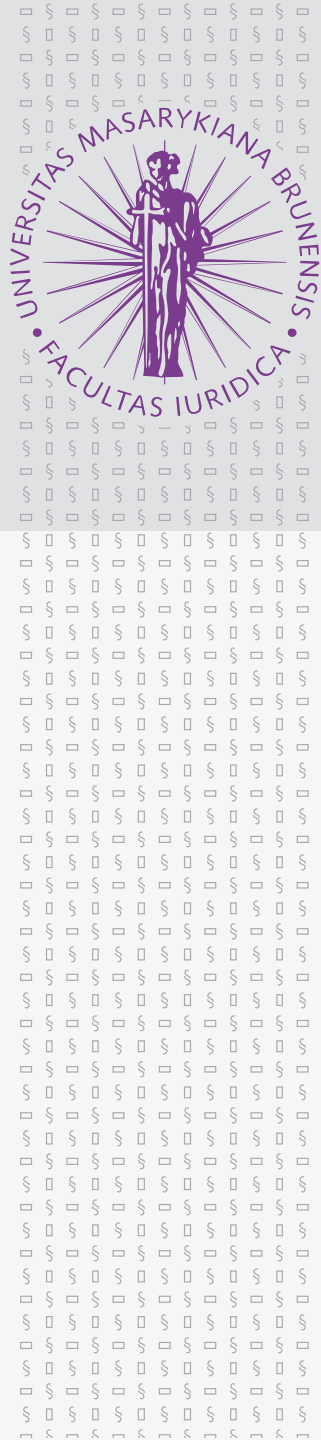
- While deciding extraordinary matters - court affirmation needed



PARENTAL RESPONSIBILITY - TERMINOLOGY, CONTENT, EXTENT

Rights and duties excluded from the extent of parental responsibility:

- Maintenance
- Right to give name to a child
- Right to keep relations with a child (to meet him/her)
- Right to give consent with adoption



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

HISTORICAL CONSEQUENCES, INTERNATIONAL, NATIONAL
SOURCES

LEGAL SOURCES



INTERNATIONAL SOURCES

- Czech Constitution - Art. 10 - international treaties have priority in application
- **Convention for the Protection of Human Rights and Fundamental Freedoms** - art. 8 - Right to respect for private and family life
- **Convention on the Rights of the Child** - the civil, political, economic, social and cultural rights
- **European Convention on the Adoption of the Children**
- Etc.



NATIONAL SOURCES, HISTORY

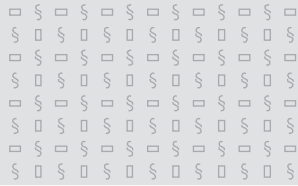
- **Human Rights and Fundamental Freedoms Charter**
(part of the Constitutional Order=body of constitutional laws)
- **Family Code 1963 - §§ 31 - 40**
 - **1918 - 1950** - Family law was regulated within Civil Code
 - **1950** - change of state ideology -specific regulation of intra-family relations
- **Social-Law Protection of Children Act 1999**



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

PARENTS-CHILD RELATIONSHIP, PARENT-PARENT
RELATIONSHIP

EXECUTION OF PARENTAL RESPONSIBILITY



GENERAL REMARKS

- Execution of parental responsibility reflect complexity of this legal institute
- Content changes according to the circumstances
- Depends on age of a child, his/her needs and whether parents live together
- *Res iudicata* principle does not apply is these matters



PARENT - CHILD, PARENT - PARENT REL.

- The best interest of a child is fundamental principle
- Parents should protect the interests of a child, while controlling him/her and his/her behavior according to degree of a personal and intellectual development of a child
- Parents mutual relationship depends on the fact whether they live together and whether they are able to reach an agreement on crucial questions regarding their child
- In case they are not able to do so - commencement of court proceedings



PARENTS ' MUTUAL RELATIONSHIP REGARDING PARENTAL RESPONSIBILITY

- Whether a parent has parental responsibility **does not depend** on the fact he/she is divorced
- Therefore divorce does not affect parental responsibility as such, **it influences only execution of rights and duties** derived from it
- If parents are married and wishing to divorce, they have either to agree on arrangement of exercising parental responsibility after divorce or to commence court proceedings



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

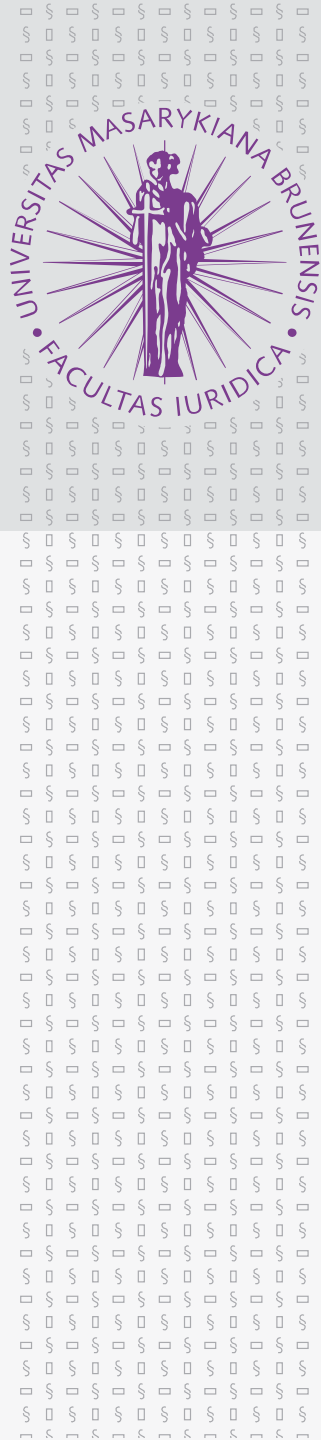
CONDITIONS, EFFECTS

**SUSPENSION, RESTRICTION,
DEPRIVATION**



RESTRICTION, SUSPENSION, DEPRIVATION

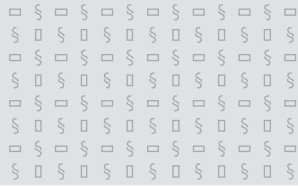
- **Restriction** - parent does not execute his/her parental responsibility appropriately and restriction corresponds with the best interest of a child
- **Suspension** - there is an obstacle impeding execution of parental responsibility
- **Deprivation** - when parent abuses or seriously neglects his/her rights and duties derived from parental responsibility; it is the most severe intervention to parental responsibility



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

SUMMARY, CONCLUSIONS

OUTCOMES



OUTCOMES

- Parental responsibility is legal binding between child and his/her parents - it consists of rights on one hand and duties on the other
- Child is a subject of parental responsibility not an object and should be treated while considering his/her individuality and personality and his/her best interest



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

THANK YOU

Anna Hořínová, horinova.anna@seznam.cz