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Report on the Family Law Workshop VI

The Family Law Workshop was organised for the sixth time on June 7, 2023 by the Dezső Márkus Comparative Legal History Research Group of the University of Pécs (Professor *Eszter Cs. Herger*) and the Department of Civil Law, as well as the Institute of Civil Sciences of the University of Szeged (Associate Professor *Andrea Hegedűs*), which since 2018 has regularly given experienced and new, domestic and foreign professionals the opportunity to analyse current problems in the field of Family law and Child Protection with regard to their historical development, legal connections, and the harmony between theory and practice. Each time the workshop is bilingual (English and Hungarian), and the materials written in the language opposite to the language of the given presentation help the participants to fully understand the topic. The meetings of the two professional workshops also provide a good example of how much the scientific discussion following each section can contribute to a multi-faceted approach to an issue, and thus to the final shaping of the studies reporting the research results.

Márta Görög, Head Professor of the Institute of Civil Sciences of the University of Szeged and *Tibor Nochtá*, Head Professor of the Civil Law Department of the University of Pécs, opened the workshop and greeted the participants. In the first section of the conference, lectures were given on the topics 'Partnership forms – Family – Legal effects', and in the second section on 'Current challenges and possible answers – The best interest of the child'.

Doctoral Student *Róbert Kasuba* (Szeged), in English, entitled '*New Features and Regulatory System of the Marriage Act*' presented the Act XXXI of 1894 on Marriage, which introduced compulsory civil marriage, one of whose goals was to strengthen the institution of marriage legally and morally. He pointed out that with the introduction of compulsory civil marriage, the parties could marry according to their religious and denominational rules, and the state ensured the peaceful coexistence of church and state rules by creating substantive legal rules, because providing optional civil marriage would have given additional rights for the denominations on the one hand, and would have led to double registration (state and church) and the questioning of the authenticity of state registers. He touched on another innovation of the Marriage Act, namely the dissolution of marriage, which was another form of termination of marriage in addition to the death of the spouse, detailed the conditional and unconditional grounds for dissolution, the principle of fault, and the transfer of marital legal disputes to the jurisdiction of the state.

Doctoral Student *Sándor Nagy* (Szeged) presented under the title of '*MAMI, who Connects and Separates (the Family Law Aspects of Artificial Intelligence)*', in which he outlined the possibility of introducing artificial intelligence into the process of marriage and divorce. According to his idea, in the marriage process, the compliance of the electronic claims with the legal conditions will be checked by an artificial intelligence-based system (MAMI), which can even replace the registrar, and then it electronically transmits the marriage certificate to the spouses. During the divorce, MAMI

could order the dissolution if an agreement was reached, but he emphasised that in other cases, artificial intelligence could be used as part of the preparatory activity, since the human factor cannot be omitted. According to his point of view, in the not-too-distant future, artificial intelligence will also be used in marriage and divorce proceedings.

In her presentation entitled *Practical Problems of the Application of the Marital Property Acquisition Regime*, University Professor *Eszter Cs. Herger* (Pécs) pointed out the difficulties of the interpretation concerning both matrimonial property law and cohabitation property law. She believes that the spread of the marital property acquisition regime in contractual matrimonial property law has not been implemented in practice since its entry into force of the Civil Code, mainly, because it is difficult or impossible for legal practitioners to understand the application of the statutory marital property regime (based on the principle of community property) division rules to the marital property acquisition regime (based on the principle of separation of property), which the legislator had a reference regulation on. In the meantime, the correct interpretation of the marital property acquisition regime would be urgent, because, in her opinion, the statutory marital property regime – despite the legislator’s best intentions – struggle with difficulties arising from the structure of the system.

Judge *Kinga Császár*, who earned a PhD at the Family Law School in Pécs, spoke about *Certain Procedural and Substantive Legal Issues in Lawsuits Related to Matrimonial and Cohabitation Property Lawsuits*, during which she emphasised that the courts are short of by statutory marital property regime lawsuits, and compared to those, the number of marital property acquisition regime lawsuits is even smaller. In relation to the marital property acquisition regime, she emphasised the examination of the concept of cohabitation as one of the practical problems. According to her point of view, the emotional relationship is usually not disputed between the parties, however, the other two legal conditions, such as the existence of a joint household and the economic community, raise several legal application questions, especially considering that the economic community is not an exact concept.

Junior Judge *Bernadett Krausz*, Doctoral Candidate (Pécs) addressed the *Practical Issues Related to Child Support* during the determination of the amount of child support, the conditions for changing it, and its implementation. Regarding the issues of child support, she presented the range of child-related expenses that can be taken into account when determining child support, the possible legal basis for the modification, as well as the problems related to implementation, with particular regard to the fact that the introduction of the general minimum would be in the best interest of the child, as well as the amount adjusted to the expected income of the obligated parent of child support, however, this would not be enforceable in all cases according to the rules of enforcement law.

In her presentation *The Enforcement of the Rules of Parental Support in Judicial Practice in Some Cases*, Associate Professor *Andrea Hegedűs* (Szeged) presented parental support based on two precedent-setting decisions of the Curia, focusing on its conditions, with particular regard to the content of unworthiness and self-inflicted conditions.

Assistant Professor *Katalin Visontai-Szabó* (Szeged) presented in English *The Recent Modifications in the Civil Code for the Best Interest of the Child* concerning the changes as of 1 January, 2022, focusing on the problems of its practical implementation, such as shared custody, the fact that the court can also order joint parental custody at the request of one of the parties, if it is in the

best interests of the child, as well as the fact that the procedure for changing visitation rights is within the jurisdiction of the courts and the during visitation, the child's personal documents must also be handed over to the party entitled to visitation, and that the courts must inform the minor child that he or she can make a statement in legal proceedings on issues concerning him or her. She emphasised that the courts have an important task in that they must pay special attention to the best interests of the child in the relevant procedures so that the introduced amendments are effective.

Trúc Giang Huỳnh Thị (Assistant Professor, Can Tho University Vietnam / Doctoral Student, Pécs) spoke about the compatibility of Vietnamese law with International law in terms of protecting the rights and interests of children in cases related to parental divorce in her presentation entitled '*The Children's Best Interest in Vietnamese Divorce Law*'. She presented the implementation of legal harmonisation based on the criteria of parental custody, its modification, visitation rights and child support.

Associate Professor *Márta Gyengéné Nagy* (Szeged) in her lecture entitled '*Natives in the Digital Jungle (the Child Protection Aspect of the Child's Right to Digital Self-determination)*' examined whether we can talk about child well-being and digital well-being without examining the child's well-being, she touched on the digital future of children, emphasised the role of quality state involvement and the provision of human and material resources. According to her point of view, digital well-being requires a holistic interpretation together with the right to economic, social well-being and the child's well-being.

Judge *Enikő Gothárdi*, Doctoral Candidate (Pécs), elaborated in the presentation '*New Rules and Practical Issues of Hearing the Child*' that the amended Civil Code requires the courts to notify the child who has the capacity to make a statement about the possibility of making a statement. The existence of its capacity can be determined individually in each case. In her opinion, one of the problems was the fact that initially the notices were of different scope and style, then with the involvement of psychologists, the recommended central samples according to age groups were prepared, with which it is also advisable to inform the parents about the reason and significance of the notice at the same time. One of the main problems she highlighted was that it is not possible to foresee how emotionally burdensome it will be for the child to make a statement, as well as how much the parents will try to influence the child in order to win the case. Furthermore, since the child has to be informed that the statement must be presented to the parents, it is questionable how much the child dares to speak honestly, however, if the child's statement is not presented to the parties by the court, it raises procedural guarantee questions and assumes a high degree of trust towards courts.

Beáta Zsófia Dudás Attiláné Korinek, Teaching Assistant (Pécs), presented a serious case of parental alienation in her presentation '*Dilemmas Related to Parental Alienation in a Specific Case*', and described the symptoms that appear in the child's behaviour. The instrument of parental alienation is the child, the goal of which is the destruction and incapacitation of the other parent, which can occur at different (mild, moderate, serious) levels. According to her point of view, the time factor is of particular importance in solving the problem, as well as equipping law enforcement officers and authorities with adequate knowledge so that they can use the most effective procedure to protect the child from parental alienation.

In the presentation *'Family and Child Protection Activities of Victim Support Centres'*, Assistant Professor *Barbara Katalin Herke-Fábos* (Pécs) presented the development of the current form of victim support, the system of victim support and the child protection signal system. She explained that the most important tasks of victim Support Centres include the prevention of victimisation, victim assistance, and coordination in order to avoid repeated victimisation; she also emphasised that in the design of these centres, efforts should be made to avoid the office milieu, to use a friendly colour tone, to use comfortable furniture, to create specific rooms and a park of diagnostic equipment. In the area of victim outreach, she emphasised the need for anonymity, the role of the police, and the need to promote the forms of service to law enforcement and lay audiences.

After the professional exchange of ideas following the presentations, *Andrea Hegedűs* summarised the professional lessons learned from the workshop and expressed her hope that the Pécs-Szeged cooperation in the field of Family Law and child protection can continue in the future in front of an even greater professional publicity.