

Summary

The constitutional right to fair trial is one of prerequisites of proper functioning of the state, and it creates a directive for forming normative acts of law of appropriate content. Caring to fulfill it, the lawmaker should secure the individuals the possibility of using legal means for protection of infringed rights and pursue the resulting claims, and the existence of full trial guarantees that enable the use of those means. Therefore the regulations of the Constitution of the Republic of Poland, and art. 45 in particular, give the lawmaker the duty to construct the Code of civil proceedings in a way, that will secure real protection of interests of individuals.

In transferring the constitutional right to a fair trial to the field of court proceedings in civil cases we must assume, that its aim is the achievement of just judgment in conditions of fair civil proceedings. The necessary elements that condition the conduction of proper proceedings include the prerequisites for court proceedings, including the capacity to sue, that forms the indispensable attribute of participants of proceedings.

Still there are situations in which the capacity to sue of specific individuals becomes limited, and thus they can no longer use the benefits of its granting or holding. These limitations can result directly from regulations, or from some factual circumstances, and have significant influence on the ability to initiate and evaluate the correctness of pending proceedings, and the permanence of the resulting judgment. In those cases the regulations pertaining to the institution of legal guardians apply.

It is commonly adopted that the guardianship has a significant role in protection of laws of the represented persons and fulfillment of the rule of equality, as the actions of guardians significantly influence the ability of those parties to use selected procedures. Apart from securing proper protection of laws of the guarded person the institutions of legal guardians also influence the course of civil proceedings, including the court situations of its other participants.

The research objective of the doctoral thesis was the complex analysis of regulations that form the basis for actions of numerous guardians in the civil proceedings and evaluation of the influence of their existence and actions on the trial positions of other participants. The objective was realized, among others, through reflection on possibilities of selecting common features of guardians and the aim behind introduction of regulations that normalize the institutions of guardians.

The institutions of guardians are extremely diverse, as their bases are formed by regulations of many acts of law. That is also why the completion of research objectives necessitated their systematization. The legal analysis of regulations regulating respective guardians that we performed allowed us to select common elements, based on what limitations in the right to sue they supplement in their action in civil court proceedings. Due to that the work adopted the division of the discussed institutions on guardians for people with no right to sue, guardians for those with full right to sue and guardians appointed for other purposes than fulfillment of the lacking right to sue. This division allowed us not only to order the knowledge pertaining to the respective types of guardians, but also formed the basis for formulation of conclusions and analyses in the context of execution of right to fair trial by selected parties that take part in civil proceedings.

The work is divided in three chapters. The first chapter, aiming at discussion of right to fair trial in civil proceedings, demonstrates the essence of its importance in the legal system as such, taking how its contents were influenced by regulations contained in international acts of law and the judgments of Polish Constitutional Tribunal and the European Court of Human Rights, into consideration. Furthermore it presents the procedural aspect of the right to fair trial and the scope of civil proceeding protection that is included in its framework, as well as the rules and procedural conditions, and in particular right to sue. The second chapter lists the bases for appointment of guardians, the scope, and the reasons and objective of their appearance in this type of proceeding. The aim of the third chapter is to perform, on the basis of the contents of the previous parts of the work, a thorough analysis relating to the influence of appointment of a guardian on the course of civil proceedings. That is also why it presents the rules for functioning of guardians in the respective stages of proceedings, as well as their influence on trial situation of parties participating in those proceedings.

The analysis of regulations forming the basis for appointment of guardians justifies the claim that these institutions form a deviation from independent activity of set parties in civil proceedings, and thus influence the fulfillment of right to fair trial in this type of proceedings. The respective guardians supplement the lacks of right to sue of those parties, and thus enable them to start civil proceedings, shape them correctly, without putting them at risk of invalidity and thus enable the issue of legally binding resolution. Due to the aforesaid the institutions of guardians are the expression of realization, by the state, of the duty to appropriately shape the civil proceedings, and

thus fulfill the right to fair trial defined in art. 45 of the Constitution of the Republic of Poland.

Considerations included in the work allowed us to adopt a position stating that institutions of guardians foreseen in regulations of material and process law are a guarantee of fulfillment of right to fair trial not just for the guarded party, but also for other participants of the civil proceedings trial. The existence of these institutions significantly determines the trial situation of those opposing the guarded parties, as from their perspective they also allow the conduction of proceedings with participation of parties that have limited right to sue, guaranteeing their proper shaping, without the risk of invalidity and thus allows for reaching a resolution that is final and will not be appealed through claim to reopen the proceedings.

Pointing our attention to the importance of the institution of guardians for the trial situation of court opposition of guarded persons we understand the *guardian* in civil procedure as a party appointed on the basis of material or process law by the court in precisely defined situations, with aim of enabling the initiation, conduction and ending of proceedings in a set case, with participation of persons with limited right to sue. Adoption of the aforesaid definition of *guardian* stresses its significance, as its actions not only secures the protection of guarded person, by fulfillment of equality principle, but also guarantees the execution of rights to trial of other parties participating in the civil trial.

Accomplishment of the assumed research objectives confirms thesis saying that institutions of guardians form a guarantee of right to trial not only for the guarded party, but also other participants of civil trial, understood as right to access court, right to properly shaped procedure and right to fair judgment. Still it is worth to indicate, that the fulfillment of constitutional right to fair trial only takes place when the law regulating the institutions of guardians is appropriately applied. Only proper and justified appointment of guardians and proper fulfillment of their duties of active participation in civil proceeding may guarantee full execution of this right.

When we also include the scope of actions that are envisaged for the respective guardians, we must recognize that depending on legal basis that sets the limit for their actions the guaranteeing function of these institutions in the fulfillment of the constitutional right to fair trial becomes graded. This gradation is expressed specifically in the type of actions that the guardians are entitled to initiate, and thus by categories of cases that they may act in during civil trial proceedings. The aforesaid also influences

the limits of fulfillment of right to fair trial, understood as access to courts of law, as the scopes of actions of guardians decide the type of proceedings allowed with their participation.

The analysis of regulations that form the basis for guardian activity in civil proceedings leads us to conclusion that these norms are not free of errors. These are mostly the result of ambiguity of their formulations, and thus the doubts pertaining to the entitlements of guardians to take respective procedural actions in civil proceedings. This enabled the accomplishment of research goals to put forward appropriate conclusions pertaining to the mode of regulation of applicable legal norms concerning institutions of guardians and propose possible changes in those regulations. These postulates are directed towards more complete fulfillment of right to fair trial in civil proceedings, with use of the institution of guardians as guarantors that secure their realization not only on the part of guarded parties, but also their opponents.

Independently from the difficulties diagnosed in application of regulations normalizing the institutions of guardians it is justified to claim that their introduction in legal order by lawmaker meant proper care for shaping civil procedure, that enables the conduction of civil trial in cases that could otherwise exclude the investigation and protection of rights in front of law enforcement organs. Thus it guaranteed the realization of one of the fundamental human rights, that is the right to a fair trial.