

niezbędne środki utrzymania. W obliczu dużej doniosłości praktycznej analizowanego unormowania, znajdującej odzwierciedlenie w niesłabnącym zainteresowaniu nim doktryny i orzecznictwa, celowe było zarysowanie problemów interpretacyjnych powstających w toku jego stosowania, zwłaszcza tych niedostrzeżonych bądź nie dość uwypuklonych w dotychczasowych wypowiedziach, stwarzając przyczynek do dalszej dyskusji nad optymalizacją rozliczeń zwrotnych.

Anna Sylwestrzak

CHILD SUPPORT RECOURSE – FEW COMMENTS ON ART. 140 OF THE FAMILY AND GUARDIANSHIP CODE

The recourse claim provided by art. 140 of the Family and Guardianship Code means that a person who provided other person with maintenance instead of the maintenance debtor, may claim from the debtor the reimbursement of the support provided. This regulation is a more favorable basis for pursuing the claim than the legal provisions referring to unjust enrichment.

The Author presents the elements of the recourse obligation: its source which is a factual activity, its object and the entities (recourse creditor and recourse debtor who is a maintenance debtor at the same time). It has been emphasized that the person who received benefits, called a „recipient”, is not a party to this obligation. However, the recourse claim is closely related to the maintenance claim, the existence and size of which directly affect the recourse claim. Particular attention has been paid to the issue of recourse claims arising between spouses in case of common matrimonial property. The above issues are presented in the form of a critical analysis of the case law in this regard.