PREREQUISITES FOR THE EXISTENCE OF A STATUTORY DUTY TO PROVIDE CHILD SUPPORT TO ADULT CHILDREN IN REGULAR EDUCATION UNDER SERBIAN LAW

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ABSTRACT: Even though parental authority ceases to exist with a child’s attainment of adulthood, or earlier if the child obtains legal capacity through emancipation, parenthood, as a personal relationship between the parent and the child, is not limited in time. In essence, it presupposes that parents take care of their children, even once the children have established their own families. This continuing support, both emotional and material, is a natural extension of their personal relationship. When this support is lacking, even though necessary, the state intervenes by providing protection (at least to some extent) in the realization of certain rights even to children who have achieved adulthood. This protection entails, above all, the right to education, since this right normally cannot be fulfilled prior to coming of age. To that end, the law establishes a duty to support a child while in regular education, even if the child is no longer a minor. The purpose of this paper is to determine the meaning of the relevant terms with regard to the existence of the duty to provide child support: regular education and obvious unfairness.

KEYWORDS: regular education, obvious unfairness, adult child, statutory duty to provide child support

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The statutory duty to provide child support to an adult child is a natural dislocation of the financial burden of education from the state onto the family, which is considered to be the cornerstone of society [Ribot 2009: 35; similarly Ponjavić 2014: 381]. However, the moral dilemma remains – should a child, who has reached adulthood and attained certain professional qualifications, or even the opportunity of employment in accordance with its vocational education, be legally guaranteed to receive support from its parents, who have already guided the child on to the right track? On the one hand, a person with full legal capacity capable of providing for himself should do so. On the other hand, the right to education is a basic, constitutionally guaranteed, human right (Art. 71, para 1 of the Constitution of the Republic of Serbia, hereinafter: Constitution). In circumstances where these values collide, the question which of them should prevail arises. Serbian legislation contained an obligation on behalf of parents to provide support to their adult child while in education even before the passing of the Family Act (hereinafter: FA); this family solidarity is merely continued in the FA, while the prerequisites for the emergence of this obligation are more closely defined.

I. POSITIVE LAW

According to the FA, an adult child, under the age of 26, who is in regular education, has the right to receive support from its parents in accordance with their capabilities (Art. 155, para 2 of the FA). In case that parents are not alive or are incapable of providing support, blood relatives in the straight ascending line can also be considered obligors of child support (Art. 155, para 3 of the FA). However, if obliging the parents or other relatives to provide child support would represent an obvious unfairness to them, the child will not have the right to be supported (Art. 155, para 4 of the FA).

The stated measures are provided for the establishment of obligation relations between the adult child, as the obligee of child support, and the parents (or other close relatives), as the obligors. The obligation relation is created by statute and is in most cases performed voluntarily. However, it is not uncommon that such performance is refused, in which case the obligees are forced to realize their rights through the courts – by litigating the dispute and, if necessary, in enforcement proceedings. Most often, but not necessarily, this is the case when the obligation to pay child support, established by court decision after the divorce of the parents, ceases to exist.

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This claim can also be understood as an expression of the general position of the individuals according to which their freedom is a fundamental value, but also a responsibility, regardless of the fact that the Republic of Serbia is not perceived as an (extremely) liberal state, but as a social and a legal one (Art. 1 of the Constitution). The value of freedom and responsibility in civil law is manifested through the concept of personal autonomy, which has a normative basis on the constitutional plan – inviolability of human dignity (Art. 23, para 1 of the Constitution), the right to free development of one's personality (Art. 23, para 2 of the Constitution), the guarantee of the right of ownership and other property rights (Art. 58 para 1 of the Constitution). The constitutional guarantee of personal autonomy is, in relation to the stated provisions, a well based concept in German doctrine and jurisprudence [Medicus 2002: 74–78; Köhler 2007: 32; Bundesverfassungsgericht 1 BvR 567/89].
The following paras contain the analysis of the conditions for the existence of the right to child support for an adult child in regular education: the concepts of “regular education” and the absence of obvious unfairness. Regarding the first condition, it is important to emphasize that it is new with regard to the wording of the norm, as the previous Act did not require that the education be “regular” [Ponjavić 2014: 381]. Regardless of this difference in wording, even the doctrine and jurisprudence referring to the old text considered that the child needed to be in regular education. The second condition, however, is a complete novelty, since its existence was entirely negated during the validity of the previous Act, which did not make any mention of such a requirement.

II. THE CONCEPT OF REGULAR EDUCATION

In its most general meaning, education can be defined as an institutional process of acquiring knowledge and skills. In the legal system of Serbia, education is conducted in several phases: elementary, secondary and higher education. The concept of regular education most definitely encompasses elementary education, which is evident from the fact that such education is obligatory. In addition, bearing in mind that elementary education is normally conducted at a very early age, the support of the child is necessarily present, as it is unconditional while the child is a minor (or, in the context of this paper, independent of the fact whether or not the child is attending school or not). As far as secondary and higher education are concerned, the interpretation of the requirement of ‘regular education’, as found in the FA, is disputable, as this term can point to different meanings.

The term regular education is not defined in the positive law of Serbia; instead, it is provided that elementary, secondary and higher education exist. Since elementary education is prescribed as obligatory by the Constitution, it obviously must be considered as a part of regular education. However, it is also apparent that limiting the concept of regular education merely to education that is obligatory, in terms of providing child support to an adult child, would be absurd. Therefore, there should be no doubt that regular education encompasses not only elementary, but also secondary and university education. A problem, nonetheless, arises in the context of existing categories of high school students, since a difference can be made between regular and irregular students. A student is considered to be a regular one if he/she is enrolled in the first grade for the purpose of attaining secondary education or education for work purposes, and is younger than 17 years, (Art. 40 of the Secondary Education Act), while a student is irregular if he/she enrols into a secondary education institution at an age of 17 or beyond, or is younger than 17, but can justify its incapability of regularly attending classes. Furthermore, if regular students fail to pass an exam they were required to re-take, they can enrol into the next grade as irregular students. If, in line with the context of this paper, this latter category is disregarded (considering that this category consists of minors), it remains unclear if an irregular student in secondary school is in regular education. Considering that secondary education is essentially the first phase in
making a child capable of performing work which will enable it to provide for itself in life, regardless of the fact that it is not considered obligatory in the Serbian system, one cannot ignore the fact that such education is necessary in today’s economy and job market. Bearing this in mind, a child's status as an irregular student cannot be considered an obstacle in realizing its right to receive support from its parents, which is in line with the main purpose of this legal institution.3

As far as the manner in which higher education is regulated today, it does not pose any problems, considering that the difference between regular and irregular students does not exist anymore (everybody enrolled in a university is simply considered a student). It is therefore evident that enrolment in academic or professional studies is a fact which gives rise to the creation of a statutory duty to provide support. It is worth mentioning that the requirement of regular education is met even if the student is self-financed [Ponjavić 2014: 381; Supreme Court of Cassation Rev 3461/10; Supreme Court of Serbia Rev 579/82; Appellate Court in Novi Sad Gž2 236/11; County Court in Čačak Gž 64/09]. The fact that the student is enrolled in a private or public university is also irrelevant [Supreme Court of Cassation Rev 3355/10].4

With all this being said, all of the questions, however, have not been resolved – quite to the contrary. The further meaning of regular education has been an important issue in practice for quite some time.5 The problems can be divided into two parts. The first part relates to the importance of active involvement by the supported adult child in the educational process, while the second part pertains to the qualification level of the studies in the context of regular education.

Regular education, according to the prevailing opinion in doctrine and case-law, does not consist of mere enrolment into a certain educational profile (high school or a bachelor’s degree), but also requires actual participation – the fulfilment of the corresponding obligations. In this context, formally having the status of a student is insufficient to fulfil the requirement of ‘regular education’; the obligee of child support must take and pass exams and progress in his/her education. This is well established in the practice of the revisional court, and has also been adopted by appellate courts, as well as doctrine.6 However, such a definition necessarily invokes the question of defining the criteria for a child’s progression in education. Namely, it is entirely possible, for example, for a student not to manage to pass all of the exams from a certain year or even

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3 This position was confirmed in practice [Appellate Court in Novi Sad Gž2 8/11], where it appears that the question whether an adult child as an irregular student is in regular education was not even considered as problematic; instead, the dilemma was resolved positively as self-evident.
4 The same is true in terms of secondary education, as it too can be realized in private schools.
5 Regardless of the fact that the Act preceding the current Family Act did not mention ‘regular’ education, the existence of this requirement was demanded in practice.
6 In the practice of the revisional court from the 1980s onward, the position adopted is that regular education is this context means “taking and passing exams on a regular basis and enrolment in the next year after completing the previous one” [Supreme Court of Serbia Rev 579/82; Supreme Court of Serbia Rev 2575/06; Supreme Court of Cassation Rev 3461/10], which, as was stated, has been followed by the appellate courts [Appellate Court in Novi Sad Gž2 236/11; County Court in Čačak Gž 64/09], and doctrine [Ponjavić 2014: 381].
to fall behind. Practice shows particular sensibility regarding this question; therefore, an additional standard with regard to regular education was established in this respect in terms of “unjustified or considerable falling behind in studies” [cf. Petrović-Škero 2010: 492]. This standard assumes that the existence of the right to child support is in principle possible even though the studies are not proceeding according to plan, while this right will not exist only if the falling behind was caused by carelessness on behalf of the child.\footnote{Therefore, the fact that all exams have not been passed does not mean that the child is not in regular education and therefore not entitled to child support; in the relevant case, 14 out of the 23 cases had been passed, which demonstrated “a commitment to studying” and therefore the existence of regular education [Appellate Court in Novi Sad Gž2 236/11]. On the other hand, evident lack of interest for studying in the form of a failure to pass a single exam by a 19 year old child as an irregular student of the second grade in high school and the failure to progress to the next grade, clearly shows carelessness [Appellate Court in Novi Sad Gž2 8/11].} The Supreme Court of Cassation has, in a relatively recent judgment, further developed the aforementioned standard by taking into account the average duration of study in a certain programme when assessing the backlog in studying [Supreme Court of Cassation Rev 3461/10].\footnote{In the case at hand the studies were 3 years long. However, considering that the average time for the completion of the studies was 5 years, the Supreme Court of Cassation considered the completion of a degree programme within this time frame to be regular education.} Therefore, it can be concluded that the concept of regular education has, above all, a substantial content in terms of achieving the required results of education.

The complex of problems pertaining to the classification of study programmes in terms of regular education is caused, above all, by the existence of different levels of higher education. Namely, bearing in mind the system of higher education in Serbia, the question whether regular education, in terms of providing child support, encompasses education which is conducted after graduation (specialist, master and doctoral studies) necessarily arises. This issue was, for a long time, problematic in the case law, primarily due to the fact that an adult child has, after the completion of bachelor studies, attained all the necessary qualifications for performing professional tasks and duties. Finding employment, apart from some extraordinary positions, does not require further education.\footnote{A good example is education in law, as it is not a requirement to have a master or doctoral degree in order to work in the judiciary or to practice as a barrister.} Hence, enrolment in master, specialist or doctoral studies cannot be considered as necessary, as is the opinion in prior case law [Supreme Court of Vojvodina Rev 190/83 according to Petrović-Škero 2010: 493]. Looked at from this perspective, the duty to support an adult child who is in postgraduate studies would be an unjustified burden for the obligor. However, the reasons which justify the right of an adult child to be supported during regular studies do not seem to be exhausted after the completion of bachelor studies. Moreover, the present trend of constantly increasing the general level of education advocates in favour of the opposite conclusion: the duty to provide child support should exist as long as the obligee is in education or professional training. In its absence, it is possible that an adult child, without sufficient means of subsistence nor the possibility to find employment in accordance with his/her level of education (or if employment is impossible due to study obligations),
will also not have the chance to fulfil the need for further education and professional development. Taking this into consideration, it is in line with the goal of the obligation to provide support to an adult child to consider postgraduate studies as being part of regular education. Furthermore, viewed from a normative perspective, higher education explicitly encompasses postgraduate studies (Art. 25 of the High Education Act). This interpretation is also universally accepted in recent court practice.\(^{10}\)

Another aspect of the same issues is the vocational re-training. Sometimes a student obligee, after graduation but before turning 26, enrolls into a different university, thus starting regular education in the abovementioned meaning with the goal of attaining a completely different degree. In that sense, it is questionable whether such a situation would qualify as regular education and thus give rise to the duty to pay child support. The Supreme Court of Cassation has, in this regard, explicitly taken a position and has rejected the existence of regular education in such a case. It would seem that the main line of argumentation on this point was the Court’s further elaboration of its own position on postgraduate education and professional training as being regular education, which can be seen from the following excerpt.

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\text{Claimant has completed his regular studies by graduating from the Department of Tourism at the aforementioned university, and enrolment in regular studies in a different department at the same university does not represent further professional development [Supreme Court of Cassation Rev 3129/2010].}\(^{11}\)
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It is worth mentioning that in this particular case, the claimant (an adult child) had argued that the reason for enrolling in a different programme was precisely the inability to find employment with his existing degree, which the Supreme Court of Cassation did not find to be a relevant argument. Petrović-Škero, not only a judge of the Supreme Court of Cassation, but the presiding judge in the case, came to the same conclusion in her commentary of the case [2010: 494].

Such an opinion is without a doubt not in line with a textual interpretation of Art. 155 para 2 of the FA; however, this is not of decisive importance. One problematic aspect of taking such a stance is that it results in a contradiction of sorts in terms of following a coherent value system. Namely, if post-graduate studies are recognized as being part of regular education, and with the explanation that they allow additional professional development for the purpose

\(^{10}\) Petrović-Škero and Milutinović, as judges of the Supreme Court of Serbia (The Supreme Court of Cassation today), name examples in which this position was explicitly taken, and which they themselves support, so it is possible to speak of a prevailing opinion of the revisional court [Škero 2010: 393–394; Milutinović 2008: 257 et seq.]. Considering that the appellate courts also support this position [Appellate Court of Novi Sad Gž 48/13], it is possible to speak with confidence of an unequivocal opinion in the practice of courts.

\(^{11}\) The Appellate Court in Novi Sad has completely adhered to this position [Appellate Court in Novi Sad Gž 48/13]; it is important to note that the same position had been taken by the Appellate Court in Kragujevac even before the decision was taken by the Supreme Court of Cassation [Gž 5575/10].
of better prospects of employment, then negating the enrolment into a different educational profile, precisely in order to find employment, which is not possible with the current profile, as regular education, is contradictory. However, precisely in relation to this valuation, it is also possible to reach the opposite conclusion, which justified the result reached by the Supreme Court of Cassation. The purpose of providing child support to an adult child in regular education is to enable it to find opportunities of employment, but the choice of education is left solely to the child. When making a decision which career to follow by enrolling into academic/specialist studies, it is considered that the child, due to the fact that it is full of age, is mature enough to make decisions and bear the consequences in case it makes a wrong one. Moreover, the right to education presupposes a free choice of education even at prior stages in the child’s development (while the child is still a minor), when enrolling into secondary school (Art. 63 of the FA). Therefore, it can be said that the right to child support, already at the level of determining the meaning of regular education, presupposes taking responsibility for one’s choices, which is completely in line with the constitutional right to free development of one’s personality. In that sense, it is possible to make a distinction, both from a realistic and value-based standpoint, between a situation when there is essentially a continuation of education (post-graduate studies) and when there is, in essence, a new start to the education (vocational re-training).

In the end, bearing in mind the fact that in the modern world of increasingly penetrable borders in terms of knowledge, it is becoming more and more common to study abroad (both at the undergraduate and post-graduate levels), there is the issue whether such education abroad can be considered regular education and give rise to the obligation to support an adult child, considering that this normally requires more funds than education at domestic universities. If one adheres to the concept of regular education, bearing in mind the purpose of the obligation to provide child support, the answer is definitely affirmative, as is confirmed by the practice of the courts [Supreme Court of Serbia Rev 2528/06 according to Petrović-Škero 2010: 493]. This fact can be relevant when determining the amount of the support to be paid, but it cannot be accepted, as suggested by Petrović-Škero, that education abroad in itself is a circumstance which gives rise to obvious unfairness [2006: 409]

III. OBVIOUS UNFAIRNESS

From a strictly theoretical standpoint, the absence of obvious unfairness is a negative prerequisite for the existence of the duty to provide child support to an adult child who is in regular education and under the age of 26. However, solely for the purpose of determining the risk of failing to prove concrete facts which relate to this legal standard, it is justified to speak of it as a condition which precludes the emergence of the right to be supported.12 Bearing in

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12 Differentiating between facts which lead to the emergence of a right (constitutive facts) and facts which prevent the emergence of a right (impeditive facts) is a rule which is explicitly stated for the purpose of bearing the burden of proof (Art. 231, paras 2 and 3 of the CCP). However,
mind that obvious fairness is a legal standard (and a new one in terms of the state of the law prior to the adoption of the FA), it is necessary to attempt to give at least some guidelines for determining its content.

It can be noticed from the case law that different circumstances are taken into account when assessing whether there is obvious unfairness. For example, in one case, the Appellate Court in Novi Sad states that the lack of interest on behalf of the adult child and obvious avoidance of school duties indicates that there is no regular education at hand and that it would be an “obvious unfairness” towards the parents to oblige them to “contribute to the support of a child which fails to fulfil its school duties on a continual basis” [Gž2 8/11]. Similarly, the same Court in another case concludes, after determining that the child in question is meeting all the duties envisioned by the study programme, that it would therefore “not be obviously unfair for the parents to provide it with child support” [Gž2 236/11]. Therefore, it is evident that parameters which relate to the concept of regular education are being used to determine the content of obvious unfairness. This approach has already been criticized in the doctrine [Ponjavić 2014: 381–382], and justifiably so. This is not merely a doctrinarian necessity, i.e. a requirement of terminological clarity and non-contradictoriness, but has practical repercussions in terms of the burden of proof.\(^\text{13}\) The meaning of the term obvious unfairness should be found in circumstances which are completely separate from the developed concept of regular education, as otherwise the explicit existence of the term would not make any sense, which most certainly was not the intention of the legislator. Therefore, when talking of obvious unfairness in this sense, it can be said that it pertains to circumstances which are of material and/or personal character. In any event, the “unfairness” should be of a resounding intensity, as it is required that it is obvious.

Circumstances of material character pertain, first and foremost, to the material capabilities of the obligor. For example, if an adult child who has attained a certain professional title, coming from a family which is not well-off, refuses adequate employment in its field of expertise because it wants to continue its education or professional training. On the one hand, the question of the need for further education is not of existential importance. In this case, it is purely the satisfaction of a personal preference, to which, admittedly, every citizen is entitled. On the other hand, the costs of studying or a post-graduate degree pose an additional burden on the parents and could significantly impact their standard of living. Bearing in mind the meaning of family solidarity,

\(^{13}\) Considering that regular education is a constitutive fact in terms of the burden of proof in general, the party which is claiming the existence of the right (the obligee of the support) has to meet the burden of proof in this respect (Art. 231, paras 1 i 2 of the CCP). Conversely, obvious unfairness is an impeditive fact in this regard, which means that the burden of proof is on the party which is disputing the existence of the right (the obligor). This reasoning stems from the prevailing view of qualifying facts as constitutive and impeditive, in light of the approaches adopted in the redaction of the FA [\textit{cf.} Leipold 1966: 51–53].
which is one of the goals strived toward in regulating this inherently private sphere of legal relations, it would seem that the standard of “obvious unfairness” serves precisely in order to protect this solidarity. In other words, obvious unfairness should be a criterion in measuring the interests of the obligee of child support, on the one hand, and the obligor, on the other. If, in the given example, the parents have an income, in line with the provision on providing child support “in accordance with their capabilities” (Art. Art. 155, para 2 of the FA), the right to child support would exist. However, this is precisely where the requirement of the absence of obvious unfairness comes into play. Providing child support for the child’s regular education in this case could represent a significant burden on the parents and jeopardize their day-to-day existence. To the same end is the measure of the FA which provides for the extinguishment of the obligation to provide support if the “obligor loses the capability to provide support or if continuing to provide support becomes an obvious unfairness towards him” (Art. 167 par. 2 of the FA). In addition, if the obligee has a brother or sister who is a minor and is supported by the parents whose incomes are modest, it could also be considered that requiring the parents to pay for child support would be an obvious unfairness. If the provision on “obvious unfairness“is not applied in such a case, it would mean that a child of age is being redistributed a certain amount from the funds necessary for the support of his minor siblings, whose interests should definitely have priority. A similar situation exists when a person who is of a poor material standing has an obligation to support his/her spouse who is unfit for employment.

As far as obvious unfairness of a personal character is concerned, it seems that attributing an adequate meaning to this standard is a much more complicated task, as this concept can be seen in two ways. Firstly, the question whether the personality of the obligee can be of crucial importance in assessing the existence of obvious unfairness (e.g. the child is irresponsible or lazy, as a result of which the parents are aware that it will not fulfil its school responsibilities). Another question is whether providing support for the child can be considered to be obviously unfair if the relationship between the child and the parents is bad on personal level.

With regard to this issue, the doctrine and the courts (admittedly with regard to the previous Act, in which obvious unfairness was not a circumstance which precluded the emergence of the right to child support) have taken the position that (unlike in inheritance law, where one can be unworthy of being an heir) in family law there is no “unworthiness to be supported” [Đraškić 1998: 361 et seq.]. This position is somewhat justified. This is the case, above all, when the personality of the child in need of being supported is problematic from a social, or even criminological aspect (the child is demonstrating considerable delinquent behaviour, behaves inappropriately in a social setting or displays other personality traits which are of embarrassment to its parents). In such circumstances, since the Constitution itself establishes that every citizen has the right to education, the adult child will have the right to be supported, as long as it fulfils the primary condition: being in regular education. However, leaving bad personal relations between the obligee (the child) and
obligor (the parents or relatives) outside of the scope of the legal standard of obvious unfairness would unjustifiably narrow the meaning of this concept and diminish its corrective purpose. Moreover, such an approach would exaggerate the purpose of child support and lead to some clearly unfair results, for which no justification could be found, for example, if a child conducted itself completely inappropriately towards its parents, by abusing them verbally or even physically.\(^\text{14}\) Considering that such behaviour is sometimes even punishable (Art. 197–200 of the FA; Art. 194 of the Penal Code) and not tolerated by the State, there is no reason why it should be tolerated by the parents, who would be obliged to support the child and in doing so increase their own suffering. Furthermore, one cannot lose sight of the fact that such actions by the child could lead to tort liability, in which case the parents would be the obligors.

In addition, it needs to be stressed that “unworthiness” to be supported has not been ignored in the case law. While not explicitly using the term, the courts have understood the meaning of obvious unfairness as a negative condition for the existence of the right to be supported so as to consider the personal relationship between the obligee and the obligor as relevant when assessing whether providing support would be justified. There are numerous cases where it was considered that supporting a former spouse would have been an obvious unfairness because he/she had been unfaithful. In line with this reasoning, such a position can more readily be adopted with regard to child support for an adult child, since in this case, unlike in case of support between former spouses, the obligee’s subsistence need not be at risk. Therefore, even without the support of his parents or relatives, the child would be able to find employment which would enable it to support itself.

In conclusion, obvious unfairness, like any legal standard, is dependent on the circumstances of each particular case. The guidelines for its existence are, on the one hand, financial circumstances, and, on the other, personal relations between the obligee and obligor. In any event, obvious unfairness should be clearly distinguished from regular education, which is the first and fundamental prerequisite for the emergence of the right to be supported for an adult child. This differentiation ultimately has practical effects in terms of the burden of proof.

IV. CONCLUDING REMARKS

An adult child under the age of 26 and in regular education has the right to be supported by its parents (or, in certain cases, by its blood relatives in the straight ascending line) if two conditions are met. First, the child has to be in regular education, which presupposes that it is actually achieving the required results. Apart from secondary education and undergraduate studies, regular education also encompasses pursuing a post-graduate degree. As far as the contentious case of vocational re-training is concerned, the main arguments support both inclusion and exclusion of this type of education in the concept

\(^{14}\) A good example would be the one where the parents were divorced and the parent from whom the support is sought has started a new family, which prompted the child’s inappropriate behavior towards him/her or his/her new spouse.
of regular education, with the later position prevailing. The second condition is the absence of obvious unfairness, in the sense that providing support, would be an obvious unfairness to the obligor. This requirement is entirely independent from the concept of regular education and failing to achieve the required results does not form part of this term. Obvious unfairness can be present in the material (financial) or personal (moral) sense.

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ПРЕГЛЕДНИ НАУЧНИ РАД

ЗАКОНСКА ОБАВЕЗА ИЗДРЖАВАЊА ПУНОЛЕТНОГ ДЕТЕТА НА РЕДОВНОМ ШКОЛОВАЊУ У СРПСКОМ ПРАВУ

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РЕЗИМЕ: Иако родитељско право престаје пунолетством детета, односно ранијим стицањем пословне способности, родитељство, као лична веза са дететом, није временски ограничено. Суштински, оно подразумева бригу родитеља о деци, чак и када деца заснују своје породице. Ова континуирана подршка, како у емотив-
ном тако и у материјалном смислу, спонтано произлази из њихове међусобне везе. Када је она ускраћена, а неопходна, држава преузима улогу пружајући, до извесне мере, заштиту и пунолетном детету за вршење одређених права. Ту се, пре свега, мисли на право на образовање, будући да се оно, по правилу, не може окончати до стицања пунолетства. У том смислу је и законска одредба којом се установљава обавеза издржавања за пунолетно дете, испод 26 година старости, од стране родитеља (изузетно и крвних сродника), уколико су испуњена два услова. Први је да се дете редовно школује, што претпоставља заправо постигање одређених резултата. Поред средњошколског и основног академског, редовно школовање може да подра- зумева и последипломско образовање. Иако постоје аргументи којима би се оправ- дало како укључивање, тако и исklučivaњe ovог вида образовањa у појам редовног школовања, можемо констатовати да преовладавају афирмативни ставови. Други услов јесте одсуство очигледне неправде, у смислу да је давање издржавања очиглед- но неправедно за дужника. Овај услов је потпуно независан од претходног, те се у раду посматра само кроз имовински, односно лични аспект.

КЛУЧНЕ РЕЧИ: редовно образовање, очигледна неправда, одрасло дете, за- конска обавеза издржавања детета