

Title

The legal status of the embryo from the perspective of European human rights protection

Abstract

The thesis addresses the question regarding the legal status of the human embryo in European law. The aim of the thesis is to evaluate whether the embryo stands in the position of a legal object or legal subject and whether the legal status of embryo is in compliance with natural law.

For this purpose the thesis firstly defines the status in the field of natural law, i.e. the moral status of embryo. Afterwards, the thesis examines the legal position of embryo in human rights protection. The thesis answers the question whether the embryo is subject of human rights documents. The legal status of embryo is analyzed in relation to the subjectivity of human rights in general as well as in relation to specific rights. The interpretation of legal terms “human being” and “everyone” contribute to a better understanding of legal status of embryo in general. The analysis of the specific rights, namely the right to life, human dignity, personal integrity and non-discrimination, shows the complexity of the potential legal subjectivity of embryo in the area of human rights. The evaluation of the legal status of human embryo in the area of human rights protection is complemented by an assessment of legal status in other area of law as the civil and penal law and the regulation of research and its legal aspects.

The analysis of the legal status of human embryo is based on the legal texts of international (European) human rights documents and regulation of biomedicine and research, case law issued by the CJEU and ECHR and human rights committee monitoring compliance with these international convention. Those are complemented with the opinions of legal scholars.

The results of the analysis of the legal position of the human embryo are summarized in the conclusion of the thesis. From the point of view of natural law the moral status of embryo develops and culminates to the moment of birth. The case law of ECHR and CJEU does not reflect this moral status of embryo. Today's society miss the social consensus to consider the human embryo as “everyone”. However, human rights documents consider the human embryo as “human being” and provide a protection to embryo in connection with human dignity. The human dignity of embryo is reflected in the restriction of research or impossibility to own and freely dispose with embryo. The thesis concludes the embryo is not

full-blown subject of law but it is not an object either. The legal position of human embryo is quite specific. The legal position of embryo is somewhere between.

Key words: human embryo, legal status, legal subject, legal object, human rights of embryo, moral status, right to life of embryo, human dignity.