

Gender Reassignment from the Point of View of Social Law

Abstract

This thesis deals with legislation regulating gender reassignment in the Czech Republic, specifically conditions which allow a person to undergo gender reassignment, like surgical procedures and sterilization. I compared Czech legislation with opinions expressed by the European Court of Human Rights. I determined whether Czech legislation is consistent with development in other European countries. I focused in more detail on the topic of people who undergone gender reassignment getting married and being forced to end their current marriage. I also concentrated on payment of medical bills and retirement age within social insurance.

I would like to spread awareness of gender reassignment with this thesis, which is not very widespread in society. I would also like to compare Czech legislation with ECHR's opinion and find out whether Czech legislation is too obsolete.

Czech legislation demands surgical procedures and sterilization for allowance of gender reassignment, which is in contrast with ECHR's case law and other European states' legislations. 31 of 39 states of The Council of Europe permit transgender people gender reassignment without previous surgical procedures or sterilization. The case law and society have changed in the last twenty years, but Czech legislation does not reflect this change. This thesis concentrates on ECHR's case law, I want to show the shift from state's duty to acknowledge gender reassignment to gender reassignment without the necessity of any surgical procedure. Czech legislation would have followed European standards twenty years ago, but it is not the case today. This situation should be improved in the future and surgical procedures and sterilization should be omitted from Czech legislation.

Czech legislation is comparable with opinions expressed in ECHR's case law, specifically surgical procedures are covered by public health insurance and retirement age is established by reassigned gender. Even the necessity to end marriage is not contrary to ECHR's case law, but the future ECHR's case law can condemn it.

Key Words

Gender reassignment, transgender, European Court of Human Rights