Abstract

Thesis: Abortion in the light of case law of European Court of Human Rights

This thesis focuses on the legal regulation of abortion in selected European countries in order to find single European standard. It concentrates primarily on issues of assessing violations of particular articles of the Convention on Human Rights and Fundamental Freedoms by the European Court of Human Rights or former European Commission of Human Rights in relation to specific cases associated with abortion. Abortion means the deliberate termination of pregnancy by means of surgery or administration of drugs to induce abortion. Abortion is a major ethical issue that raises number of discussions and disputes. The complexity of the problem is due to the fact that on the one hand there is the mother's right to freely decide to terminate or continue the pregnancy and on the other hand, there is considerable right of the embryo/foetus to life. The whole text of the thesis is interwoven with finding a balance between these competing interests of women and the unborn child based on my own opinion or the opinion of the international judicial body. It analyzes two main approaches, which are pro-choice approach in favour of women's freedom of choice, and pro-life approach arguing that the foetus has right to life. Both approaches have numerous supporters.

The core of the thesis is a comprehensive analysis of regulation of abortion in Europe, particularly from the perspective of the European Court of Human Rights. This is a very difficult task due to the high sensitivity of the topic of regulation and inconsistency of legislation within the individual European states. However, the essence of my work is a detailed analysis of case law of the European Court of Human Rights relating to the abortion in a broader sense, i.e. that it will include both national legislation, decisions of national courts in specific cases or legal area, as well as questions of medicine, philosophy and above all morality and religion, which are closely linked with the theme of the thesis. The analysis will cover the major court decisions and national legislation of individual European states.

The case law is divided into several parts. Firstly, I focus on states where abortion is totally prohibited. However, there is a noticeable trend towards liberalization. The ban on abortion is followed by exceptions, in which it is accepted to perform abortion, and thus are vital, social and legal indications. The most liberal states allow abortion just on the request of the woman. Nevertheless, there exists a time limit, by when the abortion is permitted. In my
work I also discuss the cases of involuntary termination of pregnancy often associated with
the negligence of doctors, the abortion without the consent and against the will of man who is
the father of the child and the right to information related to the possibility to undergo
abortion and the problem of limiting this right in certain European countries.

While thinking about the topic of abortion it raises other issues that need to be
analyzed in detail, i.e. Does the embryo or foetus has right to life? Is it possible to consider
the foetus as a human being who is Wordy of legal protection as well as human from the
beginning of life to death? How can we determine the origin of life? To be able to answer all
these question will need the knowledge not only from the area of law, but also areas of
philosophy, ethics, religion and medicine.

However, due to the lack of consensus of the Member states of the European Convention of
Human Rights the European Court leaves wide discretion to the European states, the so-called
margin of appreciation and gives the opportunity to the States to regulate the basic framework
stated by the international bodies more strictly according to the local conditions and social
values that have developed in the territory for centuries.