

Abstract

Protection of a human foetus

The aim of this thesis is to deal with the protection of the human foetus in the scope of the Czech legal environment as well as in the relation with the international law. The work provides the insight into the specific law areas as constitutional law, criminal law and also private law and deals with the specific rules contended in the single act as the Interruption of the pregnancy act and the new Specific medical services act. The substantial part of the legal discussion is supported by examination of the decisions of the courts both international and national which reflect the protection of human foetus.

The thesis focuses on the protection of human foetus in its complexity and shall provide the comparative material which compares the protection of the human foetus within the specific law disciplines. The analysis of single legal problems and issues of the protection of the human foetus is not exhaustive and focuses on the protection and state of the human foetus in specific statutes.

The protection of the human foetus represents quite discussable issue which provides a large number of questions to be answered and leads to the discussions which are reflected in this work. The key issue is researched under the actual conditions of the legal system and also with the impact on the current mood within the society. Throughout the history the position of the society to the potential human life was never truly united and the reflection of this issue was and still is substantially different in various cultures. The position of human foetus is influenced by the religious and moral awareness of the society and of course is also influenced by the progress in the field of the reproductive medicine.

The opening part of this work concentrates on the analysis and definition of the time period when we can consider the existence of the human foetus and its protection. There are several moments in the evolution of the foetus which can establish its protection. It is mainly the moment of conception, the moment of the settlement of the fertilized egg in the body of mother or the later stage of the pregnancy. Very important are the terms which define the boundaries of legal interruption according to the Interruption of the pregnancy act and which are from the practical reasons placed previous to the moment of the conception. More than the beginning of the protection is discussed the end of the protection of the individual as a foetus and the beginning of the protection as a human being. This can be the moment of the

childbirth or the moment when the child leaves the body of mother or the first independent breath. This work had come to the conclusion the moment of the beginning and the end of the protection of the human foetus shall be interpreted in the dependence on the purpose and interpretation of the law which is applied in the specific situation.

In the following part of the work is examined the legal position of the human foetus in the relation with the conflict of the rights of the mother and unborn child and also the unique position of the embryo in vitro.

The crucial part of the work analyses the protection and the position of the human foetus according to the single law disciplines. At first the work explores the international treaties related to the human rights and the decisions of the courts coherent with these treaties. This part is followed by the analysis based on the position of the constitutional law especially the article 6 par. 1 second sentence of the Bill of rights. Another chapter deals with the interruption law which is connected to the protection of the human foetus and which influences its existence. The special attention is paid to the protection of the foetus comparing to the right of mother's free will to decide about her pregnancy and maternity. The following chapter provides the possible protection of the foetus provided by the criminal law which aims to protect the foetus especially through the pregnancy and through the provisions against the manipulation with the human genetic material. The civil law is represented by the protection of the property rights of the human foetus as a nasciturus and the position of the embryo in vitro.

In the final part of the thesis is considered the solution of characteristic issues related to the protection of the prenatal forms of the life. More specifically the work deals with the assisted reproduction, issues of the serious foetus malformations and prenatal diagnoses and as well with the institute of the surrogacy.

The thesis reflects the law related to the protection of the human foetus through the whole legal system including the decisions of the courts and the new law which is at the moment not in the legal force yet.