

RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE IN THE CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS

Abstract

The aim of the thesis is to explain wording and application of the Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention) from the perspective of the European Court of Human Rights (the ECHR). The scope of Article 8, which guarantees the right to respect for private and family life, is very broad. For this reason the thesis especially deals with the issue of the right of the child to know his/her origin and information about his/her early childhood. In particular it attempts to outline the way how the ECHR deals with the conflict of the right to know one's origin with the right of the parent to stay anonymous.

The thesis is divided into five chapters which illustrate the particular aspects of the application of Article 8. These chapters are linked through the judgements *Gaskin*, *Mikulić*, *Odièvre*, *Jäggi* and *Phinirikadou* which are related to the right of the child to know his/her origin.

Chapter 1 provides with the general introduction to the protection of human rights at the European level and also analyses the Convention and the ECHR.

The goal of chapter 2 is to outline the inner core of the Article 8 and show how and under what conditions and criteria the Article 8 will be applied in the conflict of the right of the child to know his/her origin and the right of the parent to stay anonymous. Firstly, the concept of Article 8 is clarified and then the scope of this right is explored from the perspective of the private and family life, home and correspondence. This chapter also explains the negative and positive obligations of the state and analyzes the margin of appreciation and the principle of proportionality. At the end of this chapter the two-stage test which is used to find out if there has been a breach of Article 8 is explained and also the Article 8 paragraph 2 which specifies the criteria for justification of breach of Article 8 paragraph 1 is analysed.

Chapter 3 is dedicated to the conflict of interests and rights protected by the Convention in general.

Chapter 4 analyses in details the main topic of the thesis- the conflict of the right of the child to know his/her origin with the right of the parent to stay anonymous. Using an analysis of the key judgments *Odièvre*, *Gaskin*, *Mikulić*, *Jäggi* and *Phinirikadou* various aspects of Article 8 and the approach of the ECHR to this issue are demonstrated.

Conclusion of the thesis provides with the recapitulation of the approach of the ECHR to the conflict of the right to know one's origin with the right of the parent to stay anonymous. The gradual recognition of the right to know one's origin and in this connection the development of the ECHR's attitude is demonstrated.