

Determination of Parenthood – Alexandra Hrušáková

Abstract

In my thesis „Determination of Parenthood“, I focused on the largest area of family law. Everyone’s life is influenced by his family the whole life. And there are many consequences connected to the relation between a child and his parents. My topic responds lively to the changes brought by current scientific and technical progress and dynamic development and metamorphoses in our society. I tried to describe it in a complex way, but in order to put accent on the most important segments of this problem. From the times of ancient Rome there exists the principle „mater semper certa est, pater incertus“, which means that the identity of the mother is always certain, but the father isn’t. However there exist some situations in which the principle could not be so clear. These situations created objective of this thesis.

This thesis is divided into ten chapters. In every single chapter I wasn’t only working with Czech law, but I also attempted to compare it to legislation of another countries

The first chapter called Parenthood and Child is dealing with the theoretical definition of the components of a relation among parents and children and the rights and obligations rising from this relation.

The next chapter presents The Right of the child to know his or her origin, which is one of the points connecting the whole thesis. It is a right of every individual that gives him or her the possibility to know who his or her parents are, if it is possible. Every born child has the right to be registered and given a name and nationality. But what is more important in my point of view, every child has a right to live with his parents taking care of him.

The third and the fourth chapter are illustrating the Determination of Parenthood in Czech family law and in comparison to other states. I had divided this section into two chapters corresponding to differences between men and women. Determinating the parenthood of a man, we are still using the three old Roman legal presumptions. In case of the mothers, there is also an ancient rule „mater semper certa est“, which means that „mother is always certain“. The relation between her and the child is founded by the fact of giving birth. This may sound very clear and simple, but in fact it can cause many difficulties.

The chapter called Assisted Reproduction dedicates to the statutory framework in Czech Republic and other countries. It also describes the circumstances under which an infertile

couple can undergo the procedure of assisted reproduction and the condition that the couple must fulfill.

Surrogacy is the title of the seventh chapter. It is an institute, which is not dealt by Czech law, but in fact, there are many children born this way in the Czech Republic. I'm trying to work with this issue, comparing the situation in this country to Great Britain, suggesting the way Czech legislator could go.

The following chapter called Concealed (secret) and Anonymous Births is discussing the situation of children, whose mother didn't want to be known as mother. This topic is very serious and closely connected to the right to know one's origin. It also documents the history of secret births in France, a country with the longest tradition in concealed births.

The ninth chapter deals with Baby boxes, an institute existing in the Czech Republic, although it is not grounded in Czech statutes. Baby boxes belong to the most controversial topics in family law of our country.

The final chapter contains comparison of the existing family law statute and the new proposal of civil code that will also include family laws. The new civil code regulation seems to be almost same as the old one. On the other hand, it brings many new features that should be mentioned in this thesis.