

Summary

This thesis deals with home births and legal issues related to this topic. There is no specific regulation of home births in the Czech law, but it's possible to use Czech legislation for the interpretation of this issue, especially the legislation of medical law, civil law and criminal law. The issue of home births is recently very actual topic, which can be proven by the current extensive jurisprudence of the Czech and foreign courts, which belongs by the way to major sources of this thesis. In addition to describing the situation in the Czech Republic, I tried to point out some differences between the Czech and foreign law, I tried to outline some changes in the new Czech Civil Code and I also tried to provide some reflections on future trends in the issue of home births in the Czech Republic.

The aim of my thesis was to highlight the conflicts of the guaranteed rights contained in the supreme law of which frequent disputes of society are going on, and to provide a possible solution of this situation. The issue of home births include the conflict between the right to protection of life and health, and the right to private and family life, both guaranteed by constitutional law. The right of privacy includes the right of women to freely choose the place of birth for their children, including the right to make the selection of persons assisting at the birth, with no responsibility in cases of future complications.

In addition to the legal status of expectant mothers, my thesis analyzes the issues of providing health services by midwives. Midwives in the Czech Republic can assist in births outside the health care facilities (if they obey the law), but most of them doesn't do it because they are discouraged by the strict rules in Czech law. Women who wish to give birth to their children at home are often suing the state for infringement of the right to private life, because there is no guarantee of home birth with a midwife under the Czech law, so this women are forced to give birth in hospital, against their will.

Although I realize the fact that all the problems can't be solved with new and detailed legislation (which can often lead to confusion or less legal certainty), there should exist more detailed regulation of this topic including protection of the human fetus and protection of life and health of mothers and children, so that mothers can rely on accessible health care and didn't choose risky places for the birth of their children.