

## Resumé

The legal presumptions of paternity and maternity consist in a set of legal regulations which create the rules for the determination of who are the legal parents of a certain child. The legal fact of birth is determining for every individual: at the moment of birth every individual acquires statutory rights, which have important private and public legal consequences. An example for the public legal consequences is the registration of the child in the register of births or the acquisition of the citizenship(s) of a certain state. And in the forming of the personal status of every individual, the legal presumptions of the parenthood, i.e. the determination of maternity and paternity, play a most important role.

These determine in a very important way the personal status and the statutory rights of every individual, and this is the reason why it is of a maximum importance that the legal regulations should be as complete and consistent as possible. Therefore the modern society and every legal state have the duty of setting the legal regulations for the determination of the maternity and the paternity of the child.

The goal of my thesis was not only the analysis of the at present valid law in the Czech Republic in the field of the determination of the parenthood, but this analysis is focused above all on the point of view of the rights of the child, which are a most important but often ignored aspect by the authors of the legal regulations. Here the right of the child of knowing his/her genetic origins is very important, because it makes it possible for the child to fully develop his/her own identity and become a part of the society.

In my thesis I analyse the legal regulations for the determination of maternity and paternity. Finally I have completed the analysis of these two major topics by a short explanation of the adoption, above all the so called not annulable adoption, which in fact means a determination of a new family for the adopted child and the adoptive parents from the legal point of view are assigned the status of his/her parents. Also this problem is approached from the point of view of the child's rights, and above all considering the right of the child to know his/her genetic origins.

In the article concerning the determination of maternity I have focused my attention at present valid law in the Czech Republic, which in certain points appears poor and incomplete. In particular in matter of the modern society institutes, which include so called secret births as well as so called baby boxes, where new-born children can be left anonymously, the law that strictly defines that “the mother is the woman who has given birth to the child” shows its limitations. A fact that cannot be ignored is that these institutes are in discrepancy with the basic rights of the child: the right of being registered immediately after the birth, the right of knowing his/her parents (when it is possible) and the right of knowing his/her genetic origins, guaranteed by a number of international agreements. The area of maternity determination is also in an important way influenced by the rapid progress in medicine, in particular the reproduction medicine. Also these medical methods are analysed from the point of view of the determination of the parenthood and the basic rights of the child. The last passage of this article touches the maternity disputes, which are not explicitly defined in the family law.

The second article explains the traditional system of legal presumption of paternity which has its origins in Roman Law and underlines the possible, frequently appearing problems. It continues with the explanation concerning the disclaiming of paternity legal action and the decision-making by trial courts concerning the determination or disclaiming of paternity. Also this article focuses on the child’s basic rights, using the experience both from European Court of Human Rights and Czech Constitutional Court, the role of which is in this field essential.

In relation to the expected revision of the civil law and the new codex prepared by the government, the single paragraphs are completed by short notes concerning the newly proposed changes in the law.

Many times I have noticed the sad reality that in cases where there is an area not exactly defined or even omitted by the law and the rights and duties of the subjects of the legal relations are not exactly defined, the law in these cases unfortunately frequently serves the strongest ones and the rights of the child, as the weakest subject, are ignored.

Also considering all the critical points in the area of legal regulations governing the determination of parenthood, it must be admitted that the law in the Czech Republic has also its positive aspects. The area of paternity determination above all is based on a system of constructive legal suppositions, which guarantees the child the right to have his/her father. Unfortunately even here it is possible to find imperfections in the law which allow the human invention to find out a way of ignoring what the law actually defines.

Very important in this area is the intended revision of the family law in the new civil law prepared by the government, which should include the family law as well. The direction taken by the authors is very correct: in most cases there are changes in law with respect of the rights of the child, guaranteed by international agreements. But it is necessary to mention that the area of determination of maternity remains still unchanged, despite all the modern institutes, which remain omitted.

The rights of the child in the area determining his/her statutory rights should be considered of primary importance. The harmony of biological, legal and social parenthood makes it possible to the child to find his/her place in the society, his/her own identity and a free personal development and the development of his/her own social relations in the society.