

Abstract

The thesis is a comprehensive elaboration of the issue of surrogacy with an international element, ie cases where the surrogate mother falls under a different jurisdiction as the intended parents or cases where surrogacy takes place in a country other than the home country of the intended parents.

The introductory part deals with the principles on which the Czech legal system is based and the situation in which surrogacy is thus established. The legal regulation is discussed, including the evaluation of the principle that the mother is always certain and the only § 804 of the Civil Code, which mentions surrogacy. The principle by which the acquisition of legal parenthood to a child born through surrogacy is acquired is described. Attention is paid to problematic situations to which surrogacy can lead, especially the issue of enforceability of a surrogate contract, determination and denial of motherhood, criminal aspects, assisted reproduction and the child's right to know his or her origin.

The next part describes the situation abroad, where the legislation differs from the legalization of surrogacy (including commercial surrogacy or surrogacy for gay couples) to an explicit ban, where surrogacy can fulfill the characteristics of a crime.

The thesis also presents an explanation of the issue of recognition of foreign decisions by which parenthood was determined or by which it was decided about adoption. The methods of acquiring citizenship, determining the applicable law, as well as the issue of public policy reservations and whether this reservation applies to surrogacy are explained. The thesis describes the issue of international adoption as a way of obtaining motherhood of the intended mother.

A fundamental part of the work is a detailed analysis of both Czech case law and the case law of the European Court of Human Rights. Due to the absence of legal regulation, the case law creates a framework according to which foreign decisions are recognized.

Finally, it is suggested whether and how the issue of surrogacy should be enacted at the national and international levels.