

Proceedings on determination and denial of parenthood

Abstract

Rigorous thesis deals with legal regulation of proceedings on determination and denial of parenthood. It is divided into eight fundamental chapters. By way of introduction the key concept of parenthood is defined, including its three elemental forms with subsequent inclusion in the social and legal context. For purposes of comparison and evaluation of continuity of legal rules in force, the second chapter briefly discusses the development of legal regulation of determination and denial of parenthood in the Czech legal system. In the third chapter, the author focuses on the current substantive law of maternity, presents the topics of anonymous and secret childbirths and also the issue of surrogacy as a source of possible litigation. Legal regulation of paternity is contained in the fourth chapter, which deals with the determination of paternity by means of legal presumptions, denial requirements, fundamental starting points and chosen problematic institutes. Special attention is also paid to the legal status of alleged father and child in proceedings on denial of paternity when the lack of protection of their right to private and family life and children's right to know his or her biological origin is pointed out. The following chapter describes characteristics of proceedings on determination and denial of parenthood, in particular the effective legislation, basic procedural principles, general issues of jurisdiction and participation. A separate chapter focuses on procedural aspects of establishing paternity by mutual declaration. In this place, the author, besides other things, brings attention to the absence of legal regulation of the registry offices procedure and associated problems, discusses in detail the court procedure and its special nature including selected legal theoretical and practical issues. The seventh and pivotal chapter deals with the procedure on determination and denial parenthood on the merits. The individual subchapters are successively devoted to the course of the entire proceedings from the moment of its initiation, over the process of proving and typical means of proof to giving a ruling. Furthermore, difficulties with interpretation of certain legal provisions are discussed as well as suggested possible solutions using various methods of interpretation or decision-making practice. The last chapter, dealing with the procedure on determination and denial of maternity, points out the insufficiency of the current procedural legislation and outlines the elemental issues that would undoubtedly arise in case of dispute over maternity and which should be regulated.