

Rights of transgender persons according to the ECHR with focus on sex reassignment

Abstract

Although trans* people, regardless of the specifics of their life experience, are full-fledged members of society, society puts numerous obstacles in their way. Some of them are so serious that they are considered to be a violation of basic human rights. This paper therefore deals with the rights of trans* people from the perspective of the European Convention on Human Rights (ECHR). How this international instrument perceives such rights is ascertained through practice of the European Court of Human Rights (ECtHR).

The research goal of the work is to find out and analyze how the rights of trans* people are protected by international human rights law through the ECHR, i.e. how these rights are protected by the European Court of Human Rights. Furthermore, as part of the legal analysis, provide a basic overview of trans* people as a group and focus on the concept of "sex reassignment" and its problematic side. To this end, the author poses a research question: *How does the European Convention for the Protection of Human Rights and Fundamental Freedoms protect the rights of trans* people and how does the European Court of Human Rights approach their protection?*

The thesis mainly focuses on the issue of legal recognition of gender identity and the closely related issues of trans* marriage, parenthood and physical transition. The work is divided into three main parts. The first part presents the theoretical basis of the work and the aforementioned introduction to the issue of trans* identity, including the definition of some key terms. The second part deals with the legal basis provided by the ECHR. The third part deals with specific cases within the decision-making practice of the ECtHR, divides them into thematic areas, briefly describes the factual circumstances and resolved questions and conclusions reached by the Court. Each decision is then critically evaluated in terms of the legitimacy of the arguments, meaning and impact.

The thesis concludes that the case law of the ECtHR on this topic is relatively numerous and slowly developing. The court most often resolves complaints from the point of view of violation of the right to private and family life (Article 8). The shift in the Court's approach to issues related to trans people is gradual, but significant. The work shows that the position of the ECtHR is gradually developing towards greater strengthening of the rights of trans people and respect for their gender identity, the right to private and family life, the right to marry and other rights enshrined in the European Convention on Human Rights.

Key words: ECtHR, transgender, ECHR