

The status of transgender persons in civil law

Abstract

The thesis focuses on the legal regulation of gender reassignment in the Czech Republic, both in terms of civil law and constitutional law. The thesis initially focuses mainly on the correct definition of important terms and their essential meaning. Attention is paid not only to transsexuality itself and its forms, but also to related conditions such as intersexuality and transvestitism. After discussing the human rights foundations of gender reassignment, the thesis briefly discusses the historical genesis of the legal regulation of gender reassignment. This is followed by a description of the currently effective legislation, including its shortcomings with regard not only to domestic law but also to the Czech Republic's international obligations under international human rights treaties. In this area, the greatest emphasis is then placed on the decision-making of the European Court of Human Rights, which is more advanced than Czech national courts in this area. Apart from transsexuality and the process of gender reassignment, the thesis also focuses on the opposite phenomenon, namely detransition. This topic is often neglected, even though it is a topic essentially inseparable from gender reassignment and offers many interesting legal issues. The subject of the last two substantive parts of this thesis is then domestic and foreign case law. The decision-making activity of the Czech courts is not very developed in this respect and has not contributed in any way to a shift or change in the legal framework of gender reassignment. However, this cannot be said about the European Court of Human Rights, which, especially in the last 20 years or so, has largely caused positive changes in several legal systems of the Council of Europe member states by its decisions based on its interpretation of the European Convention On Human Rights. The focus is thus on the various key decisions with regard to the various aspects of transsexuality and the conditions for gender reassignment, be it the dissolution of marriage, name change or compulsory surgical sterilisation.