

Right to life – current legal questions in the Czech Republic

Abstract

This thesis deals with current legal questions regarding the right to life in the Czech Republic. The aim of the thesis is to evaluate the compliance of the selected legal regulations with the requirements arising from the right to life, that is enshrined in the Constitution. In the introductory part of the thesis, an analysis of the legal framework of the right to life in the Czech Republic is carried out. Subsequently, the subjects of this right are defined, and definitions of the moment of birth and death of a person are discussed to clear any controversy regarding these moments. Using the case law of the European Court of Human Rights and the Czech Constitutional Court, the moment of birth is defined as the beginning of childbirth. In the case of caesarean delivery, the moment of birth is defined as the beginning of the procedure. Regarding the moment of death, the definition of death stated in the transplantation act is used, and it is concluded that said definition is applicable to the entire legal system of the Czech Republic. Subsequently, the main aspects of the right to life are described, which is followed by an identification of negative and positive obligations arising from this right for member states of the Council of Europe.

The above-mentioned theoretical part of the thesis is a foundation for the following chapters, which discuss stem cells, abortion, childbirth and assisted death, i.e. assisted suicide and euthanasia. In these chapters the legal regulations relevant to the mentioned topics are presented, and subsequently evaluated from the perspective of compliance with the right to life. The regulations are mostly deemed as complying with the requirements arising from this right, the only exception is the regulation of home births and births occurring outside of medical facilities in general. It is concluded that this regulation does not sufficiently ensure the protection of the right to life, since it fails to set clear conditions for home births and allows people without proper education to assist at these births, thus exposing the mother and the child to a risk of harm to their health and life. Subsequently, a change in the legislation is proposed by including the help of educated midwives at home births among health care services while also regulating the circumstances allowing to give birth at home. However, it is also concluded that the option of home births should only be available to women with an expected low-risk birth.

Key words: right to life, birth, death, embryos, abortion, childbirth, home birth, euthanasia, assisted suicide