

ABSTRACT in the English language

Title: A theoretical conception of liability for harm caused by the birth of a man

In many legal orders a new types of legal actions have appeared (in relation to the development of new methods of diagnosing congenital diseases). In these types of legal actions the claimant seeks damages for the negligence of the doctor in performing these tests. These claims are referred to as „*wrongful birth*“, „*wrongful conception*“, and „*wrongful abortion*“.

The „*wrongful life*“ claim is most commonly used in a situation where while performing prenatal screening the doctor does not diagnose the existing congenital disease and therefore fails to give the parents an essential piece of information, which might have made the parents decide to abort the fetus. The claimant in this case is the child itself, who substantiates the claim by arguing it should have never been born. The „*wrongful birth*“ claim arises from the same situation, but the claimants are the parents of the child. They claim damages for the emotional pain and increased expences related to giving birth and raising a disabled child. In the case of the „*wrongful conception*“ claim, the most common reason for using this action is a negligently performed sterilization procedure. The „*wrongful abortion*“ claim can be used in a situation when the doctor does diagnose a congenital disease, based on which the parents decide to undergo abortion, but afterwards they find that the diagnose was wrong and the fetus was healthy.

This thesis concerns itself with the question of legal status of unborn child in Czech legal order and in international law. It also examines the possibility of awarding damages in these cases under Czech law (including the theoretical conception of the elements necessary to establish liability) and it explores the relevant legal regulations in UK law for comparison. Because in particular the „*wrongful life*“ claim is very controversial, the thesis also looks at the various arguments for and against admissibility of such claims.

Keywords: damages, civil liability, wrongful life, wrongful birth, wrongful conception, wrongful abortion, unborn child, nasciturus.