

## **Summary**

The question to be considered is whether the issue of genetic origin is still present nowadays. I think so, because today, in comparison to the past, there are more children who grow up in single-parent families. In addition there is a significant number of children who are abandoned by their parents and there is also the area of assisted reproduction to be considered which cannot be ignored. These offer possibilities that the previous generations never dreamed of.

It is true that nowadays incomplete families no longer mean stigmatization but the awareness of origin for each of us still remains very important. The complete family is not only formally but also an effectively functioning family consisting of the mother, the father and their children, creating the foundation of society. Even though the children have formally both parents, it is also important to know their biological parents in case of that they are not the same as the people who actually take care of them. This comes to the fore especially in connection with the issue of adoption when the bonds of a child with his biological family are replaced with those of "new" parents. In the case of foster care of a child, the real state does not usually get into a conflict with the legal state or more precisely with the formal state because the interest of all people involved should be the fastest possible return of children to the biological family. The situation of these children is explained to them at a level that is suitable to their age.

The awareness of who I am is for each of us very important to be able to find "our place in the world." It is necessary to know who your parents are, where they come from and where they belong to for proper formation of the human personality. This discovery helps to form an idea about who I am myself and where is my place in the society.

In the medical field, the knowledge of who our biological parents are is very important in connection with the genetics. With regard to the possibilities that current medical science has to offer, it is possible to make certain genetically determined disease diagnosed at a very early age. In situations where a child is not allowed to know his biological parents, it is more than appropriate to provide at least the information about his health.

The further right or better still, the obligation that is bound with the parents and arises from the family law is the maintenance obligation as the child has the right to participate in the standard of living of his parents. A separate chapter is then entitlement of the offspring to inherit from their ancestors. This last mentioned entitlement is again related to the knowledge of not only the legal license to enter as an heir but also the knowledge whose I am the heir. Without this familiarity no one can legitimately claim a legacy issue.

So how does the Czech legislation impinging on the issue of the genetic origin of an individual reflect the international obligations and evolutionary trend of looking at this issue and so enable the fulfillment of the right to know the genetic origin of each of us?

It can be said that concerning the determination of parenthood the Czech law takes into consideration the international rules to whose compliance the Czech Republic is committed, as well as reflecting the jurisprudence of the European courts, particularly the European Court of Human Rights. In the future the issue of the maternity disputes unfortunately stays still aside of the area of motherhood because of the reason of low possibility of occurrence.

The issue of anonymous births or rather births with the hidden identity of the mother or anonymous abandoning of children is problematic and goes against the intentions of binding international documents. The aim of international law is that every child knows his parents and grows up in their care if it is possible. The mother's anonymity resulting in the anonymity of father is an insurmountable obstacle for the possibility of finding a personal origin.

The legislation concerning the determination of paternity as already mentioned above reflects the case law published not only by the European Court of Human Rights but also by the Constitutional Court of the Czech Republic as the result of there is still more efficient reflection of international standards into the Czech law. Unfortunately, despite the efforts of the legislature it is not possible in every case to ensure that the biological father is as the father considered also from the perspective of the law as well as it cannot be forced that a child knows about any disharmony between legal and "factual" fatherhood.

For many couples using assisted reproductive techniques is the last chance to conceive their own child. With respect to the sensitivity of this issue it is almost impossible to achieve legislation that will be from the point of view of all people involved the more acceptable, balanced and protecting the rights of the infertile couple, the donor, medical devices and last but not least, the conceived child. For reaching the consensus it is absolutely crucial to answer the question whose law should prevail or which law should be provided with better protection. In the case of the surrogacy especially with regard to the ethical problems associated with this issue we are even on thinner ice. Unfortunately the Czech legislation that would explicitly determine the status of this medical intervention is still absent.

The issues of biological origin come to the fore in the field of the foster care of a child, especially at the institute of adoption. With the legal effect of the decision about adoption a child gets "new" parents which results in the fact that legally biological parents as the parents cease to exist. Legal standards stipulate with regard to the protection of the interests of the biological family especially the rights of the child by when the biological family is protected, by when the parents are entitled to reverse the adoption process and fill or protect their rights and the rights of the child.

The forms of alternative care of the child are seen as subsidiary parental care. They do not try to avoid contact between the child and his biological family let alone a child to conceal his origins and the reasons for which he or she was placed in foster care. Their aim is to ensure care for the child for the necessary amount of time to eliminate the causes on the side of parents which led to the placement of a child in foster care.

Whether a child grows up in the care of his parents or in the care of other people he or she can upon reaching the majority take a look in the register from which it receives information about his parents eventually indication that he or she has been adopted. The records in the register do not in every single case correspond to reality especially in the case of paternity disproportion between legal and biological paternity may occur. This fact the child can only learn from people who are aware of it, usually from his mother.

I believe that the Czech Republic, in principle, the obligations of international treaties reflected into national legislation. I see shortcomings in the legislation dealing with births that conceal the identity of the mother when for the child it is very difficult in the future to obtain information about his biological parents and especially in the absence of legislation concerning anonymous abandoning of children. The legislature in this case does not take into consideration how in practice it is developed on the one hand by meritorious action but on the other goes against the rights of abandoned children thus the knowledge of their parents. It would be convenient in the future to define certain limits or rules for such situations because the process of allowing the child to get "new" parents is delayed by anonymous abandoning of the child rather than the contrary.

In principle I agree with the proposed changes in the regulation of assisted reproduction. A child born using this medical intervention should be able to get more information about the person who is his biological parent not only the information about his health conditions. *De lege ferenda* would be appropriate to regulate surrogacy especially explicitly decide and determine whether this medical procedure is in accordance with Czech law.

In conclusion, it would be useful to consider legislation contained in Act No. 89/2012 Coll., The Civil Code allowing the court to decide that the identity of the biological parents is secret for adopted child. In my opinion, this step is not entirely a happy one as it lays a barrier for the child in determining information about its origin and thus comes into conflict with the international instruments by which the Czech Republic is bound particularly with the Convention on the Rights of the Child.

I can say that Czech legislation generally reflects developments in contemplating the issue of the right to know own genetic origin particularly attitudes which were adopted by domestic and European courts and to the above mentioned exceptional situation allows information about the origin for each of us usually after coming of age to get.