

Abstract

Wrongful birth and wrongful life actions are one of the current issues of civil law associated with the area of health care. Generally speaking they are actions for damages for a birth of an unwanted child brought by parents or a child itself. At the moment, there is a small number of wrongful birth cases in the Czech Republic, but more of them are to be expected in front of the Czech courts because of patient's autonomy and new methods in the human reproduction field.

The topic of this thesis is very controversial due to collision legal, moral and ethical issues. Crucial question of the whole problem is whether the birth of an unwanted child (or an unwanted life) can be considered as damage. Since the explicit regulation does not usually exist, the courts' decisions play irreplaceable role nowadays.

The aim of this thesis is to try to answer the question whether these actions can be brought and heard before the courts in the Czech Republic and whether damages should be awarded on this ground.

The first chapter focuses on the explanation of the essence of wrongful birth and wrongful life cases and their division into the specific categories. The second chapter concentrates on the legislation in the Czech Republic regarding wrongful birth actions. It is necessary to consider constitutional rights (right to life versus right to privacy and family life) but the emphasis is put on regulation of liability in the Civil Code. Regulation of abortion and sterilization (as the interventions which often precede these actions) is also mentioned. The next chapter analyzes existing case law in the Czech Republic. The fourth chapter deals with case law in foreign countries, especially in the USA (where the terms wrongful birth and wrongful life come from). But the comparison with case law in Austria and Germany (as states with similar legal system) is also very important. Furthermore European court of human rights' case law is briefly analyzed. The last chapter summarizes problematic aspects of wrongful birth and wrongful life actions and concludes that wrongful birth actions could be accepted in the Czech Republic but wrongful life actions could not (same as in most countries in the world).