

Surrogacy: key issues of legal regulation

Abstract

This thesis outlines the phenomenon of surrogate motherhood through the prism of applicable law, while analysing the current situation of absenting legal regulation in Czech Republic and comparing various foreign legal regulations as appropriate or less appropriate models to inspire future Czech legislation. The aim of this thesis was to comprehensively introduce the institute of surrogacy as a unique method of assisted reproduction, which, however, brings many risks and challenges in terms of its regulation.

The first part of the thesis deals with the terminology, which is used throughout the entire document and contributes to a better understanding of this phenomenon. Additionally, in this part the attention is given to a brief historical evolution of surrogacy resulting in his current form as a modern method of assisted reproduction.

The second part is dedicated to comparison of various foreign legislations, namely the liberal legislation in California, the permissive legislation in Ukraine, the altruistic legislation in United Kingdom and the hostile legislation in France are examined. Furthermore, a particular attention is paid to the jurisprudence of the European Court of Human Rights and finally to the current situation of missing regulation in Czech legislation.

The subject of the third part is the analysis of surrogacy contract in light of current legislation, presentation of its participants and of the whole process of surrogacy realized under the existing legislation. Besides, this part warns about inherent risks of surrogacy contract, which remains unenforceable.

In the fourth part the controversy of surrogate motherhood is described. From analysis of its benefits and drawbacks emerges the uniqueness of this method of assisted reproduction, but also its hazardous potential, especially its negative psychological effects on its participants. The thesis refers to the legal controversy of surrogacy, while individual interests protected by law are standing in mutual opposition, which explains the problematic nature of surrogacy in moral, ethical and legal sense of the term.

The thesis is concluded in a spirit of considerations about future Czech legal regulation, while offering possible solutions regarding the comparison of foreign legislations described above and takes the liberty to predict potential consequences. The conclusion summarises ascertained facts, presents author's own opinion and emphasizes the international perspective of the issue.

Key words: surrogacy, mother, intended parents