

SUMMARY OF DOCTORAL DISSERTATION

"Legal protection of the life of a conceived child in the light of international human rights"

The doctoral dissertation concerns the legal protection of the life of a conceived child in light of international standards of human rights protection, and its main aim was to determine whether, and to what extent, these standards cover life in the prenatal phase, as well as to indicate the directions of their contemporary evolution. Achieving this goal was made possible by the research methods used in the dissertation, which enabled us to, among other things, gain knowledge about terminology related to the human being during the prenatal period. They also enabled the systematic examination of the philosophical and ethical concepts and biological criteria determining the legal status of the *nasciturus*, a comprehensive analysis of the United Nations system, the Council of Europe framework (including the ECHR and the Bioethics Convention), European Union law, a comparative assessment of the legal frameworks of Ireland and Poland, as well as the formulation of *de lege ferenda* proposals concerning Polish abortion law.

The basic research method used in the dissertation was the dogmatic-legal method, serving to analyse and interpret acts of international, European and national law and the case law of the ECtHR, the CJEU, UN treaty bodies, as well as the Polish and Irish constitutional and common courts. The second important method was the historical-legal method, used to show the evolution of legal regulations and the position of international human rights protection bodies regarding the protection of the life of the unborn child. Another method employed was the comparative method, which allowed for the comparison of legal solutions adopted in various legal systems and orders. A supplementary approach was also employed, the axiological method.

The structure of the dissertation was subordinated to the aim of gradually moving from general issues to the analysis of detailed solutions adopted in individual systems of human rights protection and in national law. The first chapter discusses the terminology used in Polish and international law to describe a human being in the prenatal period of development, key philosophical, ethical and biological concepts relating to the beginning of human life, the legal status of the human fetus under Polish law and models of legal protection of the conceived child in contemporary legal systems. The second chapter is devoted to the UN Universal Human

Rights System, with particular emphasis on the analysis of international treaties guaranteeing the right to life and the case law of UN treaty bodies on abortion and reproductive rights. The third chapter presents the protection of the life of the unborn child and the human embryo in the system of the Council of Europe, analysing the case law of the European Court of Human Rights and the regulations of the European Bioethics Convention and its additional protocols, in particular in the field of research on embryos and the prohibition of cloning. The fourth chapter concerns European Union regulations, including the status of the right to life and the protection of the integrity of the human person in the Charter of Fundamental Rights, secondary law in the field of biotechnology and medicine, and the growing role of soft law – especially European Parliament resolutions – in shaping standards in the area of reproductive rights. The fifth chapter is comparative in nature and includes an analysis of Irish and Polish legislation on the protection of the life of the unborn child and access to abortion, with particular emphasis on the long-standing constitutional protection of *nasciturus* in Ireland, its liberalisation following the 2018 referendum and the tightening of Polish regulations following the 2020 judgment of the Constitutional Tribunal, as well as an attempt to formulate *de lege ferenda* demands aimed at ensuring compliance of Polish abortion law with the requirements arising from the European Convention on Human Rights.

The research conducted has shown that the acts of international law constituting the UN human rights protection system and the European human rights protection system do not contain clear regulations directly relating to the protection of human life in the prenatal phase. This situation is a consequence of the lack of consensus within the international community as to the moment at which human life should be considered to begin, and is associated with the need to leave states a wide margin of freedom in this area. A detailed analysis of the opinions of UN treaty bodies and judgments of the ECtHR allowed for the presentation of the evolution of interpretative standards, showing, on the one hand, the consistent position of the ECtHR, and on the other, a noticeable change of approach within the UN system – from general and neutral treaty provisions towards an increasingly developed interpretation, linking the lack of access to legal abortion with the violation of many rights guaranteed by international treaties. It should be emphasized that in the absence of a clear treaty resolution on the legal status of the conceived child and the beginning of the protection of human life, the position expressed by the UN treaty bodies and the ECtHR, as well as national axiological and constitutional conditions that allow for the adoption of extremely different models of protection within the same international standards, are of key importance for the practical scope of protection afforded to *nasciturus*.

The research also allowed for the formulation of de lege ferenda postulates aimed at adapting Polish regulations on abortion to the standards arising from the European Convention on Human Rights.

Keywords: conceived child, nasciturus, beginning of legal protection of life, right to life, right to abortion

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