One of the most topical issues is compensation in the case of birth of an unwanted child, which is causally related to adverse life at conception and unwanted child’s life. This question is primarily important because it directly affects the most intimate human interests and the family as the basic unit of society. For these reasons, we can say that the regulation of this area is necessary for achieving stability of family relationships, and thus preserving the normal functioning of society.

Special protection of mothers, children and families is in particular highlighted in the constitutional principles of our legal system, such in most states, so it is the author’s opinion that it would be necessary to regulate the issue in question and to predict the conditions of responsibility for the damage regarding unwanted birth.

In this article we highlighted the practice of U.S. courts, one of the first to decide on the issue of damages regarding unwanted birth. It is shown that the position of the court was clear from the beginning. First, these claims were rejected as immoral, given the former notion that the child could not be considered damage, and thus there is no obligation of supporting him. Later, with the development in the forefront of medicine, particularly in the area of origin of human life and the creation of a large number of medical treatments in order to control (non)birth, and the awareness of people about the admissibility of even the justification of abortion, the attitude of the court when deciding on the plaintiff’s claims was gradually changing.

This is a particularly sensitive issue for obligation law, medical law and family law. In addition to legal doctrine, this question concerns ethics as well, because there is a constant social change and what was once considered to be immoral is now almost a daily routine. Examples include the first admission of extramarital unions as equal with marriage, which only a few decades ago was considered impossible, and in addition to that there is a gradual acceptance and support to the homosexual community.

Medical liability insurance or medical errors, as a form of professional liability, have only made their first steps in this country. However, in many European countries and American countries a big step forward was made in this direction and there is a need for liability insurance given the growing medical progress. This issue is particularly important given the interest protected by the medical profession – human life. Doctors are expected to be highly skilled and good at their jobs so their mistakes are often irreparable, literally irreversible. Bearing in mind the fact that courts do award huge amounts for damages, it is necessary to have liability insurance as a form of protection for not only the doctors but for the patients as well.

Key words: birth of an unwanted child, medical error, damage, insurance, patient liability insurance

LITERATURA (REFERENCES)


