

Summary

From the point of view of human legal situation, gender plays a very important role, because it remains an element of many legal constructions, which makes it a legally relevant concept. Belonging to a given sex determines the possibility of getting married and being a father or mother. The division of sex into male and female is justified by the axiology of the Polish legal order. Sometimes, however, there is a lack of gender identity - a conflict between the biological and mental gender. We are then dealing with transsexualism. Transsexualism as a classic example of the incompatibility of mental gender with biological sex is not only a psychiatric, medical and biological problem, but also a legal one.

In the context of aspirations of transsexualists towards legitimising their sense of belonging to the sex opposite to that determined biologically, legal systems and lawyers in different countries have had to provide answers to two fundamental questions: is the change of sex indicated in a transsexual individual's birth certificate possible at all and what would be the appropriate legal basis for it.

Despite the fact that sex plays a very important role from the point of view of the legal situation of a person, Polish law does not provide for specific regulations regarding the change of gender in the birth certificate. The rules and procedure for this change result from accepted case law. So far, no law has been passed in Poland regulating the legal situation of transsexuals.

The following dissertation discusses how the concept of gender is understood under Polish law and other scientific disciplines. The complexity and multi-faceted nature of gender means that it is also important from the point of view of civil law to discuss this concept in correlation with such concepts as marital status, personal status and personal rights. An attempt was also made to define the concept of transgenerity and to classify its various manifestations. The phenomenon of transsexualism and its etiology were also described.

Despite the fact that the issue of gender change in the domestic legal order was not regulated by statute, an attempt was made to present the problem in a legal and comparative approach. Standards of international law, EU law and the case law of the European Court of Human Rights and the Court of Justice of the European Union regarding the rights and freedoms of transsexual people were presented. For cognitive

reasons, it also seemed appropriate to discuss legal regulations in the field of sex change in Germany, Great Britain, France, Spain and Russia.

The legality of sex reassignment surgery (SRS) and the manner of its financing in Poland were discussed. The evolution of Polish caselaw with regard to the legal change of sex and the statements of doctrine in this regard were also presented. Furthermore, the Polish MPs sponsored proposal for an act of law on sex reassignment and the draft proposal for amending the Code of Civil Procedure, the Family and Guardianship Code, the Act on Professions of Physician and Dentist and some other acts of 31 January 2014 prepared by the Ministry of Justice were analysed. Proposals for legislative changes concerning possible regulation of a legal situation of persons whose psychological sex differs from registered sex were also included.

Also presented are considerations regarding legal consequences in the area of family life caused by a change in belonging to a particular sex. The influence of sex change on the possibility of getting married in both civil and canon law was also discussed. Issues regarding the existence of a marriage contract before the sex change and the possibility of annulment were also raised. An attempt was also made to determine the relationship between parents and children in the event of a change in legal sex by a parent. This issue was considered in the aspect of violating the protection of the personal rights of transsexual children in the event of a transsexual parent requesting a change in legal sex. The issue of determining the origin of a child born after a judicial change in parental gender was also considered.

There are publications in the literature regarding transsexualism and its social, psychological, medical and legal aspects, but there is no comprehensive, multi-faceted study on gender reassignment in the context of modern civil law. This dissertation, despite being based on the existing achievements of legal doctrine, is distinguished from other publications, among others in that it analyzes and evaluates the proposed legislative solutions (governmental and deputy's) in the field of gender change. In addition, considerations on the issue of transsexualism in the aspect of canon law were included. An attempt was also made to determine the legal effects of gender reassignment in relations between spouses and in relations between parents and children. An analysis of the court files of the District Court in Raymond and Lublin regarding legal gender change proceedings was also carried out.

Despite the currently established jurisprudence, many aspects of the legal situation of transsexual people in Poland have not been unequivocally resolved. The need to guarantee the protection of the rights and interests of transsexual persons, in particular in the field of civil law regulation, as well as the evolution of the jurisprudence of international human rights protection bodies seem to be sufficient to justify the choice of subject and analysis of the subject in the light of the scientific and practical importance of the issue.