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### **Abstract of the doctoral thesis**

#### **titled "The Legal Position of the Father of a Conceived Child in the Polish Family Law"**

The subject of this thesis is an analysis of the legislation regarding the position of the father of a conceived child in the Polish family law. The issue of parenthood executed in the prenatal phase of a child's life is currently becoming increasingly important in such sciences as psychology and prenatal pedagogy. Studies conducted in these sciences indicate that bonds between the parents and the child are established even before birth, influencing the further development of the child and their relationship with their parents. Alongside the social changes, the development of medical sciences also provides an important boost to research in the field of the legal aspects of prenatal paternity. On the one hand, the list of actual situations where decisions and actions regarding a conceived child are being undertaken is constantly growing; on the other hand, the provisions of law do not explicitly indicate the entity or entities that are authorised to undertake the said decisions and actions. Furthermore, the development of medicine in the field of assistance for human procreation creates new challenges for the legislation that relate to the necessity of establishing legal regulations regarding the parental bonds in the prenatal period of a child's life.

The aim of this thesis is to present the complexities of the position of a man being the father of a conceived child in terms of the family law, from the normative basis for the protection of paternity (also covering the prenatal period of a child's life), through the legal options of determining whether a man is a child's father, to the rights and obligations related to the paternity of a conceived child and indication of the necessary changes in this matter.

In legal sciences, the paternity in the prenatal period of a child's life has not been comprehensively regulated yet. For a long time, the only legal regulation regarding the legal options of establishing a paternal bond in regard to a conceived child was Article 75 § 1 of the

Polish Family and Guardianship Code on the recognition of paternity of a conceived child. As a result of the statutory regulations regarding medically assisted procreation, the legislation was expanded by, *inter alia*, Article 75<sup>1</sup> of the Polish Family and Guardianship Code on the recognition of paternity of a child conceived with techniques of medically assisted procreation. Aside from these provisions, there are no other regulations in the Polish family law that directly relate to the legal position of the father of a conceived child.

The family law scholars have so far been particularly focused on the legal position of a conceived child and their mother. An important factor that led to the scholars re-examining the issue of the protection of a conceived child and the legal position of their parents was the development of medicine in terms of ability to undertake diagnostic and therapeutic actions regarding the foetus and the development of the techniques of medically assisted procreation.

The thesis is divided into five chapters. Chapter One covers the issues related to the types of paternity, including the prenatal phase of a child's life. In this part of the thesis, the term "prenatal paternity" is explained as the main issue thereof. A separate issue discussed in this chapter is the term "conceived child." This issue requires a discussion on the matters of the legal personality and legal capacity of a conceived child. A comprehensive study of this issue also requires to take into account the distinction between the natural and the medically assisted conception of a child. Chapter One concludes with an analysis of the issue of the prenatal parenthood with a consideration of the accomplishments of social sciences—prenatal psychology and pedagogy—and justification of the need for legal regulations regarding this phase of a person's life.

Chapter Two analyses the legal regulations that are the source of the normative protection of paternity in the prenatal period of a child's life. The choice of the analysed legal acts is based on Article 87 of the Constitution of the Republic of Poland regarding the hierarchy of the sources of law. The research material for this chapter is, among others: the Constitution of the Republic of Poland, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the judicial decisions of the European Court of Human Rights, and the Polish legislation, such as the Civil Code and the Criminal Code, which provide the basis for the search of standards directly relating to the position of the father of a conceived child and his rights and obligations regarding the conceived child.

Chapter Three and Four are focused on the issue of determining the parentage of a child through the parents and the study of all possibilities of establishing the family law bond of the father with a conceived child in a natural manner and with the use of methods of



medically assisted procreation that are provided for in the legislation. All the institutions are presented from the perspective of the interest of an alleged father or a man submitting a declaration of parentage, taking into account the interest of other entities involved in determining whether a man is a child's father, particularly a pregnant woman, a conceived child, and considering the public interest. This chapter includes the study of judicial decisions of common courts under the territorial jurisdiction of the Regional Court in Wrocław in terms of alleged fathers bringing the action in court proceedings regarding determination of the paternity. The aim of this research is to prove an active stance of men seeking the legal confirmation of their parentage of a child and to study the motivation of plaintiffs for bringing the action in court proceedings regarding determination of the paternity. A particular focus is put on the plaintiffs' statements regarding their involvement in the prenatal phase of a child's life, their declared interest in the pregnant woman and the conceived child, and the material aid which they provided to the pregnant women during that period. The research is one of the elements of the discussion on the need for the changes in the admissibility of the court determination of paternity during the prenatal period.

Chapter Five is focused on the discussion regarding the rights and obligations related to the determination of paternity during the prenatal period of a child's life. This chapter analyses the institution of parental responsibility for a conceived child. A current stage of the discussion on the issue of the initial moment of the parental responsibility is presented, as well as arguments supporting a revision of the prevailing views, along with the suggestion for legal regulations in this regard. This chapter also analyses the rights and obligations of the father regarding a conceived child which are independent of parental responsibility, i.e. the father's obligation to provide child support for the conceived child, the rights and obligations of the father related to the child's last name, and the principles of the execution of the father's right and obligation of maintaining contact with the child in the prenatal period of their life.

The last part of the thesis summarises the most important conclusions resulting from its chapters along with the *de lege ferenda* conclusions. It is pointed out that considering the social changes and development in medical sciences that are discussed in the thesis, the applicable legal status does not meet the current needs and the position of the father of a conceived child requires clear regulations in the Polish family law, not only in terms of the legal options of determining the paternal bond but also the rights and obligations executed by the father of a conceived child.