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## **About the right to the protection of the unborn child and his mother in Republic of Belarus**

In accordance with Art. 1 of the Constitution of the Republic of Belarus, the Republic is a social state. In the demographic sphere basic national interests are: steady growth of the Belarusian nation on the basis of a consistent increase in the birth rate; protection of maternal and child health; strengthening of the family as a social institute, that is the most favorable for the realization of the need for children, their education and others<sup>2</sup>.

The main place in the system of the rights held by the people, of course, belongs to the right to life. The right of conceived child has a complex content that combines biological, religious, philosophical, legal and other constructions, which develops in all aspects of the right to life.

However, there are scientific papers on the problems of legal protection of pregnant women in the Republic of Belarus. There are no comprehensive reseaches on the problems of the right to the protection of the unborn child in the legal literature. The legislation contains a number of legal provisions concerning the protection of pregnant women. In particular, the Labour Code of the Republic of Belarus secured Chapter 19 “Features of regulation of work by women and workers with family responsibilities”, which provides guarantees for pregnant women and women with children<sup>3</sup>. From the moment of pregnancy a woman has a number of guarantees relating to the execution of their work function. Labour legislation of the Republic

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<sup>2</sup> Approval of the Concept of National Security of the Republic of Belarus: Presidential Decree of 09.11.2010 N 57 (ed. By 01.24.2014) // Consultant Plus: Belarus [electronic resource] / ООО "YurSpektr" Legal Information of the Republic of Belarus. – Minsk 2015.

<sup>3</sup> Labour Code: Code of the Republic of Belarus of 26.07.1999 N 296-W (ed. By 01.08.2015) // Consultant Plus: Belarus [electronic resource] / ООО “YurSpektr” Legal Information of the Republic of Belarus. – Minsk, 2015.

of Belarus provides and guaranteed the woman not only rights but also the additional benefits and safeguards aimed at the protection of health and motherhood.

The social legislation of the Republic of Belarus also establishes the legal provisions concerning the protection of motherhood and childhood. In particular, in accordance with the Law (Status) of the Republic of Belarus “About state assistance to families with children”, maternity benefits, include: maternity leave; benefit for women who has been registered in public health institutions to the 12th week of pregnancy. It is appointed that the benefit for women who has been registered in public health institutions to the 12th week of pregnancy includes the cases of stillbirth and this benefit does not depend on the number of births. The benefit for women who have been registered in public health institutions to the 12th week of pregnancy, is granted and paid by a lump sum equal to 100 percent of the maximum of the subsistence living wage on the date of birth of the child<sup>4</sup>.

In accordance with Art. 16 of the Civil Code the legal capacity of a citizen arises at the moment of his birth<sup>5</sup>. On the basis of this provision of the law, we can conclude that prenatal embryo, regardless of the period of its development, is seen as a physiological part of the woman`s body. The woman has the right to dispose her body as she wants.

In the Republic of Belarus there are legal acts that reinforce the protection of the rights of the unborn child. Thus, in accordance with the Article 1037 of the Civil Code, “the heirs under a will and by the law may be citizens who are alive at the time of opening the inheritance, as well as conceived during the testator's lifetime but were born alive after the opening of the inheritance”<sup>6</sup>. The Article 14 of the Law “On social protection of citizens affected by the Chernobyl disaster and other radiological accidents” establishes the legal norm that “the people affected by the Chernobyl disaster and other radiation accidents, are considered citizens of the zone of primary resettlement and of subsequent resettlement area (including children who were in utero), with the exception of arrivals in a given territory after 1 January 1990<sup>7</sup>.

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<sup>4</sup> On State benefits for families with children: Act of 29.12.2012 N 7 W (ed. By 01.01.2015) // Consultant Plus: Belarus [electronic resource] / OOO "YurSpektr" Legal Information of the Republic of Belarus. - Minsk, 2015.

<sup>5</sup> Civil Code of the Republic of Belarus: Code of the Republic of Belarus of 07.12.1998 N 218-W (ed. By 31.12.2014) // Consultant Plus: Belarus [electronic resource] / OOO "YurSpektr" Legal Information of the Republic of Belarus. - Minsk, 2015.

<sup>6</sup> Civil Code of the Republic of Belarus: Code of the Republic of Belarus of 07.12.1998 N 218-W (ed. By 31.12.2014) // Consultant Plus: Belarus [electronic resource] / OOO "YurSpektr" Legal Information of the Republic of Belarus. - Minsk, 2015.

<sup>7</sup> On social protection of citizens affected by the Chernobyl disaster and other radiological accidents: Act of 06.01.2009 N 9-W (ed. By 07.14.2014) // Consultant Plus: Belarus [electronic resource] / OOO "YurSpektr" Legal Information of the Republic of Belarus. - Minsk, 2015.

Legislation of the Republic of Belarus in the sphere of public health also includes a number of legal norms guaranteeing protection of the rights of the unborn child. For example, order, decree the Ministry of Health, Ministry of Statistics and Analysis of the Republic of Belarus of 09.11.1993 N 254/75 (Ed. By 04.02.2002) "On the transition to the recommended by the World Health Organization criteria for live births and stillbirths," cemented the Instruction "On determination of the criteria of live birth, stillbirth and perinatal period".

Article 27 of the Law of the Republic of Belarus "On health care", "On Approval of women in health care organizations, after consultation with a specialist, and with respect to a minor and with the written consent of her legal representative may be held abortion (abortion) during pregnancy is not over 12 weeks. An abortion is allowed to carry out for pregnancies less than 22 weeks in public health organizations if there is social and consent of the woman. The list of social indications for abortion established by the Council of Ministers of the Republic of Belarus"<sup>8</sup>. From these provisions, it can be concluded that the sectoral legislation virtually enshrines the right to life of the child, not from the moment of conception, and approximately five months of pregnancy. Unfortunately, in my opinion, it is unacceptable.

As you can see from the examples above, sectoral legislation (civil, social, labor, health and otherwise) of the Republic of Belarus has fixed certain rights of the unborn child (to life, health, property, etc.) Legal norms determines capacity the right to the unborn child, but a number of this norms is need of changes and additions. In particular, it is necessary to define in the Civil Code of the Republic of Belarus the rules about of the unborn child relative capacity and a number of other changes. In Belarus, there is a need of specialized development of normative legal act, for example, the Law "On protection of the unborn child", which would provide legal protection of the embryo. I believe that the embryo as a human being, has the absolute value and the right to life from the moment of conception. For this reason, it is forbidden to carry out any actions that impede or stop development of the embryo. Above all, upholding the right to life of the human embryo from the moment of conception, will contribute to the defense, and to the formation of positive attitudes according questions of planning and creation family.

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<sup>8</sup> Healthcare: Act of 18.06.1993 N 2435-XII (Ed. By 06.16.2014) // Consultant Plus: Belarus [electronic resource] / OOO "YurSpektr" Legal Information of the Republic of Belarus. - Minsk, 2015.