

THE ISSUE OF INFORMED CONSENT OF THE SURROGATE MOTHER IN CONTEXT OF SURROGACY ARRANGEMENTS – AUTONOMY AND DIGNITY

OTÁZKA INFORMOVANÉHO SÚHLASU NÁHRADNEJ MATKY V KONTEXTE DOHÔD O NÁHRADNOM MATERSTVE – AUTONÓMIA A DÔSTOJNOSŤ

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ABSTRACT

Since assisted reproductive techniques have widespread in medical science, bioethical principles and legal implications surrounding commercial surrogacy arrangements, particularly focusing on the position of surrogate mothers have emerged. With the rise of in vitro fertilization and the growing prevalence of surrogacy in the latter half of the 20th century, the contractual nature of these arrangements has sparked significant ethical and human rights concerns. The article delves into the complexities of parental filiation, the potential exploitation of surrogate mothers, and the critical importance of informed consent and patient autonomy in this context. The analysis of these issues could shed light on the ethical and legal discourse surrounding commercial surrogacy and collaborate to the discourse of the relevancy of the informed consent of the surrogate mother in surrogacy arrangements.

ABSTRAKT

Od chvíle, keď sa asistované reprodukčné techniky rozšírili v medicínskej vede, sa objavili bioetické princípy a právne dôsledky týkajúce sa komerčných dohôd o náhradnom materstve, predovšetkým so zameraním na postavenie náhradných matiek. S nástupom oplodnenia in vitro a rastúcou prevalenciou náhradného materstva v druhej polovici 20. storočia vzbudila zmluvná povaha týchto dohôd významné etické a ľudskoprávne obavy. Článok sa zaoberá komplexnosťou rodičovského vzťahu, možným zneužívaním náhradných matiek a kritickým významom informovaného súhlasu a autonómie pacienta v tomto kontexte. Analýza týchto otázok môže osvetliť etický a právny diskurz týkajúci sa komerčného náhradného materstva a prispieť k diskusii o dôležitosti informovaného súhlasu náhradnej matky v dohodách o náhradnom materstve.

I. INTRODUCTION

The modes of family formation in the second half of the 20th century have reached new horizons by the extended use of in vitro fertilisation method, namely in the midst of surrogacy procedures, where the embryo is implanted, carried than giving birth by the surrogate mother, instead of the woman who wishes to be the intended mother of the child. The surrogate mother

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and the intended parents enter a surrogacy arrangement, where each of them for the better clearly list the rights and obligations, regarding the performance and conduct they shall abide by until the arrangement is fulfilled. The contractual nature of surrogacy arrangements has stirred up many criticisms and concerns from both bioethical and human rights perspectives for all subjects of the surrogacy arrangements, with the most vulnerable being the child and the surrogate mother.

Perhaps one of the most controversial additions of surrogacy arrangements, is that the parental filiation, including maternity and paternity presumptions, does not originate from an inherently social and physiological phenomenon, from which legal presumptions are derived, but is based on contractual terms of private law nature. By this approach a conventional taboo around family formation with a child is broken.³

This practice becomes especially sensitive in the highlights of the position of surrogate mothers, who in a commercial or non-commercial setting enter a surrogacy arrangement, where they are performing reproductive labour, on a basis of a presumably valid and enforceable contract. Additionally, the cross-border nature of mostly commercial surrogacy arrangements, where the surrogate mother receives monetary compensation above the remuneration of the expenses connected to the pregnancy and giving birth (travel expenses and expenses connected with medical treatment and services) allow the practice to navigate on a transactional-market level in the realm of family formation. Commercial surrogacy arrangements operating on a profit-driven basis, highlight the ethical and bioethical concerns the most, as the inherent power imbalance between the commissioning parents and the surrogate mother, opens up ways of potential exploitation of woman. These arrangements create new socioeconomic ties between the subjects involved, where their roles and duties could be interpreted as the relations between, the service provider and customer, not to mention the role of intermediaries facilitating the practice. In this setting, the emergence of conflict of interests is a likely, but not much acknowledged, occurrence and in relation to the surrogate mother the risks for her physical and psychological well-being are heightened.⁴

The surrogate mother undergoes a rather demanding medical procedures in order to successfully perform her contractual obligations, which many times cover also multiple embryo transfers, caesarean section, selective reduction of embryos, twin pregnancy, thus could be exposed to serious medical consequences due to the surrogacy arrangements.⁵ Inevitably, we can assume that prospective surrogate mothers should receive thorough information in a language they understand, which should cover potential risks and outcomes of medical interventions at each stage of the surrogacy process, allowing them to make informed and autonomous decisions about their involvement to the surrogacy arrangements. Therefore, the bioethical principles on informed consent, patient's autonomy become substantially important to maintain, not only in patient-physician relationship, but extended to the child, the intending parents and intermediaries or advocates, involved in the surrogacy arrangements. The issue of

³ NAVRATYIL, Z. "A varázsló eltöri pálcáját? A jogi szabályozás vonulata az asszisztált humán reprodukciótól a reprodukív klónozásig" Budapest, Gondolat Kiadó publishing, 2012, p. 181.

⁴ FRONEK, P. Current perspectives on the ethics of selling international surrogacy support services. *Medicolegal and Bioethics*. 2018;8:11-20, <https://doi.org/10.2147/MB.S134090>, p. 12.

⁵ The IVF procedure and the surrogate's pregnancy involves medical treatments connected to general maternity care, e.g. medical screenings and testing, hormonal treatments and hormonal stimulations to synchronize the menstrual cycle of the intended mother and the surrogate mother, embryo transfer a minor surgical procedure to place the embryos into the surrogate's uterus, and perinatal care including treatments, monitoring and check-ups. It must be also highlighted, that becoming a candidate for surrogate mother has its medical and personal prerequisites (age, previous pregnancy, medical history, lifestyle), to elevate the success rate for the outcome of the surrogate pregnancy. Altogether, the medical interventions can be considered burdensome and inconvenient, both the emotional and physical load, involving the general risks linked to pregnancy.

informed consent is anyway elevated and pivotal in the context of assisted reproductive procedures, as well as exercising autonomous decision making in healthcare setting, and their due application in commercial surrogacy arrangements is inarguably indispensable, so the exploitative tendencies arising from the power disparities would not arise.

This article is aiming to provide close analysis of these bioethical principles and their elements and their presence and application in commercial surrogacy procedures, as well as highlighting the ethical and legal discourse about commercial surrogacy with special regard to the position of the surrogate mothers. The research utilizes qualitative, interdisciplinary approaches, while also employing doctrinal comparative legal methods and bioethical theory analysis, derived from the review of significant research papers concerning informed consent, dignity and autonomy of the surrogate mother in surrogacy arrangements. Research on feminist legal perspectives is incorporated to corroborate the empirical case studies on the motivations and circumstances of the surrogate mothers'. To substantiate the potential arising of exploitation, and the existence of legal safeguard measures thorough systematic review of legal texts, international guidelines and judicial precedents are presented in the article.

A key objective of the article is to research how the aspects of informed consent mechanism in surrogacy arrangements prevail, what is their necessity, theoretical background and how the legal measures could perform in action. The article suggests that a lack of unified international regulation could endanger the informed decision making of the surrogate mother, undermining the principles of autonomy and informed consent, thus the surrogate mother's perspectives might not be fully incorporated to the arrangements. Informed consent shall be as extensive as possible covering all potential legal risks in surrogacy arrangements.

II. BIOETHICAL OVERVIEW

Bioethical debates are always triggered by new discoveries in biotechnology which can fundamentally challenge basic natural laws, in contemporary times, advancements in science and technology have reached a stage where they enable the implementation of plans and achievements, leading to transformative outcomes which makes „*fundamental aspects of human existence from the nature-controlled 'realm of chance' to a part of human design and the 'realm of human freedom.'*”⁶ The postmodern attitude towards biotechnological developments redefines the long-established meaning and interpretation of concepts such as personal autonomy, reproduction, freedom, integrity among others. More precisely, there are constantly competing interests between the support of biotechnological advancements, which in a long-run could contribute to the well-being of humans, and the protection of universally accepted values of protection of human dignity, human life, prohibition of slavery etc. However, safeguarding such values in the postmodern democratic societies displays high level of diversity, implying that there is no unanimously accepted ethical approach⁷ which could unambiguously resolve how free scientific developments could be „humanized” (as only humanity could meaningfully restrict or permit freedom of scientific development). Thus, in bioethics divergent perspectives constantly coexist. By all means, its main aim does not constitute in providing a definitive answer to certain ethical dilemmas, but to uncover the core essence of such predicaments, to pinpoint accurately why and how these opposing interests are competing with

⁶ HABERMAS, J. *Die Zukunft der menschlichen Natur. Auf dem Weg zu einer liberalen Eugenik?* Suhrkamp Verlag, Frankfurt am Main, 2005, p. 53.

⁷ More about the plurality of ethical see: HABERMAS, Jürgen: *Die Zukunft der menschlichen Natur. Auf dem Weg zu einer liberalen Eugenik?* Suhrkamp Verlag, Frankfurt am Main 2005.

each other, to show the alternative ways of solving the ethical issue and to exclude the solutions which are generally unacceptable.⁸

Overall, bioethics represents a melting pot of various sciences which helps society to navigate ethically challenging issues in the field of medicine, biomedical research, biotechnology etc. Morality and ethics are very diverse and are a subject of dynamic development, as they are interconnected with the specific ideological, religious, philosophical background of the certain society or individual, although some universally accepted consensus on the prevalence on some values could be observed. More specifically, the principle of autonomy, beneficence, non-maleficence and justice are of paramount consideration in the context of medicine and providing healthcare.

Traditional bioethics is a leading discipline which intends to pave out a way of conduct and approach of the physician, in a patient-physician relationship while performing medical care, which moreover addresses the fundamental changes in medicine within a complex technological, social, and legal context, employing forms of interdisciplinary collaboration.⁹ This discipline tends to be very dynamic, as it follows the quick technological developments in medicine, as new and new questions emerged about the ethical borders in highlights of the research results of natural sciences and biotechnology. Bioethics reshaped the medical ethics established by Hippocrates, while still considers them as the guiding principles (namely, these four pillars are: beneficence, non-maleficence, justice and respect for the patient's autonomy), introduce new, complementary ethical norms, which are necessary reflections of the radical changes in medicine, and the social, legal and ethical aspects they touched upon.

In current times of modern medicine, we can observe a visible shift in the traditional patient-physician paternalistic relationship to focus on the cooperation of the patient and the physician, and the valorisation of the principle of patient's autonomy, and his or her conscience and active involvement, regarding the decision-making in medical treatments. However, this attitude presupposes an „educated” patient, who is emancipated to be the master of his life and health, who is capable and intends to deliver moral assessment over his or her health situation and the treatments he or she deems necessary, who is familiar with his rights and obligations in medical setting. Furthermore, the strengthening of the patient's autonomy approach to medical decision-making is the result of the changing social and cultural attitudes towards making the patient the key decision-maker in value assessment in their own healthcare, it still remains pluralistic. This pluralism is indicated by the diverse value-priorities of differently educated patients, based on their social, economic and cultural backgrounds.¹⁰

Exactly because of such pluralism of bioethics, the reaction to the most controversial assisted reproductive technology, surrogacy practice, has met with different social reactions, thus creating a diverse legal landscape all over the world. Generally, three legislative approaches could be identified regarding the domestic regulation on surrogacy arrangements, namely the forbidding states, permitting states, and non-regulating states. The states which are pro-surrogacy arrangements (let it be altruistic or commercial) naturally introduced and placed focus on incorporating informed consent „management” in order to balance the competing interests of the parties, as well as to focus on aiding the surrogate mother because of her enhanced vulnerability. The informed consent requirement to engage into any kind of medical treatment, in general are not clear in international surrogacy arrangements, however we are

⁸ SZEBIK, I. Bioetikai Kérdések Az Élet Kezdeté Kapcsán. in *Értelmes Szívvel*, ed. Eszter Kodácsy-Simon 43–67, Budapest, HU, Luther Kiadó publishing, 2016, p. 45.

⁹ HIDVÉGINÉ, A. L. and SÁRINÉ dr. SIMKÓ, Á. *Etikai normák és dilemmák az egészségügyben - Orvos-beteg jogviszonyok az egészségügyben VI.*, Medicina publishing, Budapest, 2018, ISBN: 978 963 226 701 2 p. 60.

¹⁰ SASS, H. Bioethics: Its Philosophical Basis and Application, In *Pan American Journal of Public Health*, 1990, Available online: <https://iris.paho.org/handle/10665.2/27131> p. 12.

ought to mention an exemplary guideline. Namely, the Verona Principles developed by international experts, which was issued by the NGO called International Social Service, which although focuses on the protection of children born through surrogate motherhood, it offers guiding principles for informed consent mechanisms for the surrogate mothers in the 7th principle, highlighting the independence and freedom of the decision-making regarding surrogacy arrangements, free from exploitation and coercion.¹¹

In some case we face such arrangement and consequences as for example in the case of Crystal Kelley, who became a surrogate of a couple in the United States, when she found herself in the similar situation as in the famous case of Baby Gammy. Unfortunately, when it turned out that the child would be born with serious defects, biological parents proposed an abortion, and they even wanted to give Crystal USD 10,000. The woman, however, did not agree to the procedure. She left for Michigan, gave birth to a child and found him a foster family.¹²

The focus point of the bioethical debate in relation the surrogate mother lies within the ethical notion, interpretation and practice of the right to self-determination (autonomy) and of human dignity. In practice these two values are embodied in the frame of the exercise of the right to informed consent in medical decision making about one's own health and condition. There have been numerous philosophical, ethical and legal studies focusing on the relevance of autonomy and human dignity and whether these values could be guaranteed in surrogacy arrangements, thus the focal point of the article is the analysis, safeguards and practical use of informed consent and informed decision-making in healthcare services of the surrogate mother in such arrangements. Where could we identify the problems in international surrogacy arrangements in relation to the informed consent of the surrogate mother? Are the ethical and legal requirements conform to international and national legal standards? These are the key questions the article seeks to unfold. The available AI applications in genetics open new possibilities. Population screening using facial AI recognition of genetic and health traits would be a cheap and effective tool to identify individuals at risk with subsequent targeted prevention or health care provision to save the limited resources of the health care system. Described AI technologies could facilitate automated population screening for certain genetic traits or disorders without the need to obtain any biological sample from nation-states or even private companies. The most significant barrier preventing this (ab)use of AI is the privacy legislation, such as the European Union's General Data Protection Regulation (GDPR)¹³

When we talk about genetic testing, it is, of course, relevant information not only for medical reasons, such as preventing hereditary genetic diseases—especially when using donated biological material, most commonly sperm and oocytes—but also in relation to determining genetic relatedness. Here, we inevitably encounter another issue concerning the sensitivity of data protection, particularly regarding the preservation of donor anonymity. On the other hand, this raises complex bioethical questions, as it is not entirely clear whether this anonymity should be preserved when it comes to the right to know one's identity. These structures are particularly disrupted by modern advancements in exploring genetic traits through AI.

This model of providing genetic testing has been very controversial among stakeholders over the past years. On the one hand, proponents have been underlining that DTC genetic testing

¹¹ Principle 7: Consent of surrogate mother, points: 7.1 – 7.5, Verona Principles, February 25 2021, [Accessed 06 September 2024].

¹² BORUTA, M. *Surrogate motherhood from the perspective of sociology and cultural anthropology*, p. 145, In: Fundamental legal problems of surrogate motherhood. Gloval Perspective. Ed. By Mostowik, P., Warszawa: Wydawnictwo instytutu wymiaru sprawiedliwosci. 2019, ISBN 978-83-66344-06-8.

¹³ KOVÁČ P, JACKULIAK P et al. *Artificial Intelligence-Driven Facial Image Analysis for the Early Detection of Rare Diseases: Legal, Ethical, Forensic, and Cybersecurity Considerations*. AI. 2024; 5(3):990-1010. <https://doi.org/10.3390/ai5030049>.

enhances the autonomy of consumers. On the other hand, the absence of medical supervision and genetic counselling often encountered in the commercial setting has raised concerns regarding potential misinterpretation of test results by consumers, which may lead to unnecessary distress and/or inappropriate healthcare decision making. We specifically mention about diagnostic tests for monogenic diseases such as cystic fibrosis, susceptibility tests for common complex disorders such as cardiovascular disease and diabetes, carrier tests for X-linked and recessive disorders, as well as pharmacogenomic and nutrigenomic tests. Non-health-related tests include ancestry tests, athletic performance tests, matchmaking tests and tests for ‘fun’ traits, such as ear wax type and eye colour.¹⁴

The bioethical concerns are enormous, on the other hand, one may say so is the beneficence for the interested parties. While surrogacy has evolved from being a societal taboo to a widely practiced reproductive option in many countries, numerous jurisdictions remain reluctant to recognize the validity of surrogacy agreements.¹⁵

1. Bioethical concerns for the surrogate mother

Next to the child, the surrogate mother faces not only legal but practical risks when entering into a surrogacy arrangement. She on the one hand willingly and freely agrees to getting pregnant and giving birth to a child on behalf of another, with no intention of later caring and bringing up the child, the obligations, which she takes upon herself are rather demanding, not purely from the medical perspective. To illustrate the extent of the limitation of her autonomy in the context of surrogacy arrangements, we could dive into the American examples of surrogacy contracts, with special regards to some clauses touching upon the obligations taken upon by the surrogate mother. These clauses exemplify the extent of the restriction of autonomy of the surrogate mother and the „mastery” of the intended parents over many aspects of life of the surrogate mother. As oftentimes surrogacy arrangements in the USA operate on a commercial basis, it is naturally in the interest of both of the parties for the contract to be duly performed, however as long as the intended parents provide the financial means for facilitating the arrangement, they have the most control over the surrogate mother. The pregnancy, the lifestyle during pregnancy, and the potential medical risks and medical decision-making opportunities are placed in the hands of the intended parents. Areas, regarding confidentiality in medical setting is no longer the privilege of the surrogate mother and his or her close relatives, but understandably this is expressly waived by the surrogate mother in favour to the intended parents.

We cannot overlook the fact that a surrogate mother is sometimes exposed to unpredictable risks and complications during childbirth that cannot be prevented, even with thorough diagnostics during the prenatal period. Furthermore, with the increasing frequency of cesarean sections—sometimes requested by surrogate mothers to avoid the experience of vaginal delivery—it becomes relevant to address, among other issues, complications such as impaired healing of uterine incisions, which may lead to pathological conditions in subsequent pregnancies.¹⁶ In other words, each pregnancy of a surrogate mother presents not only risks for

¹⁴ KALOKAIRINO, L., HOWARD, H.C., SLOKENBERGA, S. *et al.* *Legislation of direct-to-consumer genetic testing in Europe: a fragmented regulatory landscape.* *J Community Genet* **9**, 117–132 (2018). <https://doi.org/10.1007/s12687-017-0344-2>.

¹⁵ GARAYOVÁ, L. *Surrogate motherhood - the European legal landscape.* *Law, Identity and Values.* 2022, vol. 2, no. 1, pp. 65-83. ISSN 2786-2542. Online ISSN 2786-3840. p. 71.

¹⁶ DOSEDLA, E.-GÁL.P-CALDA, P. Association between deficient cesarean delivery scar and cesarean scar syndrome. *J Clin Ultrasound.* 2020; 48: 538-543.

the pregnancy itself but also for future pregnancies, which must be taken into account when providing care to a pregnant woman.¹⁷

From the perspective of liability for these risks and potential compensation for damages, there is very little legal literature or case law specifically addressing this topic.

Moreover, medical decisions about abortion is placed in the hands of the intended parents, not only limiting abortion performed in cases of genetic disease or defect detected in the foetus. Additionally, contractual clauses could be incorporated into a surrogacy arrangement about foetal-reduction (selectively reducing the number of foetuses, if a twin pregnancy occurs, or more embryos have been transferred and started to develop in the womb), and end-of-life decision making of the surrogate mother (is the surrogate mother is put on medical life support) the intended parents may have absolute decision making competence, without justification. Although, it is important to highlight, that the more detailed the contract is, the more „clear” it is for the parties what they engage into, to be prepared for any occurrences would avoid ambiguity about taking responsibility, and may offer navigation in incidental court proceedings.¹⁸

Furthermore, an adequate commercial surrogacy contract shall include reimbursement, and compensation mechanisms for the surrogate mother if unfavourable circumstances occur, and she is unable to perform her obligations in certain cases. Entering a surrogacy arrangement means that both the intended parents and the surrogate mother willingly give up certain portion of their autonomy, although the scale still tips to the performance and responsibility of the surrogate mother, for the arrangement to be successfully performed.

A notable mention offering guideline for the legislator are the Verona principles (adopted 25 February 2021), which combine different perspectives of different stakeholders. The drafters of the document were international group of experts coming from different universities, organizations from all over the world, including current and former members of international human rights treaty bodies, such as regional human rights bodies, members of the judiciary, and the UN Special Rapporteur on the sale and sexual exploitation of children. The document intends to reflect to the aggravated challenges surrogacy arrangements initiated by the diverse legal and ethical receptions by experts, society and states. The aim of the document is to offer potential legislative approaches to the surrogacy problem focusing on the child’s rights. Overall, the Verona Principles suggest acceptance towards surrogacy, and enhances a utilitarian approach to the phenomenon as a new form of fertility treatment and family planning, as well as reflecting to the critical interests of the children born through surrogacy arrangements. The relevancy of the document could be demonstrated by the fact that, the UN Committee on the Rights of the Child has endorsed the Verona Principles and are also integrated into UNICEF's global Child Protection Strategy for 2021–2030.

On the other hand, the Verona Principles has been subjected to criticism especially from a feminist legal perspective, highlighting the overarching technocratic approach to surrogacy, the hidden goal of regulating the practice worldwide, favouring one involved parties’ interest over the other (children’s rights detrimental to woman’s rights), regression of woman’s human rights and so on.¹⁹

¹⁷ DOSEDLA, E.-CALDA, P. *Ultrazvuková diagnostika maternice v šestonedelí*. Actual Gyn. 2011; 3:52-60.

¹⁸ For more information about the potential exploitative nature of commercial surrogacy arrangements see: MARTÍNEZ DE AGUIRRE, C. *International surrogacy arrangements: a global “Handmaid’s Tale”?* in Fundamental legal problems of surrogate motherhood: Global perspective, ed. Piotr Mostowik, 367-399, Warsaw: Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2019.

¹⁹ For more information see: The International Coalition for the Abolition of Surrogate Motherhood „The VERONA PRINCIPLES are a new attempt to organise surrogacy globally” 2022 [Accessed 25 July 22 2024]. Available online:

III. THE CONCEPT OF INFORMED CONSENT IN SURROGACY ARRANGEMENTS

This concept is perhaps the most important in the international bioethical literature of the past 40 years, which has radically transformed the traditional, paternalistic doctor-patient relationship in the United States and a significant part of Western Europe. There is an absolute consensus, that the value of informed consent in medical decision-making is not negligible. However, in cases of assisted reproductive techniques (ART) the purpose of medical intervention gets somewhat twisted, which is heightened in surrogacy arrangements. What we mean by this is, that ART is not intended to cure or improve one's health condition, which was contaminated by a disease. Instead, ART is aimed to be used to „cure” the consequences of infertility, thus the fact of childlessness.²⁰ In medicine, informed consent is not rare in cases that do not have an exclusively therapeutic effect. This is evident, for example, in cosmetic surgery procedures. On the other hand, it is not correct to consider assisted reproduction as merely a similar to a form of reconstructive cosmetic surgery, as it fundamentally fulfills a therapeutic purpose. Medical interventions do not always need to be life-saving or health-improving to qualify as therapeutic. The fact that infertility is diagnosed as a disease and that in vitro fertilization is considered a treatment for infertility demonstrates this. Informed consent should also be based on this understanding. The twist in surrogacy arrangements is that the in vitro fertilisation (IVF) does not in itself serve the improvement of health of the surrogate mother, her motives emanating from either graciousness, altruism or financial gain.²¹ To decide to act as a surrogate one shall carry out risk-benefit assessment, and make the decision freely, after receiving comprehensive information. The ethical principle of autonomy is demonstrated when a woman chooses to become a surrogate mother. However, considering that the arrangement also involves the interests of the intended parents, the surrogacy agency (acting as an intermediary), and the responsibilities of the physician performing the IVF, achieving a fair balance of benefits and burdens becomes a delicate matter, as questions of reproductive autonomy and human dignity are placed under exposition.

Regarding the principles of autonomy, often cited arguments against the practice is the lack of autonomy of the surrogate mother, more precisely the absence of free and informed decision-making regarding her bodily integrity. Some feminist legal scholars doubt, that the autonomous decision about getting pregnant and giving birth to a child on behalf of another could be truly autonomous, because of the heartfelt nature of bond between the pregnant woman and the child, thus the surrogate mother lacks information about how she *will* feel about fulfilling the arrangement. Moreover, the decision can hardly be called free, if a significant difference between the economic and social status of the surrogate and intended parents exist, meaning the financially motivated decision-making may cause the surrogate mother to disregard her own

<https://abolition-ms.org/en/our-actions/international-institutions/verona-principles/the-verona-principles-are-a-newtempt-to-organise-surrogacy-globally/>.

²⁰ The World Health Organization (WHO) has declared infertility as a disease in 1988, because it fairly fits to the interpretation of what it defines as health. The WHO defines health in its Constitution, which was adopted in 1946 and came into force on April 7, 1948, as follows: „*Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.*” Infertility is stemming from a reproductive bodily function deficiency, however, could be also increased by age and other factors. ART medical services are not necessary aiming to cure this disfunction in reproductive organs, as the method of in vitro fertilisation (IVF) will not offer a solution for the physical cause of infertility, but regardless helps the patient to have a child. Individuals turn to ART to treat the social fact of childlessness, which innately reflects to elements of good health obtained through the mental and social well-being. See more in: NAVRATYIL, Z. Az asszisztált reprodukciós eljárások a jogi szabályozás tükrében - különös tekintettel az in vitro embrió helyzetére. Debreceni Jogi Műhely, 2(Különszám). 2005, [Accessed 14 September 2024]. Available online: <https://ojs.lib.unideb.hu/DJM/article/view/6580>.

²¹ Smith M. Hewitt, J. and Fronek, P. *Surrogacy and bioethics* in Research Handbook on Surrogacy and the Law, ed. Trimmings, Katarina, 263-280, Cheltenham, UK: Edward Elgar Publishing, 2024, p. 266.

best interests, thus enter a disproportionate arrangement, where she is placed under the mastery of the intended parents.²²

Although, the above-mentioned evaluation about autonomous decision-making of the surrogate mother has been contested by other feminist scholars, who elaborate that not having full knowledge about the results of her decision, does not undermine autonomy, as one can maintain their ignorance freely, what is significant is the risk assessment based on the surrogate mother's own values.²³ At any rate, the potential economical imbalance does not necessarily indicate that free informed consent for the surrogacy pregnancy by the surrogate cannot be achieved. If we look at the motivations surrogate mother candidates usually express, they are not purely of a financial nature, nevertheless, include altruistic intentions as well, even in the context of commercial surrogacy arrangements. The main motivations include, helping a childless couple, the general enjoyment of pregnancy, nobly offering their help to couples in need.²⁴ The counter argument to the statement, that the existence of economic imbalance of the subjects makes the free informed decision-making impossible is precisely that, in some countries only altruistic surrogacy is allowed²⁵, and the practice is still successfully ongoing. The benevolent intentions are present in both types of surrogacy arrangements. Moreover, we shall underscore, that woman agree to a surrogacy pregnancy, which is why their attitude differs from a „general” pregnancy, where they intend to give birth to their own child.²⁶

The above-mentioned diverse understanding about the value and elements of autonomy, and how it could be subjected under the umbrella of capitalist approach to human reproduction, remains a key feature in the bioethical debate on surrogacy practice.

Linking the issue of informed consent to become a surrogate mother, there are key features to assess and analyse to tackle whether there is or not some insufficiency in the decision-making process. Let's determine the key features of informed consent. Through informed consent, the right to self-determination is exercised in medicine, where the patient may decide what kind of medical examination they want to have, and they may also decide to prohibit the performance of a previously permitted examination before without adverse consequences. Within this right, the person may also decide who is entitled to access their personal data. The prerequisites of informed consent are, that the consents shall be:

- a. *Provable*: Consent must be proven, which means it can be granted in writing, by nodding, or orally. Nodding and oral consent, in other words, forms of implied consent, are, however, unacceptable in the field of surrogacy arrangements, where a certain form of contract is required to legally proceed with the performance.
- b. *Informative*: A medical professional has the obligation to provide information about, various aspects of the use of ART (these information shall include among many, the

²² DODDS, S., and JONES, K. Surrogacy and Autonomy. *Bioethics* 3, no. 1, 1989: 1–17, p. 1.

²³ OAKLEY, J. Altruistic surrogacy and informed consent. *Bioethics*. 1992 Oct;6(4):269-87. doi: 10.1111/j.1467-8519.1992.tb00206.x. PMID: 11652090 p. 269.

²⁴ HIBINO, Y. & SHIMAZONO, Y. Becoming a Surrogate Online: "Message Board" Surrogacy in Thailand. *Asian Bioethics Review*. 2013, 5. 56-72. 10.1353/asb.2013.0004; KARANDIKAR, S. et. al. Economic Necessity or Noble Cause? A Qualitative Study Exploring Motivations for Gestational Surrogacy in Gujarat, India. *Affilia*, 29 (2), 224-236. 2014. pp. 63-65, Available from: <https://corescholar.libraries.wright.edu/socialwork/44>.

²⁵ In the United Kingdom, where surrogacy arrangements are governed by the Surrogacy Arrangements Act 1985 and the Human Fertilisation and Embryology Act 2008 altruistic surrogacy is permitted, while the monetary compensation is limited to the reimbursement of reasonable expenses, which usually amounts to cca. 15000 £. For more information, see: Jadvá, V. Surrogacy: issues, concerns, and complexities. In: Golombok S, ScottR, Appleby JB, Richards M, Wilkinson S, editors. *Regulating reproductive donation*. Cambridge: Cambridge University Press; 2016. p. 126–9 (3) (PDF) *An ethical comparison of living kidney donation and surrogacy: understanding the relational dimension*. Available from: https://www.researchgate.net/publication/335898766_An_ethical_comparison_of_living_kidney_donation_and_surrogacy_understanding_the_relational_dimension [Accessed 22 September 2024].

²⁶ BERÉND, Zs. The Romance of Surrogacy. *Sociological Forum*. 27. 2012, 913-936. 10.2307/23362158, p. 916.

patient's health condition and diagnosis, the type, severity, and extent of the proposed procedure, the pain, course of the procedure, the consequences and risks, or the probability of their occurrence, the possibility of worsening the patient's health after the procedure, any potential alternatives for performing the procedure, what will happen if the patient refuses the given procedure

- c. *Understanding*: the patient must understand the risks and benefits of the procedure, the rights and obligations of the patient to have a clear vision of the outcomes and consequences of her decision
- d. *Voluntary*: in other words, free of coercion, free of authoritative, coercive or manipulative control or influences²⁷

1. Example of good practise and the questions raised in the context of the informed consent

Israel is considered a leader in assisted reproduction for several reasons. First it is the state of the advanced medical technology,²⁸ as Israel has a strong focus on research and development in reproductive technologies, with many clinics utilizing cutting-edge methods like IVF, ICSI, and pre-implantation genetic diagnosis (PGD).

This financial support has contributed to Israel having one of the highest rates of IVF usage per capita in the world.²⁹ That is also the reason, we are focusing on the best practise of this country in this matter.

It also serves as an example of combination of religious approach, which can be in favour of various procreation methods as linked to creating and keeping the family and its bonds. Reason for this is a cultural emphasis on family and parenthood, which drives the demand for reproductive assistance. This is further influenced by religious beliefs that prioritize procreation.

In Israel, surrogacy arrangements are regulated by law, primarily through the Surrogacy Agreements Law of 1996.³⁰ A lot has been changed by the Amendment of the Israeli Embryo Carrying Agreements Law in 2018. Law today permits paid surrogacy, egg donation, including the combination of egg donation and surrogacy, and even postmortem sperm retrieval is approved by the Supreme court, when the process is initiated by the deceased's spouse. Some of these procedures are complete restricted or limited in other countries.³¹

Originally, it allowed only legally married heterosexual couples and single women to enter surrogacy arrangements; however, recent legal amendments now extend surrogacy rights to single men and same-sex couples, following a landmark 2021 Supreme Court decision. This decision aimed to end discrimination by expanding eligibility for surrogacy to these groups, who can now pursue surrogacy within Israel as of 2022.

²⁷ CHERVENAK FRANK, A., and B. McCULLOUGH, L. (eds). *FIGO Ethics and Professionalism Guidelines for Obstetrics and Gynecology*. The FIGO Committee on Ethical and Professional Aspects of Human Reproduction and Women's Health, 2021. [Accessed 12 October 2024] Available from: <https://www.figo.org/sites/default/files/2021-11/FIGO-Ethics-Guidelines-onlinePDF.pdf> pp. 10-12.

²⁸ SHALEV, J. et al. Assisted Reproductive Technologies in Israel: Trends and Outcomes. *Fertility and Sterility*. 2018. DOI: 10.1016/j.fertnstert.2018.08.017.

²⁹ SHALEV, J., et al. "The Role of Government in Fertility Treatments: The Case of Israel." *Reproductive BioMedicine Online*, 32(1), 12-18. 2016 DOI: 10.1016/j.rbmo.2015.09.005.

³⁰ Surrogacy in Israel, service providing information on surrogacy in Israel and on applications to the National Supervisor for the Carriage of Fetuses Law at the Ministry of Health, last updated 13/10/2024, available online: <https://www.gov.il/en/service/embryo-carrying>.

³¹ WETREICH, A. *Surrogacy and egg donation in Israel: legal arrangements, difficulties and challenges*, p. 270 In: *Fundamental legal problems of surrogate motherhood. Global Perspective*. Ed. By Mostowik, P., Warszawa: Wydawnictwo instytutu wymiaru sprawiedliwosci. 2019, ISBN 978-83-66344-06-8.

Surrogacy agreements in Israel must be reviewed and approved by a designated government committee, ensuring compliance with legal, ethical, and medical standards. Additionally, only gestational surrogacy is legal, which means the surrogate has no genetic link to the child. Intended parents must also share the same religion as the surrogate, to maintain clear religious status for the child, and surrogate candidates must be unmarried women who have already had children

Overall, while surrogacy is legally recognized in Israel, there are specific regulations that aim to protect the rights and welfare of all parties involved.

For example, surrogacy agreement states, that the mother will be the genetic mother, while in an egg donation the mother will be the carrying mother. This civil law's functionalist approach does not only depend on the circumstances of the case, but it also takes into account legal-policy considerations, that is the view of Jewish law in the matter discussed. From this respect, it can be defined as a "considerate functionalism"³²

Moreover, and it will be mentioned in various perspectives later on, Israeli law does not explicitly recognize the status of the second, non- genetic spouse, as the father of the child. There is a growing trend among family courts, that a second spouse is recognized as the father of the child by a judicial parenthood decree. This is very important part, particularly from the perspective of the international surrogacy and the wish to legalize the status of the child's parents afterwards.³³

Autonomy emphasizes the importance of informed consent, meaning that surrogate mothers should fully understand the medical, legal, and emotional implications of the surrogacy arrangement before proceeding.

When drafting an informed consent document for surrogacy, it's important to address various legal risks related to the surrogate's status. First of all, there has to be clear, how the future parental rights will be assigned to the intended parents. What has to be clear as well are the expectations and obligations in the contractual meaning. Nevertheless, all the implications related to taxes, medical and other financial expanses have to with no doubt cleared up. In order to achieve the foreseeability and the highest form of legal certainty before, it is recommended to ask for professional legal advice. The whole topic or the informed consent should stem from the keeping the privacy and confidentiality regarding the protection of the personal data, though there might be different levels of protections because of the existence of GDPR tools among the EU countries and other regimes out of EU.

By addressing these legal risks in the informed consent process, both the surrogate and intended parents can better understand their rights and responsibilities.

2. Foreign surrogacies and their implications

As the legislation on surrogacy arrangements are very diverse, intended parents often resort to surrogacy abroad, to benefit from the permissive, more accessible legal environment. After the conclusion of the surrogacy arrangement, several legal questions can potentially arise upon the intended parent's return to their home country with the child, especially the recognition of foreign birth certificates, recognition of parenthood may be ambiguous before the home state authorities. This issue has been many times resolved before the ECtHR, emphasizing the best interest of the child principle, which shall be of main concern of the state authorities, when

³² Ibid, p. 273.

³³ Ibid, p. 278, what is also important is that the intended father must be the genetic father, while the surrogate mother need not be the genetic mother (full surrogacy, in which the surrogate mother os both the egg owner and gestational mother, is prohibited).

performing a balancing act between private and public interest.³⁴ This does not mean that domestic authorities automatically have to accept foreign surrogacy arrangements, rather shall accommodate and adapt to foreign legal acts without necessarily integrating or replicating them in full. Basically, instead, they recognise the legal effects of those acts as long as they align with domestic principles and obligations under international law, as in the following French example.

The *Cour de cassation* ruled in a judgment of 2 October 2024 that a foreign surrogacy recognised in France produces the legal effects provided by foreign law and need not be considered as a full adoption of French law. In that case, a couple of French men had contracted with a surrogate mother in California. California court had rendered a ‘prenatal judgment’ establishing that the French men were the legal parents of the child, and that neither the surrogate mother nor her husband were legal parents and had any obligation towards the child.

The Californian judgment was then recognised, and indeed declared enforceable, in France. This means in consequences, that the obligation to recognise foreign surrogacies, which has been established by ECtHR however, did not create a French concept of surrogacy.

According to Brussel I bis regulation, *Article 54 reads as follows: If a judgment contains a measure or an order which is not known in the law of the Member State addressed, that measure or order shall, to the extent possible, be adapted to a measure or an order known in the law of that Member State which has equivalent effects attached to it and which pursues similar aims and interests. Such adaptation shall not result in effects going beyond those provided for in the law of the Member State of origin.*

3. Challenges to cross-border recognition of parenthood in surrogacy arrangements

It is essential to highlight, that the most complications in the context of informed consent in the context of surrogacy arrangements arises, when cross-border element is included. However, as the international legal framework on surrogacy is varied, ranging from countries with no regulations to those that permit it under certain conditions, and others that completely prohibit and criminalize the practice. Most European nations fall into the latter category. However, even in countries where surrogacy is banned, their legal systems still face the implications of the practice when their citizens pursue surrogacy arrangements in countries where it is allowed. In such cases, cross-border reproductive care raises complex issues surrounding the registration of birth certificates and the recognition of legal parentage between intended parents and children born via surrogacy. Essentially, most of the legal and practical obstacles may rise upon the intended parents return to their home country and the recognition of the foreign birth certificate, where usually the intended parents are indicated as the legal parents of the child.³⁵

³⁴ GARAYOVÁ, L. *La evolución de la maternidad subrogada transfronteriza en la jurisprudencia del Tribunal Europeo de Derechos Humanos*. Revista de Derecho Civil. Santa Cruz de Tenerife (Spain) : NOTYREG HISPANIA, 2023, vol. 10, no. 5, pp. 259-277. ISSN 2341-2216. p. 264.

³⁵ Ukraine is widely known for its permissive legislation on commercial surrogacy, thus has become a preferable destination for foreign intended parents. Although, currently Ukraine lacks comprehensive legislation regulating surrogate motherhood and the practice of surrogacy, the legal basis for surrogacy primarily comes from the Family Code. According to Article 123, which governs the establishment of maternal and parental affiliation in cases of medical assistance: „1. *If a wife undergoes artificial procreation with her husband's written consent, the husband is registered as the father of the child born to his wife;* 2. *If an embryo conceived by the spouses is implanted in another woman, the spouses are considered the legal parents of the child;* 3. *If an embryo conceived by the husband and another woman is implanted in the wife, the child is recognized as the couple's offspring.*” From these provisions, it is clear that Ukrainian law does not align with the Roman law principle of *Mater semper certa est* (the mother is always certain) and diverges from the widely accepted concept of prioritizing gestational motherhood. Instead, Article 123 of the Family Code establishes legal parenthood based on the biological connection between the intended parents and the child born through a surrogate. Moreover, the Order of the Ministry of Justice of Ukraine No. 52/5 of 18 October 2000 concerns the issue of drafting the birth certificate to a child born from a surrogacy agreement, where Paragraph 11, Chapter 1, Section III stipulates, that: “*When a child is born by a woman who was implanted a human embryo conceived by the spouses as a result of the use of assisted reproductive technologies, state registration of birth shall be made upon the application of spouses who*

Basically, some of the foreign birth certificate's does not even indicate that international surrogacy arrangements have taken place, thus the competent authorities could face complications regarding the automatic recognition of the foreign birth certificate.

In the context of informed consent, it is typically given and formalized *prior* to the execution of the surrogacy arrangement³⁶. When the arrangement is drafted with proper attention to informed consent, it should ensure legal certainty throughout the duration of the process until all obligations are completed. However, we venture into the territory of legal uncertainties, when it comes to the *recognition* of legal documents related to parenthood that have been issued in foreign jurisdictions. This challenge occurs at the intersection of domestic legal frameworks and international surrogacy agreements.

Nonetheless, the most complicated situations arise when the cross-border surrogacy arrangements involves on one hand a state who is part of the European Union, and one which is not a member, like Ukraine. If the surrogate gives birth in a non-EU country, returning to the state where the surrogacy arrangement was drafted and agreed upon may readily result in circumstances where the legal effects of decisions issued by foreign courts or competent authorities are not recognized, or where documents establishing the parentage of the commissioning couple fail to receive legal validity.

These complications in the recognition of foreign birth certificates have been topically emerging in the European Union, resulting in various number of petitions before the European Parliament. Most recently, the Proposal for a Council Regulation concerning jurisdiction, applicable law, recognition of decisions, and acceptance of authentic instruments in matters of parenthood, alongside the creation of a European Certificate of Parenthood³⁷ in 2022, aimed to thoroughly address the issues arising from cross-border family creation, with specific attention given to the strategies on child rights and LGBTIQ rights, but of course collaterally including children born from surrogacy arrangements and their families.³⁸

Nevertheless, the Proposal was issued aligning Article 81 paragraph 3 of the TFEU, which stipulates that *„Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.*

The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted

consented to such implantation. In such case, the document confirming the child's delivery by such woman shall be accompanied by a statement confirming her consent to registration of the spouses as parents, the authenticity of signature on which shall be notarized, and a certificate of genetic affinity of the parents/mother or father/ with the fetus”.

³⁶ A surrogacy „contract” is deemed fulfilled when all obligations set forth in the agreement between the intended parents and the surrogate have been fully carried out in accordance with the contract's terms. Typically, this occurs when the surrogate has successfully carried the pregnancy to full term, the child is born, and legal parentage is transferred to the intended parents. However, the exact conditions for fulfilment can vary depending on the legal regulations governing surrogacy in the jurisdiction and the specific terms of the contract.

E.g. in the United Kingdom, where altruistic surrogacy was legalised by the Surrogacy Arrangement Act, the surrogacy arrangement could be considered fulfilled, when the intended parents receive the parental order granted by the family law court, to which the surrogate mother and his husband consented. By the parental order the intended parents become the full legal parents of the child, legally and formally excluding the surrogate mother from the family relation. Additionally, the UK regulation provides a legal safeguard for the surrogate mother, a certain time period (six weeks after birth of the child) when she can contemplate about her maternal status, and if wishes to keep the baby, apply for parental order herself. See more in: JULESZ, M. “Az egészséghez fűződő jog – A pótnyaságtól a COVID-19-ig”, Medicina könyvkiadó zrt., Budapest, 2020.

³⁷ Code of the proposal: COM(2022) 695.

³⁸ The Proposal in its Explanatory Memorandum p. 1 stipulated that *„ (...) the proposal covers the recognition of the parenthood of a child irrespective of how the child was conceived or born and irrespective of the type of family of the child.”* Thus, surrogacy arrangements, and the children born from them, would fall under the proposal.

by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The proposal referred to in the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision shall not be adopted. In the absence of opposition, the Council may adopt the decision.”

In other words, in order to strengthen judicial cooperation, the Council holds the authority to adopt measures related to family law with cross-border implications. This is done based on a proposal from the Commission, following a special legislative procedure that requires unanimous agreement and consultation with the European Parliament. Once notified, National Parliaments have time to review the proposal and assess its alignment with the principles of subsidiarity and proportionality, which govern the exercise of powers conferred upon the Union by Member States.

We shall highlight that the scope of the Proposal only applies to the recognition or acceptance of documents establishing or verifying parenthood if issued within a *Member State*. Documents issued by a third State to establish or verify parenthood will continue to be subject to national law for recognition or acceptance.

That is why, although, the European Union and its Proposal would enhance cooperation on the recognition of parenthood including surrogacy arrangements between the Union Member States, the cross-border complications arising from non-EU member states (which are usually the most popular destinations for intended parents, e.g. Ukraine, Georgia, USA, Canada) would be still governed by national laws. From this perspective, most likely, eventually the European Court of Human Rights would be the international organization, where the legal issues arising from the recognition of parenthood stemming from international surrogacy arrangements would be resolved.

Additionally, the European Court of Human Rights has in a handful of their decisions, concerning not only surrogacy, but family creation, emphasized the significance of acknowledging parental relationships to uphold the right to respect for private and family life for both children and adults, as protected under Article 8 of the European Convention on Human Rights. According to the Advisory Opinion on the Recognition of the Intended Mother³⁹ member states shall introduce other means of cross-border establishment of parenthood in surrogacy cases, such as adoption, which approach has been confirmed and supported by the Court in several of their case-law.⁴⁰

IV. CONCLUSION

In the midst of constantly emerging new biotechnologies in reproductive medicine, we face countless challenges, which require a rigorous examination of the ethical, legal, and bioethical complexities surrounding commercial surrogacy, with a central focus on the critical role of informed consent and the surrogate mother's autonomy, which is a segment oftentimes neglected, as main focus is put on the child's wellbeing. The concept of informed consent is pivotal to ensuring that surrogate mothers possess a comprehensive understanding of the medical, psychological, and legal ramifications of their participation. However, as the article delineates, achieving robust informed consent in cross-border surrogacy arrangements remains

³⁹ Advisory Opinion Concerning the Recognition in Domestic Law of a Legal Parent-Child Relationship Between a Child Born through a Gestational Surrogacy Arrangement Abroad and the Intended Mother, Request no. P16-2018-001 by the French Court of Cassation (ECtHR, 10 April 2019).

⁴⁰ E.g. The Opinion was confirmed in *C and E v. France* App no. 1462/18 and 17348/18 (ECtHR, 12 December 2019) and *KK and others v. Denmark* App no. 25212/21 (ECtHR, 6 December 2022).

a formidable challenge due to the diverse and often conflicting regulatory frameworks across jurisdictions. These differences complicate the establishment of universal standards that sufficiently safeguard surrogate mothers' autonomy and dignity, especially when issues of power imbalances and economic disparities influence decision-making.

Cross-border surrogacy is highlighted as particularly problematic, given the inconsistency of national approaches—ranging from complete prohibition to permissive regulation or absence of specific legislative oversight. This heterogeneity engenders significant legal uncertainties, particularly in areas such as the recognition of legal parenthood and the enforceability of surrogacy agreements internationally. Additionally, by exploring the limitations which international organizations, such as facing the European Union is facing, which, despite emerging discussions on cross-border family law matters, faces substantial constraints in legislating in this domain due to its lack of direct competence in family law. Although the EU has initiated discourse on these issues, achieving a cohesive regulatory framework across member states is challenging within its current legal scope.

The exemplary practice of the country like Israel may provide valuable models for effectively integrating informed consent into surrogacy arrangements. Israel, recognized for its advanced reproductive technologies and supportive legal infrastructure, mandates comprehensive informed consent processes. This framework emphasizes the surrogate's informed consent and autonomy, prohibiting commercial surrogacy to prevent exploitation. This regulatory framework are striving to create balance in the interests of all parties while upholding ethical standards.

The analysis suggests that the most efficacious means of establishing a cohesive and universally applicable regulatory framework for surrogacy arrangements may reside with international legal bodies, specifically the Hague Conference on Private International Law (HCCH). The HCCH, with its extensive background in formulating conventions on private international law, is positioned to provide a structured platform for developing harmonized standards regarding informed consent, parental rights, and the protection of surrogate mothers' autonomy. Such an international framework could reduce cross-jurisdictional discrepancies, fostering enhanced protections for both surrogate mothers and intended parents while minimizing legal ambiguities and conflicts among nations.

In conclusion, we intend to underscore the necessity for an ethical and legally robust framework that prioritizes surrogate mothers' autonomy and dignity in the broader scientific discourse on reproductive medicine, especially surrogacy arrangements. Although informed consent is foundational, it is particularly complex within the context of cross-border surrogacy.

Given the EU's limited jurisdictional authority in family law, a globally coordinated regulatory initiative through the Hague Conference may present the most viable solution, advancing legal clarity and ethical standards within this intricate domain of reproductive medicine to achieve the effective implementation of informed consent mechanisms and safeguards.

KEY WORDS

bioethics, informed consent of surrogate mothers, autonomy, human dignity, reproductive medicine

KLÚČOVÉ SLOVÁ

bioetika, informovaný súhlas náhradných matiek, autonómia, ľudská dôstojnosť, reprodukčná medicína

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