



IAFL European Chapter Meeting, Paris, France 4-8 December 2024

Session resources pack

Session 2: Adoption and assisted reproduction

Friday 6 December 2024

09:45 – 11:15

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Magali van Maanen is a lawyer and mediator practicing in Amsterdam. She is also a collaborative divorce lawyer and a member of the board of the Collaborative Divorce Association in the Netherlands (VvCP). Magali is specialised in international law and graduated cum laude from the postgraduate specialisation course in international family law of the Association of Family and Inheritance Lawyers and Divorce Mediators (vFAS). Her main focus is on (international) divorce cases, handling both the financial aspects as well as the child related aspects. Magali is a board member of D.I.A.L., the association for Dutch Lawyers who handle international child abduction cases.

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Jemma is the partner in the Adoption, Surrogacy and International Child Care department. She specialises in and has extensive experience of complex international adoption, surrogacy and children cases as well as being highly regarded for her expertise in cases involving children who are conceived by way of artificial insemination under the Human Fertilisation and Embryology Act 2008. She successfully represented more than 30 families after her landmark success in the Human Fertilisation and Embryology Act 2008 (A & Ors) 2015 EWHC 2602 concerning the acquisition of legal parenthood in respect of children conceived using donor sperm. Jemma is also a member of the Association of Lawyers for Children (ALC), Resolution, the IBA and she is accredited as a specialist in adoption and private law children cases. IBA Family Law Committee Newsletter, Family Law Week and Lexis Nexis and Stonewall. Jemma was interviewed for The Times Lawyer of the Week.

Languages Spoken: English

Practice Areas:

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In the last 8 years dealt with more than 40 international family law cases, which proved her that family law is her mission and her contribution to the world. She treats every case with total involvement and dedication.

She appears before all levels of litigation in Romania, having experience also before international Courts. Is a member of the Bucharest Bar since March 2009, being a legal counsel priorly between 2005-2009. She graduated from Babes- Bolyai University of Cluj in 2005 , Romania and has a Master degree in International Law.

Languages Spoken: English, Romanian, Hungarian, Spanish, Italian

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Modification/Variation: Spousal Support, Parentage/Paternity, Relocation/Removal from Jurisdiction, Spousal Support/Maintenance/Alimony, Succession Law, Surrogacy

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Having over 42 years of experience at the Bar, she has practiced in myriad fields of law such as Human Rights, Commercial Disputes, International and Commercial Arbitration, Constitutional Law, Criminal Law, Intellectual Property Matters, Private International Law and Environmental Law. Currently, she is the Vice President of the Indian Council of Arbitration, Member ICC Commission on Arbitration and ADR, India Chapter Core committee, Member of International Academy of Family Lawyers. She is a member of the Women's White Collar Defense Association (WWCDA). She is also the Vice-Chair for the Women's Lawyer Committee LAWASIA and has been a speaker at many previous LAWASIA Conferences at Cambodia, Sri Lanka, Tokyo, Vietnam and Sydney.

She is also the Vice President of the Oxford Cambridge Society of India. She has served as a sole arbitrator in many cases of domestic and international arbitration and has argued on behalf of various Public Sector Units in the Energy and infrastructure sector and Private Companies in arbitral disputes.

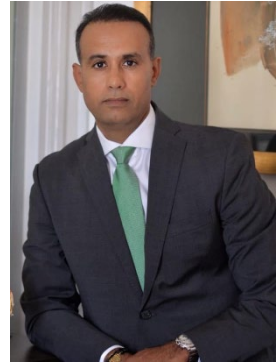
She has been a Speaker at various International fora like the George Washington University, University College London and SOAS University, London and has spoken on various burning issues like the Criminal Justice System, Recent Amendments in the Arbitration and Conciliation Act 1996 of India, on The Need for Institutional Arbitration, Gender Rights in Employment and Migration, Changes in Rape Laws.

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Adoption and Surrogacy – a Dutch perspective

Adoption, assisted reproduction, surrogacy and other forms of parentage are increasingly a topic of discussion in the Netherlands. International adoptions have recently been banned, due to iniquity in the past. Surrogacy is currently only permitted in very strict circumstances, whilst there is no legislation in force. Parents who are unable to conceive themselves, whether same-sex couples or different-sex couples, are resorting to surrogacy abroad. Despite this not being recognised in the Netherlands and forcing parents to follow lengthy legal procedures.

The possibilities and difficulties from a legal perspective in regards to adoption, assisted reproduction and surrogacy in the Netherlands will be addressed by answering the following questions:

- Are the rights / best interests of the child paramount in adoption cases, or the parents' interests and wishes. What does adoption mean for the child?
- Is it possible to contest an adoption and does it happen often?
- Are foreign adoptions allowed / favoured or are adoptions within the country preferred?
- Is there an obligation to inform the child of its heritage? How/why/wat what age etc?
- How is assisted reproduction (IVF etc) viewed? What are the views on embryo rights?
- Surrogacy: is there legislation in place? Why / why not?
- Is there a dimension to same sex marriages. Is there a difference between single males and single females?

Are the rights / best interests of the child paramount in adoption cases, or the parents' interests and wishes. What does adoption mean for the child?

There are many cultural, legal and practical reasons why adoptions have been introduced. One of the primary reasons was as a method of child protection. To provide care and a home for children who had lost their parents due to illness, war, poverty, or other circumstances. Adoption offered these children a new chance at a safe and stable life. Adoption has also been a choice for people who cannot conceive, or simply wish to offer children a loving home, regardless of biological relationship. This motivation is often rooted in the idea of family affection and the well-being of the child. Legislation was introduced to safeguard the rights of children and adoptive parents, ensuring that adoption is a safe and well-regulated way to give children a new future.

In the past, adoption was mainly a tool to ensure the safety and wellbeing of children, as prescribed by the international children's rights convention(s). Nowadays, we see a shift and it is commonly used for parents to become legal parents to children who are not biologically their own children. In the Netherlands, the legal mother is the person who gave birth to the child. Even if a surrogate is carrying the embryo with the intended mother's egg, the surrogate is still considered the legal mother. The intended mother will have to adopt, to become the child's legal mother.

This could mean that the parent's intentions are key. But in practice the rights and best interests of the child are generally considered paramount. This principle is upheld in international agreements that the Netherlands is party to, but also in national laws. The idea is that children are inherently more vulnerable and dependent, and they rely on adults and

institutions to protect and prioritize their welfare, development, and future opportunities. Ensuring that children grow up in a supportive, stable, and loving environment is essential to their long-term well-being and success. Prioritizing their interests is a way to secure healthy development. While the rights and interests of parents or caregivers are also important, especially in terms of respecting family autonomy and supporting parents' abilities to care for their children, these rights are often balanced or even secondary to the child's best interests in cases where there is a conflict. For example, if a child's safety or well-being is at risk, the law typically intervenes to protect the child, even if this conflicts with parental wishes.

In recent years in the Netherlands, society has been more open to a discussion on how adoption as impacted the adopted children. Especially since it was revealed that the Dutch state as fallen short in its obligation to ensure careful and considerate adoptions from abroad. In 2021 all international adoptions were banned as after a thorough investigation by a government committee, systemic issues and abuses in the international adoption process were found. These abuses included cases of child trafficking, falsified documents, coercion of birth parents, and instances where children were taken from families without proper consent. These irregularities primarily affected adoptions from countries with weak oversight and poor regulation. The report highlighted that despite various efforts over the years to improve the system, it was still difficult to ensure that all adoptions met ethical and legal standards. The government recognized that it could not fully verify that children being adopted internationally were genuinely in need of adoption or that their birth parents had provided informed consent without coercion. Although the Netherlands prioritized the rights and best interests of the child, in some cases, international adoptions disrupted a child's connection to their culture, language, and family ties. The report suggested that greater emphasis should be placed on family preservation and domestic solutions within a child's home country (e.g., kinship care, in-country adoption, or foster care) over international adoption.

Not only in these cases where international rules were abused, but in any case adoption can have a profound impact on a child, with outcomes that vary greatly depending on individual circumstances, the age of adoption, the quality of care, and the level of support provided. While many adopted children thrive in their new families, adoption can also bring unique challenges and emotional complexities. Adoption can have complex effects on a child's emotional, social, and psychological development.

Is it possible to contest an adoption and does It happen often?

Yes, in the Netherlands, it is possible to contest an adoption, but this is only permitted under specific circumstances and is typically challenging. Once an adoption has been legally finalized, it is generally considered a permanent arrangement. However, Dutch law does allow for contesting an adoption if there are significant legal, procedural, or ethical concerns. Here's an overview of the main ways an adoption could be contested:

1. Contesting the adoption process (before finalization)

- **Birth Parents:** biological parents may contest an adoption before it is finalized if they believe they were not adequately informed, coerced into giving consent, or that their consent was obtained under false pretences. In such cases, they can file an objection with the court if they can demonstrate that their consent was not freely given or that they were misled.

- **Legal Requirements:** if legal procedures were not followed, or if the adoptive parents did not meet the necessary criteria, a court may halt the adoption process. Dutch adoption law is strict, requiring thorough checks of adoptive parents and adherence to all procedural safeguards.

2. Revoking consent (limited timeframe)

- In the Netherlands, birth parents have a very limited period during which they can revoke consent after agreeing to the adoption. Once this period expires and the adoption is finalized, it is extremely difficult to reverse, as the child's welfare and stability become the court's primary concern.

3. Post-adoption contestation (after finalization)

- **Fraud or Misconduct:** if evidence comes to light after the adoption showing that fraud, misconduct, or serious irregularities occurred during the adoption process (such as falsification of documents or coercion), it may be possible to contest the adoption. This would require substantial proof and is evaluated on a case-by-case basis by the court.
- **Adoption Annulment:** in very rare cases, if the adoption is proven to be fundamentally flawed or to have violated essential rights, the court may annul the adoption. However, annulments are uncommon and are typically pursued only if it is in the best interest of the child. Dutch courts place a strong emphasis on the child's best interests, particularly once the adoption has been finalized. For this reason, even in cases where biological parents contest an adoption, the court's primary focus will be on the stability, welfare, and emotional needs of the child, which often means that finalized adoptions are upheld unless there are compelling reasons otherwise. Adoptees who wish to know more about their biological origins or who have concerns about the legitimacy of their adoption can request access to their adoption records. The Dutch government also provides resources and support services to adoptees seeking to understand or contest their adoption.

Contesting an adoption in the Netherlands is legally possible, but it is rare and difficult, particularly after the adoption has been finalized. The Dutch legal system prioritizes the stability and well-being of the child, which often means that finalized adoptions are not overturned unless there is a clear, substantial reason that doing so would serve the child's best interests.

Are foreign adoptions allowed / favoured or are adoptions within the country preferred?

As mentioned above, foreign adoptions have been banned at the moment. However, the ban on international adoptions from new countries does not entirely rule out future adoptions. The Dutch government left the possibility open for reform to ensure ethical standards and transparency, but only if these could be fully guaranteed. The government has also pledged to support and provide resources for adoptees affected by past abuses, including efforts to reconnect them with their birth families if they wish to do so.

Is there an obligation to inform the child of its heritage? How/why/wat what age etc?

In the Netherlands, there is no specific legal obligation requiring adoptive parents to inform an adopted child of their heritage or adoption status. In practice, following expert opinion, courts emphasize the importance of intended parents to inform the child of its origin. The approach to informing a child about their adoption and heritage is largely influenced by best practices in child psychology and adoption support, and most adoption organizations and professionals recommend openness for several reasons:

1. Knowing their heritage helps the child form a sense of identity and understand their personal story. This is especially important for children adopted from different cultures or ethnic backgrounds, as it provides them with a deeper sense of belonging and connection.
2. Openness about adoption tends to strengthen the relationship between adoptive parents and the child. When parents are honest about adoption from an early age, it builds trust and can help prevent feelings of betrayal or confusion later.
3. Children who find out about their adoption later in life—especially if they feel it was hidden from them—are at higher risk for emotional and psychological issues, including feelings of rejection or abandonment. Learning about their heritage early in life can help mitigate these challenges.
4. In the Netherlands, adopted children have the right to access their adoption records once they reach adulthood. Informing them about their adoption and heritage early on prepares them for when they may want to seek additional information or connect with their biological family. At age 16, adoptees are permitted to access some information about their biological family. At age 18, they gain full access to their adoption records, which may include information about their birth parents and adoption circumstances. This legal right makes it important for adoptive parents to be transparent about adoption from an early age so that this information is not shocking or confusing.

How and when to inform the child:

- Experts generally recommend introducing the concept of adoption from a young age, even as early as toddlerhood or preschool. At this stage, explanations are kept simple, and the child can gradually develop an understanding of what adoption means over time.
- The way adoption is discussed should evolve with the child's age and ability to understand. For young children, simple explanations like "You were born to another family, and we adopted you to be part of our family" are appropriate. As children grow older, they may ask more detailed questions, which can be answered with additional context suited to their developmental stage.
- Adoption should ideally be discussed as part of regular family conversations, rather than as a single "big reveal." This helps the child to feel comfortable asking questions over time and normalizes their adoption as part of their identity.
- For children with a different cultural or racial background, adoptive parents are encouraged to incorporate aspects of the child's heritage into their lives. This may include learning about the child's birth culture, celebrating cultural traditions, or connecting with communities that share the child's heritage.
- Supportive Language and Resources: Using positive and reassuring language is important to help the child understand adoption without negative connotations. Books,

support groups, and adoption counsellors can provide additional resources to help the child feel confident and supported.

How is assisted reproduction (IVF etc) viewed? What are the views on embryo rights?

Assisted reproduction, including technologies such as in vitro fertilization (IVF), is widely accepted in many parts of the world, including the Netherlands. However, as with any medical and ethical issue, it brings up questions and debates, particularly surrounding the rights of embryos.

Acceptance and regulation of ART

- Assisted reproductive technologies (ART), such as IVF, are widely accepted in the Netherlands and are often covered by health insurance. There is a progressive stance on reproductive health and fertility treatments, and there is generally strong public support for the use of ART to help individuals and couples conceive.
- ART is regulated by the government to ensure safe and ethical practices. Clinics offering IVF and other fertility treatments are required to follow strict guidelines regarding health standards, patient eligibility, and embryo handling. Regulations also limit the number of embryos that can be implanted during a single IVF cycle to reduce the risk of multiple births and associated health risks.
- As technologies such as genetic screening, embryo editing, and cloning are explored, there is greater public debate. Many people support ART but may have ethical reservations about extending these technologies to areas like designer babies or genetic modifications, as they bring up additional concerns about equity, genetic diversity, and the possible societal impacts.

Embryo Rights

- In the Netherlands, as in many countries, there is an ongoing ethical and legal debate about the moral and legal status of embryos created for ART. Embryos are not afforded legal rights as persons, although they are considered to have special moral value. Dutch law treats embryos with care and respect but does not grant them personhood or the same rights as born individuals.
- Dutch law allows for limited research on embryos under strict conditions. The Embryo Act, which regulates embryo use and research, permits research only when it is likely to lead to medical benefits that outweigh ethical concerns. Embryos cannot be created solely for research; instead, research may be conducted on leftover embryos that were originally created for reproductive purposes but are no longer needed by the parents. This law is periodically reviewed to address advances in reproductive medicine and biotechnology.
- Embryos that are created during IVF but not immediately used can be stored, typically for up to five years, after which the individuals may choose to either continue storage, donate them for research, donate them to another couple, or have them disposed of. Consent from the parents is required for any action taken with embryos, reflecting a respect for the potential of the embryos while still recognizing the rights and decisions of the individuals undergoing ART.
- The Netherlands, as a member of the EU, also aligns with EU-wide regulations and guidelines concerning embryo research, genetic testing, and ART practices. These

guidelines emphasize safety, ethics, and the responsible handling of genetic materials, which influences Dutch policies on embryo use and research.

- There are varied views on when life begins and the moral status of an embryo. Some people believe that embryos should be protected from the point of fertilization due to their potential to become human life, while others see embryos as potential life but not yet persons deserving of full rights. This ethical diversity affects perspectives on issues like embryo storage, disposal, and research.
- Dutch law tends to prioritize the autonomy of the individuals or couple undergoing ART, while still ensuring respectful treatment of embryos. The focus remains on supporting individuals' reproductive choices while maintaining ethical standards, especially in contexts like embryo research and donation.

Surrogacy: is there legislation in place? Why / why not?

Surrogacy is regulated in the Netherlands, but only partially, and it operates under strict limitations. Dutch surrogacy laws differentiate between altruistic surrogacy and commercial surrogacy. Altruistic surrogacy is permitted under Dutch law, but it is minimally regulated. Intended parents are allowed to work with a surrogate, typically someone they know personally, but only reasonable expenses directly related to the pregnancy can be reimbursed. Commercial surrogacy, where surrogates receive financial compensation beyond reimbursement for direct pregnancy-related costs, is illegal. This prohibition follows from the ethical point of view that the commodification of pregnancy should be prevented and surrogates must be protected from exploitation.

Since commercial surrogacy is prohibited, there are few structured services or official agencies to assist intended parents in finding a surrogate. Most altruistic surrogacy arrangements are made privately, usually within close family or friend circles, making it difficult for intended parents without personal connections to find a surrogate.

Under current Dutch law, the surrogate is considered the legal mother at birth, regardless of any agreement made before or during pregnancy. If the surrogate is married, her spouse is presumed to be the child's other legal parent. For the intended parents to obtain legal parenthood, they must go through a formal adoption process after the child is born, which involves the surrogate voluntarily relinquishing her parental rights. This process can be complex and time-consuming, often causing uncertainty for the intended parents and the child in the early months after birth.

Dutch law does not recognize surrogacy contracts as legally enforceable. Even if intended parents and a surrogate enter into a written agreement, it is not legally binding, and the surrogate retains the right to keep the child if she changes her mind after birth. Due to limitations on surrogacy in the Netherlands, some intended parents seek surrogacy services abroad, especially in countries where commercial surrogacy is legal and well-regulated. In most cases this leads to legal challenges, particularly when it comes to establishing legal parentage for the intended parents.

There is ongoing debate and demand for clearer and more supportive surrogacy regulations in the Netherlands. In 2016, a government advisory committee recommended introducing clearer surrogacy legislation to create safer and more transparent frameworks for both

surrogates and intended parents. Proposed reforms have not yet been fully implemented, and the existing laws remain restrictive. Options provided are:

- Allowing pre-birth agreements where intended parents could be recognized as legal parents from birth.
- Establishing a central registry to match intended parents with altruistic surrogates.
- Clarifying the legal rights and protections for surrogates.

Is there a dimension to same sex marriages. Is there a difference between single males and single females?

The Netherlands was the first country in the world to legalize same-sex marriage in 2001. This meant same-sex couples obtained the same legal rights and responsibilities as opposite-sex couples in marriage. This includes the ability to adopt children, either domestically or internationally, and to have legal parental rights as a couple. For female same-sex couples, if one partner gives birth to a child, her spouse can be automatically recognized as the legal parent if they are married or in a registered partnership. This is not the case for male same-sex couples, as the Netherlands does not recognize both male partners as legal parents from birth in cases of surrogacy. They must go through adoption or a legal guardianship process. If the female same-sex couple is unmarried, the non-biological mother can apply for legal parenthood through a simplified procedure, making it easier for same-sex female couples to establish their parental rights compared to male couples. Female couples in the Netherlands have relatively straightforward access to ART, including artificial insemination and in vitro fertilization (IVF). Health insurance often covers parts of these procedures, as with heterosexual couples, especially if there is a medical need for assistance.

For same-sex male couples it is far more challenging. Surrogacy is permitted only under strict, non-commercial conditions, and there is no legally binding framework that makes it easy for male same-sex couples or single men to access surrogacy services domestically. Because surrogacy agreements are unenforceable, and commercial surrogacy is illegal, male couples often face barriers if they wish to pursue surrogacy within the Netherlands. *Due to these restrictions, many same-sex male couples look abroad to countries where commercial surrogacy is legal and better regulated. However, international surrogacy can create legal complications when it comes to establishing parental rights back in the Netherlands, as the child's legal parentage may need to be re-established through adoption or legal guardianship once they return to the country. Single men face similar challenges with surrogacy and often have even fewer options, as Dutch law and many foreign jurisdictions give priority to couples. Like male same-sex couples, single men may need to rely on international surrogacy arrangements if they wish to become parents through surrogacy.*

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Are the rights / best interests of the child paramount, or the parents' interests and wishes? What does adoption mean for the child (mainly referring to Bina's speech)?

In the United States, federal and state adoption laws require that every adoption focuses on the child's best interests. While a child's best interest is an essential component to all adoption actions, a child's best interest is not an independent ground to terminate a parent's rights. U.S. federal law recognizes each parent's fundamental right to enjoy custody of their child unless that parent has acted in a manner detrimental to the child's best interest and welfare. U.S. law recognizes each child's equivalent right to live free of abandonment, abuse and neglect.

Under most state laws, an individual child's best interest becomes the paramount consideration only after a court declares the child available for adoption because:

- A parent voluntarily surrendered parental rights,
- A father failed to timely establish paternal rights, or
- A parent abandoned, abused or neglected the child.

U.S. federal law mandates that each state enact laws and procedures to timely move children from state foster care to permanent adoption. The U.S. Adoption and Safe Families Act requires that each state file and expedite termination of parental rights proceedings once a child has lived in foster care for 15 of the most recent 22 months. Florida law authorizes a court to consider a child's bonded relationship with custodial prospective adoptive parent after the passage of time.

After a child is available for adoption, a child's placement is determined by the state or private adoption entity.

Government/State Adoption Placements: The U.S. Adoption and Safe Families Act requires that state adoption entities prioritize a relative placement over a nonrelative placement when a relative has comply with state laws. In Florida, the legislature has prioritized a child's bonded relationship with a nonrelative custodial adoptive family over a relative placement after the child has lived with the nonrelative custodian for more than nine months. Florida law also limits a parent's right to select their own adoptive parents under the same circumstances.

Private Adoption Placements: Private adoption entities are not subject to the same federal oversight. Most private adoption entities work with the birth parents to

select adoptive parents who meet each birth parent's criteria with specific attention to a child's ethnic, socioeconomic, medical and mental health background. Florida law imposes upon each adoption entity the responsibility to obtain and disclose all available information regarding each child's background.

Open Adoption Arrangements: Most private adoption placements, include a post adoption communication plan designed to promote the mutual exchange of information between birth parents and adoptive parents after placement. To protect the future welfare and best interest of every adoptive child, a communication plan should establish the opportunity for the child to obtain information, photographs and communication. Many states have open adoption laws which allow an adult adoptee to open their adoption records. Florida does not have an open adoption law, and most adoption entities obtain written permission from birth parents to open adoption records.

Is it possible to contest an adoption and does it happen often?

Each state law contains provisions to permit a birth parent to revoke a consent for adoption or to contest an adoption placement. The period to revoke a consent for adoption differs in each state, from zero (0) up to thirty (30) days. State laws may also permit a father up to sixty-three (63) days after a child's birth to establish his right to contest a child's placement. The most common grounds to contest or disrupt an adoption placement are:

- Parent revokes a consent within the period permitted under state law,
- Parent challenges a consent after the revocation period on the grounds that the consent was obtain by fraud or duress,
- The adoption entity failed to obtain the consent of a parent whose consent was required,
- The adoption entity failed to provide notice to a parent or prospective parent entitled to notice.

Many state's laws contain a statute of repose to protect an adoption judgment after an established date. Florida law protects all adoption judgment from a challenge asserted more than one year after a court entered a judgment terminating parental rights.

Does your jurisdiction allow/favor foreign adoptions or prefer adoptions within the country?

A child's lawful adoption shall receive full recognition in the United States. The United States is a signatory to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. If a child is adopted by a U.S. citizen who is a habitual resident in the U.S. and the adoption complies with the requirements of the Hague Convention, the U.S. State Department will issue a

visa and a Certificate of U.S. citizenship. Florida law specifically recognizes foreign adoption related judgments or decrees. §63.192, Fla. Stat.

Is there an obligation to inform the child of its heritage? How/why/what age etc?

U.S. law does not contain a uniform provision concerning an adoptive parent's obligation to inform a child of their heritage. Under Florida law, an adoptive parent has the right to decide what information to provide to their adoptive child. While Florida law does not permit an adoptee to unilaterally open their adoption records to discover this information, Florida does provide for the Florida Adoption Reunion Registry which will release identifying information upon the mutual registration of an adult adoptee (or a minor with parental consent) and a birth parent or a close biological relative of a birth parent. Birth Parents may also authorize, in writing, the adoption entity or the court to disclose this information upon the adoptee's request.

How does your country view assisted reproduction (IVF etc)? What are the views on embryo rights?

See Attached Materials.

Surrogacy: does your country have legislation? Why/why not?

See Attached Materials.

Is there a dimension to same sex marriages. Is there a difference between single males and single females?

The United States recognized the right of all couples to marry and benefit from the status of a married couple, regardless of sexual orientation. *Obergefell v. Hodges*, 576 U.S. 644 (2015) (A State may not "exclude same-sex couples from [the benefits] civil marriage on the same terms and conditions as opposite-sex couples.") All states recognizing surrogacy for married couples must equally recognize the right for same sex married couples. The rights of single Intended Parents is specific to state law. *See Also Attached Materials.*



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UNITED STATES CITIZENSHIP FOR CHILDREN BORN ABOARD PURSUANT TO ART PROCEDURE

Born to A Married Couple:

A child born abroad acquires U.S. citizenship at birth when the child is born to a married couple, one of which is U.S. citizen and the U.S. citizen parent meets the statutory requirements relating to physical presence in the United States. INA §§ 301(c), (d), (e), and (g). Section 301 of the Immigration and Nationality Act (“INA”) does not require that the parent prove a biological connection between the child and U.S. citizen parent. *See, Scales v. INS*, 232 F.3d 1159, 1166 (9th Cir. 2000); *Solis-Espinoza v. Gonzales*, 401 F.3d 1090 (9th Cir. 2005); *Andrew Mason Dvash-Banks, et al. -v- Michael R. Pompeo, et al.*, 18-cv-523, U.S. Dist. Court, C.D. California (February 21, 2019).

Born Out of Wedlock:

U.S. Citizenship of children born abroad to an unmarried U.S. citizen parent is adjudicated pursuant to section 309, INA. The INA requires that the U.S. citizen parent prove that the parent is biologically related to the child and other statutory factors. *See, INA § 309*. In cases where the child has no genetic connection to their unwed U.S. citizen parent, the child cannot acquire U.S. citizenship at birth.

UNITED STATES GESTATIONAL SURROGACY LAW STATE BY STATE

Alabama:

No statute or case law prohibiting gestational surrogacy. An Intended Parent’s ability to obtain pre and post birth parentage differs from county to county. In every county, Parents may establish rightse through an adoption proceeding using pre-birth consents which are valid five days after the child’s birth. Pre-birth order maybe obtained certain counties.

Alaska:

No statute or case law prohibiting gestational surrogacy. Intended Parents may obtain post birth judgments. In 2014, an Anchorage Court granted a pre-birth judgment obtained by a heterosexual couple who had a full biological relationship to their child. It is unclear whether pre-birth orders will be granted under different circumstances (same-sex couples, unmarried couples, or where one or neither

Intended Parent shares a genetic relationship with the child), and in such situations a post-birth adoption may be necessary.

Arizona:

Prohibited by Statute, Arizona Revised Statute § 25-218 (No person may enter into or assist in creating a surrogacy contract. Intended Parents with a biological connection may rebut the statutory presumption that the gestational carrier is the child’s legal mother. *Soos v. Superior Court*, 897 P.2d 1356 (Ariz., Div. 1, 1994). Under this authority, Arizona courts may grant parentage orders depending on the nature of the biological relationship between parents and child. Gestational surrogacy contracts are not enforceable. Court will give full faith and credit to valid judgments entered in other states.

Arkansas:

Arkansas Code § 9-10-201, permits gestational surrogacy. Parentage Order may be obtained regardless of genetics and gender, for a single Intended Parent or to married Intended Parents.

California:

California Family Law Sections 7960 – 7962, permits gestational surrogacy. The current law is a version of the 2017 Uniform Parentage Act (“2017 UPA”).

Colorado:

Gestational surrogacy is permitted in Colorado. Intended Parents can be single, married, unmarried, same-sex, or heterosexual and may proceed with a gestational surrogacy arrangement regardless of genetic connection or medical need. Colorado Revised Statutes, §19-4.5-101, *et seq.*

Connecticut:

The Connecticut Parentage Act (2022), C.G.S., Section 46b-450, *et. seq.*, permits gestational surrogacy and provides for pre-birth and post birth orders and recording of Intended Parents on the child’s original birth certificate. Providing there is compliance with the statutory requirements, pre- birth parentage orders are granted (including when the Intended Parent/s is/are any combination of the following: single or a couple, married or unmarried, heterosexual or same-sex, and regardless of biological/genetic relationship to the child). The Connecticut Parentage Act also allows for and incorporates the legal process for genetic (traditional) surrogacy. Second-parent and stepparent (confirmatory) adoptions are allowed for residents of Connecticut.

Delaware:

Delaware Code 13, § 8-801 through § 8-810, permits gestational surrogacy. Courts enter parental establishment order. A pre-birth order is stayed pending by statute pending the child’s birth. Pre-birth parentage orders are commonly granted, and are available to any Intended Parent, whether they be single or a couple, married

or unmarried, or genetically related to the child or not. Same-sex Intended Parents are treated like any other heterosexual parent in Delaware.

District of Columbia:

Permits gestational surrogacy, DC Law 21-0255.

Florida:

Gestational surrogacy for married commissioning couple (heterosexual or same sex). §§742.13 - 742.17, Fla. Stat. Single Intended Parents and unmarried Intended Parents. §63.213, Fla. Stat.

Georgia:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment order in most circumstances, including when the Intended Parent/s are a same-sex or heterosexual couple, a single Intended Parent, and/or when neither Intended Parent shares a genetic relationship with the child.

Hawaii:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment order.

Idaho:

Gestational surrogacy is permitted by statute. Idaho Code 7-1601 et seq. A court must validate the gestational surrogacy agreement/arrangement prior to birth or seven (7) days after birth. Idaho will recognize one or two intended parents, regardless of biological connection to the child, marriage of intended parents is not required.

Illinois:

State law permits gestational surrogacy, 750 ILCS 47/1 - 47/75. Law permits vital records to list the Intended Parents on the initial birth record without a court order. Heterosexual and same- sex couples are treated alike in all regards.

Indiana:

Surrogacy contracts are void under Indiana law and unenforceable as against public policy if the contract contains certain provisions. Surrogacy agreements must follow the best practice recommendations of the physicians professional organizations such as ASRM and ACOG. Indiana Code 31-20-1-1. While the enforcement of surrogacy agreement is questionable, Indiana court have issued parentage orders.

Iowa:

Iowa law statutory case law permits gestational surrogacy contracts, Iowa Code §710.11 (Prohibits the purchase or sale of an individual, except in the case of a

gestational surrogacy arrangement). Iowa Supreme Court held that surrogacy contracts are enforceable. *P.M. & C.M. v. T.B. & D.B.*, No. 17-0376 (February 16, 2018).

Kansas:

Gestational surrogacy is governed by the Kansas Uniform Parentage Act and the Adoption Code. No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment orders dependent on Intended Parent's marital status and genetic relationship to the child.

Kentucky:

While no statute or case law prohibits gestational surrogacy, Kentucky Revised Statute, section 199.590(4) states, "[a] person, agency, institution, or intermediary shall not be a party to a contract or agreement which would compensate a woman for her artificial insemination and subsequent termination of parental rights to a child born as a result of that artificial insemination. Married Intended Parents and single Intended Parents with a genetic relationship to the child may obtain a prebirth parentage order. Unmarried Intended Parents or Intended Parents with no genetic relationship to the child must proceed with an adoption.

Louisiana:

Only heterosexual married couples who are Louisiana residents using their own gametes may enter into gestational surrogacy arrangements, LA Rev Stat § 9:2718 (2016). This bill subjects individuals entering into a surrogacy agreement in violations of this law to civil and criminal penalties (fines up to \$50,000 and or imprisonment up to ten (10) years).

Maine:

Maine Parentage Act, Title 19A, Chapter 61 permits gestational surrogacy arrangements for nearly all gestational surrogacy situations, regardless of sexual orientation, gender identity, marital status or genetic connection to the child. Contains ART language that mirrors the 2017 UPA. 19-A MRSA c. 61, Secs 1931 - 1938.

Maryland:

No statute or case law prohibiting gestational surrogacy. The Maryland Supreme Court decision implicitly permits gestational surrogacy, and pre-birth orders. *In re: Roberto d.B.*, 372 Md. 684, 814 A.2d 570 (2003). Parents, whether married or not, LGBTQ, or single, will be named on the birth certificate regardless of whether they used their own and/or donated gametes.

Massachusetts:

No statutes permitted surrogacy. Case law recognizes the concept of "intentional parenting" and the Massachusetts Supreme Court has held that the Probate and

Family Court has the authority to establish the parentage of a child through gestational surrogacy pre-birth. *Partanen v. Gallagher*, 475 Mass. 632 (2016); *Culliton v. Beth Israel Deaconess Med. Ct.*, 435 Mass. 285 (2001). *Hodas v. Morin*, 442 Mass. 544 (2004); *Culliton v. Beth Israel Deaconess Med. Ctr.*, 756 N.E.2d 1133 (Mass. 2002); *R.R. v. M.H.*, 426 Mass. 501 (Mass. 1998).

Michigan:

The Michigan Surrogate Parenting Act makes all surrogacy contracts, agreements, or arrangements “void and unenforceable as contrary to public policy.” §722.851, MCL. Surrogacy contracts for compensation are subject to criminal penalties. Currently, courts grant parental establishment order in compassionate surrogacy case. In 2024, the legislature passed and the Governor signed the Assisted Reproduction and Surrogacy Parentage Act which will go into effect 90 days after the legislature adjourns for the year (currently scheduled to adjourn on Dec 31, 2024). The Act expressly permits surrogacy agreements provided the parties comply with the statutory requirements, including at least one party is a resident of MI.

Minnesota:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment orders post birth.

Mississippi:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment orders.

Missouri:

No statutes or published case law specifically permitting or prohibiting surrogacy. Post-birth orders are obtained under the Missouri Uniform Parentage Act (“MOUPA”) for single intended genetic parents or married Intended Parents where at least one is a genetic parent.

Montana:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment order.

Nebraska:

Nebraska statute R.R.S. Neb. 25-21, 200 (2007) governs compensated surrogacy contracts: “A surrogate parenthood contract entered into shall be void and unenforceable. The biological father of a child born pursuant to such a contract shall have all the rights and obligations imposed by law with respect to such child.” Even while Nebraska’s statute makes compensated surrogacy contracts unenforceable, the law declares that the biological father is the sole legal parent. The net result is that surrogacy is practiced in Nebraska.

Nevada:

Gestational Surrogacy is permitted in Nevada. NRS 126.500-126.810. pre-birth parentage orders can readily be obtained by any Intended Parent, whether married or unmarried, a heterosexual or same-sex couple or individual, and even if neither Intended Parent is genetically related to the child.

New Hampshire:

Gestational Surrogacy is permitted in New Hampshire by statute for married and single Intended Parents, regardless of sexual orientation gender identity, using their genetic or donor eggs and sperm, N.H.Rev.Stat. Ann.168-B.

New Jersey:

New Jersey Gestational Surrogacy Agreement Act enacted in 2018 provides for enforceable gestational surrogacy agreements. Pre-birth parentage orders can readily be obtained by any Intended Parent, whether married or unmarried, a heterosexual or same-sex couple or individual, and even if neither Intended Parent is genetically related to the child.

New Mexico:

New Mexico has a statute whose sole purpose is to state that Gestational Surrogacy agreements are neither expressly permitted nor prohibited: N.M. Stat. Ann.§40-11A-801. Court's enter parentage orders for married or single parents.

New York:

In 2021, New York's legislature passed "Child Parent Security Act", New York Fam. Ct. Act Article 5-C, which allows for compensated gestational surrogacy and pre and post birth parentage orders. This law is gender and marriage neutral and is available whether or not donor gametes or embryos are used to conceive the child. The statute created a "Surrogate's Bill of Rights" mandating requirements including, independent counsel, life insurance, medical decisions and requires that surrogacy agencies must be licensed by the NY Dept. of Health.

North Carolina:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment order.

North Dakota:

Gestational Surrogacy is permitted by statute. N.D. Cent. Code §§14-18

Ohio:

Ohio common law permits gestational surrogacy law *J.F. v. D.B.*, 879 N.E.2d 740 (2007). Although it can be county and judge dependent, pre-birth parentage orders can be obtained by any Intended Parent in most circumstances, whether

married or unmarried, heterosexual or same-sex, and even if neither Intended Parent is genetically related to the child.

Oklahoma:

In 2019, the Oklahoma enacted the Oklahoma Gestational Agreement Act legalizing gestational surrogacy. Pre-birth parentage orders may be obtained by single or married Intended Parents, regardless of genetic connection to the child. Gestational carrier agreements must first be validated by the court prior to embryo transfer.

Oregon:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment order.

Pennsylvania:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment order. Gestational surrogacy is not against public policy and a gestational surrogate is not the child's legal mother. *J.F. v. D.B.*, 897 A.2d 1261 (Pa. 2006); *Whitewood v. Wolf*, no. 1:13-cv-1861 (2014).

Rhode Island:

In 2021, Rhode Island enacted the Rhode Island Uniform Parentage Act expressly permitting gestational surrogacy agreements. R.I. Gen. Laws § 15-8.1, et seq. At least one Intended Parents must be a US resident. Intended Parents do not need to be genetically related to child.

South Carolina:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment order. *Mid-South Ins. Co. v. Doe*, 274 F.Supp.2d 757 (2003).

South Dakota:

No statute or case law prohibiting gestational surrogacy. Courts enter parental establishment order. South Dakota law criminalizes any act that coerces, compels, or attempts to compel a pregnant woman to have an abortion; and any contract which renders a pregnant woman in breach of contract for refusing to have an abortion or mandates that a pregnant woman assume any cost, obligation, or responsibility for refusing to have an abortion.

Tennessee:

Gestational Surrogacy contracts are neither allowed nor disallowed by statute. The Tennessee code simply defines surrogacy. §36-1-102(5), Tenn. Code Ann. Under Tennessee law, a gestational surrogate is considered the legal parent unless the parents both use their own egg and own sperm. If an egg donor is used, the

Gestational Carrier must remain on the birth certificate until the Intended Mother completes an adoption proceeding. *In Re CKG*, 173 S.W.3d 714 (Tenn. 2005).

Texas:

Gestational surrogacy is permitted for married Intended Parents who follow the procedures specified in the statute, including having their gestational carrier agreement validated by a court before birth. §§160-751 through 160-763, Tex. Fam. Code. The Intended Parents must produce evidence of medical necessity. Some courts have established right of unmarried Intended Parents.

Utah:

Gestational surrogacy is permitted for married Intended Parents. §78B-15-801, Utah Code Ann. Qualified Intended Parents must secure a court order approving gestational surrogacy prior to the child's birth. A post-birth order will instruct Vital Records to issue the birth certificate with the Intended Parents' names.

Vermont:

Gestational Surrogacy is permitted in Vermont under the Vermont Parentage Act of 2018. 15C V.S.A. Secs. 701-809. Includes ART language that mirrors the 2017 UPA.

Virginia:

Gestational Surrogacy is permitted under Virginia's Assisted Conception Statute for married Intended Parents. 2019 amendment to Virginia surrogacy provides for gender neutral designations. Gestational surrogate's compensation is limited to medical and ancillary expenses, and in most cases, the Gestational Carrier cannot give her consent until 3 days post-birth.

Washington:

Washington law provides for enforceable gestational carrier agreements and pre-birth orders under certain conditions. RCW 26.26A. The newly enacted law is nearly a complete version of the 2017 UPA.

West Virginia:

Gestational surrogacy is permitted in West Virginia. §61-2-14h(e)(3), W.VA Code.

Wisconsin:

Gestational Surrogacy is permitted in Wisconsin. *Paternity of F.T.R., Rosecky v. Schissel*, 833 N.W.2d 634 (Wis. 2013). Surrogacy contracts are enforceable unless contrary to the child's best interest.

Wyoming:

Wyoming "does not authorize or prohibit" gestational surrogacy contracts. §14-2-403(d). Assisted reproduction is covered in some depth. §14-2-901, *et. seq.* As a

practical matter, gestational surrogacy is rare in Wyoming. Parentage rights of a child born in Wyoming to a gestational surrogate are secured when Wyoming's Vital Records honors an out-of-state parentage order.

Wyoming:

Wyoming neither permits nor prohibits surrogacy. WY Stat 14-2-403(d). Surrogacy in Wyoming is rare due to practical considerations. Consequently, there is insufficient data to determine how a Wyoming court may rule on a parentage order or on what prospective Intended Parents may anticipate in their surrogacy process.

STATUS OF EMBRYOS

EMBRYOS AS PROPERTY SUBJECT TO DISTRIBUTION AND DONATION BY CONTRACT:

Florida:

Section 742.14, Fla. Stat.;
Kurchner v. State Farm Fire and Casualty Co., 858 So.2d 122 (Fla. 3rd DCA 2003).

Massachusetts:

A.Z. v. B.Z., 723 N.E.2d 1051 (Mass. 2000). (denied mother's claims to embryos after seven egg retrievals over three years).

New Jersey:

J.B. v. M.B., 787 A.2d 707 (N.J. 2001) (denied father's religious claims that his embryos were "life").

New York:

Kass v. Kass, 91 N.Y.2d 554 (1998).

Oregon:

In re Marriage of Dahl & Angle, 194 P.3d 834 (Or. Ct. App. 2008) (denied father's claim that embryos should be donated to another couple rather than destroyed or subjected to experimentation)

Virginia:

York v. Jones, 717 F. Supp. 421 (E.D. Va. 1989).

Washington:

Litowitz v. Litowitz, 48 P.3d 261 (Wash. 2003).

Texas:

Roman v. Roman, 193 S.W.3d 40 (Tex. Civ. App. 2006) (denied mother's claim to use embryos after father withdrew consent the night before scheduled im-plantation even though the mother submitted to 13 egg retrievals).

Embryos are “Special” Property:**The American Society of Reproductive Medicine (“ASRM”):**

Supports an “interim status” classification stating that embryos should be afforded “profound respect” but not the same moral and legal rights that are afforded human beings. *Ethics in Embryo Research Task Force; Ethics Committee of the American Society for Reproductive Medicine. Ethics in embryo research: a position statement by the ASRM Ethics in Embryo Research Task Force and the ASRM Ethics Committee.*

Arizona:

Jeter v. Mayo Clinic Arizona, 121 P.3d 1256, 1271 (Ariz. Ct. App. 2005)(human embryos “occupy an interim category between mere human tissues and persons because of their potential to become persons”).

Terrell v Torres, --- P.3d ---- , 2019 WL 1187283 (Ariz. Ct. App., Div. 1 March 14, 2019)(wife's interests in embryos created by using her eggs and husband's sperm outweighed husband's interest in avoiding procreation after divorce).

Colorado:

In re: Marriage of Rooks, 429 P.3d 579 (Co. 2018), *cert. den.* 2019 WL 331041 (U.S.,2019)(absent an agreement, courts should balance the interests of the parties when assigning rights to cryopreserved embryos).

Missouri:

McQueen v. Gadberry, 507 S.W.3d 127 (Mo. Ct. App. 2016). (frozen embryos are “special category of property” because technically in Missouri life begins at conception).

Pennsylvania:

Reber v. Reiss, 42 A.3d 1131 (Pa. Super. 2012) (mother's claims upheld where she was unlikely to conceive other children).

Tennessee:

Davis v. Davis, 842 S.W.2d 588 (Tenn. 1992)(frozen embryos are “special” property).

EMBRYOS ARE PERSONS

Alabama:

LePage v. Mobile Infirmary Clinic, No. SC-2022-0515 (Ala. February 20, 2024). The Supreme Court of Alabama ruled that under Alabama's Wrongful Death of a Minor Act, the definition of a "child" includes those who are unborn, regardless of their location (either inside or outside a biological uterus). The Alabama legislature subsequently passed a law to “provide civil and criminal immunity for death or damage to an embryo to any individual or entity when providing or receiving services related to in vitro fertilization.”

Louisiana:

LA Stat. Ann. §9:126. In 1986, Louisiana passed a law declaring that an embryo is a “juridical person” whose destruction is forbidden under stat. law.

ROMANIAN LEGAL FRAMEWORK ON CHILD BEST INTEREST, ADOPTION, SURROGACY, SAME SEX PARTNERSHIPS

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IAFL European Chapter Meeting
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CHILDS' BEST INTEREST

Romania regulates the principle of the "child's best interest" through its national legal framework, in line with international standards such as the United Nations Convention on the Rights of the Child (UNCRC), to which Romania is a signatory. The child's best interest is a cornerstone of the country's legal and institutional framework for child protection.

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CHILDS' BEST INTEREST

Law no. 272/2004:

- Requires that public authorities, private entities, courts, and individuals prioritize the child's well-being and development.
- Emphasizes holistic evaluation, considering the child's physical, emotional, social, and educational needs.
- Enforces mandatory consultation with the child (appropriate to their age and maturity) in decisions affecting their life.

Romania has specialized institutions and services for enforcing child rights, including:

- The General Directorate for Social Assistance and Child Protection (DGASPC): Handles cases of abuse, neglect, abandonment, and children at risk. Provides social services such as foster care, adoption, and specialized counseling.
- Child Ombudsman: A division of the Romanian Ombudsman's office, responsible for ensuring that children's rights are respected and for investigating complaints.

CHILD BEST INTEREST

Romania emphasizes the child's best interest in:

Adoption:

- Domestic and international adoption processes prioritize the child's emotional, social, and cultural needs.
- Law prioritizes placement with relatives or Romanian families before international adoption is considered.

Foster Care:

Foster families must meet strict requirements to ensure they provide a stable and supportive environment.

ADOPTION

- The Romanian adoption system is governed by national laws and international agreements to ensure the welfare and best interests of the child. It underwent significant reforms, especially after the fall of communism in 1989, when Romania gained international attention for its large number of institutionalized children.
- Romanian adoption is primarily regulated by Law No. 273/2004 on the Legal Regime of Adoption (amended in subsequent years, most recently in 2020).

ADOPTION

1. Domestic Adoption:

- Available to Romanian citizens or residents.
- Prioritized over intercountry adoption to maintain cultural and familial ties.

2. Intercountry Adoption:

- Restricted mainly to cases where the adoptive parents are relatives or have dual citizenship, including Romanian citizenship.
- Foreign citizens without Romanian ties are generally not eligible due to restrictions introduced in 2005 to address trafficking concerns.

ADOPTION - ELIGIBILITY

Adoptive Parents:

- Must be at least 18 years older than the child (with exceptions in special cases).
- Can be married couples or single individuals.
- Must undergo a thorough evaluation by the Directorate for Child Protection to ensure suitability.
- May not have been convicted of crimes that would affect their parental abilities.

Children Eligible for Adoption:

- Must be declared legally adoptable by the courts.
- Can include children abandoned, orphaned, or whose biological parents have consented to the adoption.
- Priority is given to reuniting siblings or placing them in the same adoptive family.

ADOPTION

Matching:

- The Directorate matches children with adoptive parents based on compatibility, prioritizing families in the child's region.
- Meetings are arranged to facilitate bonding.

Court Approval:

- Adoption petitions are submitted to the court.
- A judge reviews the case, including reports from child protection specialists, and determines if the adoption serves the child's best interests.

Post-Adoption Monitoring:

- For a period after the adoption (typically two years), adoptive families are monitored to ensure the child's well-being and adjustment.

INTERNATIONAL ADOPTION- STRICT CRITERIAS

Eligibility:

- Restricted to Romanian citizens living abroad, dual nationals, or relatives of the child.
- Must comply with both Romanian law and the adoptive parents' home country regulations.

Process:

- Managed through the Romanian Adoption Authority (ANDPDCA).
- Overseen by agencies accredited under the Hague Convention.

ASSISTED REPRODUCTION

Romanian legislation on assisted reproduction is primarily governed by:

- **Law No. 95/2006 on Health Reform**, which includes general provisions on medical practice and the use of medical technologies. Specific regulations and guidelines issued by the Ministry of Health

Permitted Procedures

- **In Vitro Fertilization (IVF):** IVF is legally permitted in Romania. Clinics offering IVF must comply with health regulations and be licensed by the Ministry of Health.
- **Artificial Insemination:** Also permitted, typically involving the partner's or donor's sperm.
- **Embryo Cryopreservation:** Allowed, subject to ethical and medical standards.

ASSISTED REPRODUCTION- ELIGIBILITY

- **Married Couples and Unmarried Individuals:** Access to ART is available to both married couples and unmarried individuals. Romanian law does not explicitly restrict access based on marital status.
- **Age Restrictions:** While there is no strict legal age limit, medical professionals generally recommend ART for women of reproductive age. Ethical guidelines may discourage treatments for individuals past natural reproductive limits.

Donor Gametes and Embryos

- **Sperm and Egg Donation:** Permitted, but donors must remain anonymous to recipients. Clinics must ensure donors are properly screened for medical and genetic conditions.
- **Embryo Donation:** Allowed, typically for couples who cannot conceive using their own gametes. Donor anonymity is also upheld.

THIRD-PARTY REPRODUCTION- SURROGACY

- **Surrogacy:** Commercial surrogacy is not permitted in Romania. Altruistic surrogacy is not explicitly regulated but is generally not practiced due to legal ambiguities.
- **Cross-Border Surrogacy:** Some Romanian citizens seek surrogacy arrangements abroad, but these may face legal challenges upon returning to Romania.
- **Legal Parentage** - The legal parentage of children conceived via ART is determined based on the mother's status at birth. In cases involving donor gametes, the law generally recognizes the intended parents (those who undergo the procedure) as the legal parents.
- **Limited Regulations:** The lack of a comprehensive law specific to ART leaves some issues, such as surrogacy and embryo rights, in a legal grey area.

LEGAL STATUS OF SAME-SEX COUPLES

- Same-sex marriages cannot be performed or legally recognized in Romania, even if such a marriage was legally performed in another country.
- Civil partnerships or similar forms of legal recognition for same-sex couples also do not exist in Romania, despite ongoing advocacy by LGBTQ+ organizations.

DIFFERENCES BETWEEN SINGLE MALES AND SINGLE FEMALES IN ROMANIAN LAW

While there are no explicit distinctions between single males and single females in terms of their individual rights, there are certain societal and legal aspects where differences may arise:

Adoption: In Romania, adoption by single individuals is permitted, but decisions are based on the best interests of the child. This might result in differences in outcomes for single males versus single females, depending on the cultural perception of gender roles. For example, single women might be perceived as more suitable caregivers.

Assisted Reproductive Technologies: - Single women in Romania may have access to fertility treatments, but there are no equivalent provisions for single men seeking surrogacy within the country.

Social and Institutional Bias: Although the law does not formally distinguish single males from single females in most cases, societal norms and prejudices may result in different treatment, particularly in areas like adoption or family-related legal matters.

THANKS EVERYONE FOR BEING PRESENT!!

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