

Surrogacy in Albania and Its Legal Implications on Determining Parenthood

Dr. Jonada Zyberaj

University “Ismail Qemali”, Vlore
Faculty of Humanities
Department of Law

ABSTRACT

Albania is undergoing through an important social and legal transformation. In the recent years the Albanian legislator had tried to meet the legal standards stated by the European Union and in this process many laws have been adopted. Sometimes all this led to an unjustifiable hurry to adopt laws which do not reflect the current situation in the country. One of these cases is that of the provisions on artificial reproduction and surrogacy provided on the Law no 8876 of “Reproductive Health”. From article 30 to 41, the law provides the possibility to practice any form of artificial reproduction including that of surrogacy. It is from 2002 that the provisions of this law have not been assisted by other normative acts, which would help in their implementation, leading so to an uncertain situation which can jeopardize the status of the offspring. Recently a new article 261 is provided in the Family Code, which regulates the way of establishing paternity and maternity in cases of surrogacy through the adoption procedure. Article 261 doesn't provide any specific procedure to the cases of surrogacy, but it refers the procedure of the surrogacy adoption in the ordinary adoption provisions. According to this article, the same criteria and procedure of the regular adoption should be applied even in cases of surrogacy. This paper aims to show how surrogacy is regulated in the Albanian law and the applicability of article 261 of the Family Code in cases of determination of parenthood.

Key words: surrogacy, surrogate, adoption procedure, parents, offspring.