

In search of the innovative model of a surrogacy agreement – de lege ferenda conclusions.

The project focuses on searching for optimal and innovative legal solutions for shaping surrogacy agreements by taking advantage of the experience of the European legal orders, United States legal order and Israel legal order. Studies have led to proposing a new model contract for surrogate motherhood, which can be used in Polish legal system. A surrogacy arrangement starts with a surrogate, a woman who is willing to become pregnant and give birth to a child for another person or persons, who will become the child's parent(s) after birth. Surrogacy allows intended parents to build families by agreement. The research project has the following research goals: first, it aims to analyze problems related to the regulation of surrogacy agreements (legal and bioethical). It is worth mentioning that Polish law did not explicitly regulate the question of surrogacy until 2019. Despite mentioned amendment (in 2019), whole current regulation in the Polish law system (also those in the Polish Criminal Code in the amended Article 211a) is criticized as being a source of legal ambiguities. Secondly, the aim of this project is to conduct legal-comparative, systemic and functional critical analysis of the surrogacy agreement legal solutions in the US (as the most diverse and developed in the world), Europe (Polish legal order is based on the French and German legal orders), Israel (special and innovative surrogacy agreement regulation). Thirdly, the project's aim is to propose an innovative and original vision of optimal shaping of the surrogacy agreement regulations in such a manner that they best address the legal problems and will be coherent with the Polish legal system.

Due to the complexity of the research problem, the methods have to be diversified. Research will mainly consist of analyzing various legal solutions in the United States, Europe and Israel, but also of examining previous regulations regarding surrogacy agreements. This approach will allow understanding and interpretation of current problems and regulations. The interdisciplinary nature of the project requires the use of argumentative methods, including philosophical, axiological and ethical methods. Additionally, specific legal cases (so-called case studies) will be applied.

From the scientific point of view, there is a need to present a comprehensive study about possible legal solutions and to propose an innovative and original model of surrogacy agreement, which can be introduced into the Polish law system. Except several general and fragmentary studies regarding fundamental issues of the surrogacy in Poland there are not a monograph presenting and analyses aforementioned issues. However, a clear deficiencies of current regulation in Polish law is a strong incentive to undertake research.

The project will be an original and comprehensive analysis of the surrogacy agreement, containing an overview of the existing legal solutions in the United States, Europe and Israel and a proposal on how to use them to create a new, innovative model of surrogacy agreement. Moreover, considerations will focus on the possibility of introducing the aforementioned model into the Polish legal system. Hence, the project will fill out a significant gap in the literature. This project, due to its interdisciplinary, international and forward-looking nature, as well as a wide spectrum of applied research tools, will not only be theoretical, but also it may solve problems in the practice.