



UPPSALA
UNIVERSITET

European Master's Degree in Human Rights and Democratisation

2013-2014

Reproductive Tourism in Europe:

Legal and Ethical Issues

The cases of Sweden and Greece

Author: Pikramenou Nikoletta

Supervisor: Reichel Jane

Abstract

Reproductive tourism refers to the travelling of citizens from their country of residence to another country in order to receive fertility treatment through assisted reproductive technology (ART)¹. In Europe, the reasons why people seek reproductive treatments outside their national boundaries are diverse but mainly because regulations differ a lot among countries. The legislations concerning ART are usually based upon different ethical perceptions and convictions. Sweden is considered as a country with restricted legislation on ART and many Swedish citizens seek ART services abroad. On the other hand, Greece is not considered as a country with a restricted legal framework and it constitutes a destination for “reproductive tourists”. Although “reproductive tourism” could be considered as a safe solution for infertile individuals, the phenomenon is often presented as problematic because it is often associated with legal implications as well as health dangers for the parties involved. In the end of this thesis, possible solutions to these problematic effects will be addressed in the light of the fact that “reproductive tourism” is an expanding phenomenon.

¹ Ferrarretti et al, 2010.

Abbreviations	
Glossary	
Chapter 1	1
1. Introduction	1
1.1. Background.....	1
1.1.1. Description of the problem	2
1.1.2. Purposes and objectives of this research.....	3
1.2. Methodology.....	4
1.2.1. Type of analysis and main sources.....	4
1.3. Limitations.....	5
1.4. The international legal framework.....	6
1.4.1. New health technologies in the European Union	6
1.4.2. Biomedicine and Human Rights: The Oviedo Convention	8
1.4.3. Reproductive technologies under the ECHR	9
1.4.4. Reproductive technologies under the CRC	10
1.5. Latest studies on reproductive tourism in the EU.....	11
1.6. Outline of chapters.....	12
Chapter 2.....	14
2. Ethical issues	14
2.1. Christian theories and reproductive technologies.....	15
2.1.1. Catholicism	15
2.1.2. Eastern Orthodoxy	16
2.1.3. Protestantism	17
2.2. Philosophical Ethical Theories applied in reproductive technologies.....	18
2.2.1. Utilitarianism	18
2.2.2. Kantianism.....	19
2.2.3. Liberal individualism.....	21
2.2.4. Communitarianism	22
2.3. Ethical problems surrounding surrogacy	23
2.3.1. Feminist perspectives on surrogacy.....	23
2.4. Ethical problems surrounding sperm donation	25

2.4.1.	Ethical arguments regarding non-anonymous sperm donation	25
2.4.2.	Ethical arguments regarding anonymous sperm donation.....	26
2.5.	Ethical problems surrounding reproductive tourism	27
2.6.	Concluding remarks.....	29
Chapter 3.....		32
3.	Legal issues.....	32
3.1.	The case of Sweden.....	32
3.1.1.	Sperm donation.....	33
3.1.1.1.	The national legal framework	33
3.1.1.2.	Swedish law under the scope of the Convention on the Rights of the Child.....	35
3.1.1.3.	Swedish law under the scope of the European Convention on Human Rights .	37
3.1.2.	Surrogacy.....	39
3.1.2.1.	The absence of an explicit national legal framework.....	40
3.1.2.2.	Who is the legal mother in the case of surrogacy in Sweden?	41
3.1.2.3.	Does the right to know ones origins under the CRC and the ECHR extend to surrogate-born children?	43
3.1.2.4.	Reasons why Swedish citizens seek ART abroad.....	45
3.2.	Other European countries where citizens seek ART abroad.....	46
3.2.1.	The case of the United Kingdom	46
3.2.2.	The case of France.....	48
3.3.	Legal problems deriving from “reproductive tourism”	49
3.3.1.	A common issue that “reproductive tourists” may face: the problem of stateless children.....	49
3.3.2.	The conflict between national legislations and the EU legal order	51
3.4.	Concluding remarks.....	52
Chapter 4.....		55
4.	Legal issues.....	55
4.1.	The case of Greece	55
4.1.1.	Sperm donation.....	56
4.1.1.1.	The national legal framework	56
4.1.1.2.	Issues relating to the CRC relevant to the Greek legal framework.....	57
4.1.1.3.	Greek Law and the right to privacy	58

4.1.1.4. The “double track” policy.....	60
4.1.1.5. Sperm donation and the Greek financial crisis	60
4.1.2. Surrogacy.....	62
4.1.2.1. The national legal framework	63
4.1.2.2. Legal motherhood in the case of surrogacy and the “freedom of services”	65
4.1.2.3. Is surrogacy in Greece truly altruistic?	68
4.2. Other countries of destination for “reproductive tourists”	69
4.2.1. The case of Spain.....	69
4.2.2. The case of Czech Republic	70
4.3. The decline of transnational adoption due to “reproductive tourism”	71
4.4. Concluding remarks.....	72
Chapter 5.....	74
5. Closing thoughts.....	74
5.1. The right to procreate: to what extent does it include a claim for access to ART?	74
5.2. The proposal of common ethical guidelines	76
5.3. The issue of legal diversity	77
5.4. The proposal of legal harmonisation limited to safety and quality standards	78
5.5. Conclusion	79
Bibliography	81
Books	81
Case law.....	83
International materials.....	84
Journals	86
News articles	93
Presentations	95
Websites.....	95
Correspondence	98

2014

Reproductive tourism in Europe: legal and ethical issues : the cases of Sweden and Greece

Pikramenou, Nikoletta

<https://doi.org/20.500.11825/437>

Downloaded from Open Knowledge Repository, Global Campus' institutional repository