SURROGACY: DIFFERENT APPROACHES OF FRENCH AND ARMENIAN LEGISLATIVE SYSTEMS

Yevgenia MURADYAN, Jean Moulin Lyon 3, UFAR

The international practice reveals that it doesn’t exist unique approach towards surrogacy: in one country surrogacy is interdicted, in the other countries is regulated on the legislative level, there are countries where surrogacy is practiced but it is not regulated.

In Armenia surrogacy is authorized and is regulated at the legislative level, meanwhile in France this phenomenon is interdicted.

In order to explain the differences in the approaches in Armenia and France, it’s necessary to study the experience of these two countries.

The prohibition of surrogacy in France is conditioned by many factors: firstly, surrogacy contradicts with important principles: the person’s dignity, then the human body’s inalienability. The human body can’t be the object of transaction (with some exceptions). Finally, within the civil status’s inalienability surrogacy is excluded. Secondly, the law stipulates surrogacy contract as invalid.

In Armenia accordingly to legislation surrogacy is considered as a type of medical assistance. All types of limitation of person’s right to receive medical assistance, excluding cases defined by law, are disturbing person’s fundamental right to receive medical assistance, previewed and protected by the country’s Constitution.

Thus surrogacy’s ambiguous appraisal by different countries and society as a whole has brought to a difficult social problem: solution is related to the development of a stable legislative base which will let to orient in surrogacy’s “status”. It’s important to consider surrogacy’s ethical, psychological and medical sides, which will help to determine the possibility to treat surrogacy as a type of medical assistance.

The particular legislative problem is when newborn issued of surrogate mother is transported from the country where surrogacy is authorized to the country where it’s prohibited (recognition of civil acts; application of the conflict rules).

All this is confirming necessity to consider the question about total interdiction or vise verse authorization of surrogacy practice.