



Research Article

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The legal vacuum on surrogacy: Risks and challenges under European Human Rights standard's

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Abstract

This research paper carried out a judicious examination of the mainstream legislative lacuna pertaining to surrogacy within the Albanian jurisdiction, which actually lacks an integrated and specific normative system governing this progressively salient modality of assisted reproductive technology. Nevertheless, the accelerating recourse to every domestic and cross-border surrogacy arrangements, Albanian legislation remains prominently absent, generating significant legal uncertainty on the matter of parentage, how a child born using surrogacy is recognized in the legal system.

Throughout the implementation of a comparative legal methodology, this research dissects a spectrum of regulatory paradigms widespread in selected European jurisdictions and evaluates their prospective suitability and applicability within the Albanian normative system. Considerable importance is attributed to the decisions of the European Court of Human Rights, notably in the context of the European Convention on Human Rights protecting private and family life.

The appraisal demonstrates a potential breach by Albania of its international human rights obligations through its current laws. Consequently, the study advocates for the prompt enactment of a thorough, ethically aligned, and legally robust framework focused at ensuring legal certainty, ensuring the fundamental rights and interests of all constituents.

Keywords: Surrogacy, Albanian law, Article 8 ECHR, comparative legal analysis, reproductive rights, international human rights law, parentage determination, legal uncertainty.

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