

Surrogacy in Ukraine: legal aspects

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Ukraine is currently a popular center of the reproductive tourism. As foreign nationals usually draw up documents for the child's departure, and for obtaining parental citizenship soon after the birth from the surrogate mother, it is extremely important that surrogacy strictly complies with all legal requirements for its use and registration.

1. Surrogacy use conditions

Surrogacy is an assisted reproductive technology, which according to the current legislation of Ukraine is carried out following the medical indications of an adult woman who undergoes this procedure, subject to the written consent of the spouses, ensuring anonymity of the donor and medical confidentiality.

Besides, the following conditions are necessary for the surrogacy:

- a spouse (or one of the future parents) for whose benefit the surrogacy is performed must have a genetic linkage to the child;
- a surrogate mother should not have a direct genetic linkage to the child. Carrying of pregnancy is allowed by close relatives of future parents (mother, sister, cousin, etc.).

2. Indications for surrogacy

Indications for surrogacy:

- absence of the uterus (congenital or acquired);
- deformation of the uterine cavity or cervix in congenital malformations or due to surgery, benign tumors when carrying of the pregnancy is impossible;
- structural-morphological or anatomical endometrium changes that lead to irremediable receptivity loss, uterine cavity synechia;
- severe somatic diseases threatening the further health or life of the recipient while carrying the pregnancy, but not affecting the health of the unborn child;
- unsuccessful repeated attempts of assisted reproductive technologies (4 or more times) with repeated receipt of high-quality embryos, the transfer of

which didn't lead to pregnancy.

3. List of documents

The list of necessary documents from a surrogate mother for surrogacy performance:

- a surrogate mother's application;
- a surrogate mother's passport copy;
- a copy of the marriage or divorce certificate of the surrogate mother (except for single women);
- a copy of the child's (children) birth certificate(s);
- consent of the surrogate mother's husband to her participation in the surrogacy program in the prescribed form (except for single women).

The list of documents required from the spouses in whose interests the surrogacy is performed:

- application of the patient/patients on the use of assisted reproductive technologies; pass
- port copies;
- a copy of the marriage certificate;
- a notarized copy of a written joint agreement between the surrogate mother and the woman (man) or spouses.

4. Health care facility options

Patients have the right to choose a health care facility for surrogacy.

Surrogacy, as well as other assisted reproductive technologies, must be performed in health care facilities with a medical practice license, appropriate equipment, and devices, as well as medical staff following the approved staff list.

An accreditation certificate is also required for health care facilities with two or more years of medical practice.

The use of assisted reproductive technologies, in particular surrogacy, is decided after a patient/patients apply for the use of assisted reproductive technologies following the approved form, medical examination, and appropriate assessment.

5. Use of gamete donation

When performing surrogacy, another assisted reproductive technology - gamete donation, is often used. Under this technology, donors provide their sex cells-gametes (sperm, oocytes) with written voluntary consent for use in other persons in the infertility treatment.

It should be emphasized that the use of either donated sperm or oocytes is possible for surrogacy, as it involves the genetic linkage of at least one parent (mother or father) to the fetus.

Gametes are donated in the presence of the relevant documentation:

- informed voluntary consent to sperm donation;
- applications of the patient/patients for the use of donor oocytes;
- informed voluntary consent for oocyte donation;
- application of the patient/patients following the approved form on the use of assisted reproductive technologies with donors gametes/embryos.

Recipients (at their request) may be provided with a phenotypic portrait of gamete donors.

It should be noted that if the anonymous donor gametes were used, the disclosure of his anonymity may be carried out in the manner prescribed by law. At the moment the disclosure procedure is not provided by the current legislation of Ukraine.

6. Determination of the child's origin and state registration

The spouses are considered to be the child's parents if a human embryo conceived by spouses (man and woman) as a result of assisted reproductive technologies use (which include surrogacy and gamete donation) was transferred to another woman (surrogate mother).

If the child was born by a surrogate mother, the state registration of the birth is performed at the request of the spouses who agreed to such a transfer. The following documents should be attached to the application:

- a document confirming the fact of the child's birth by a surrogate mother;
- a surrogate mother's consent with notarized verification of her signature's authenticity to the registration of the spouses as the child's parents;
- certificate of the genetic linkage of parents (mother or father) with the fetus;
- the spouses' passports used to enter Ukraine and their notarised translations;
- parents' marriage certificate and its copy with an apostille and a notarised translation.

Personal presence of both parents is required.

The child's birth certificate is issued on the day of application (after checking all the above documents).