

Name of the event: Legal and ethical aspects of Assisted Reproductive Technology
Date: 16.01.2025
Venue: <https://join.skype.com/mqb9EoISfWsZ>
Type of the event: webinar

Research group: The regulation and legal practice of assisted reproductive technologies and the best interests of the child
Organiser: Marek Bielecki

On 16 January 2025, a dissemination event entitled: Legal and ethical aspects of Assisted Reproductive Technology was organised within the framework of the research group: The regulation and legal practice of assisted reproductive technologies and the best interests of the child. The webinar was attended by nine young researchers representing Polish research centres. They were attorneys, Ph.Ds., PhD students and one student.

The session was managed by Marek Bielecki, Ph.D, D.Sc. (Polish: dr.hab.). During the speeches, the participants presented their research results and certain reflections on assisted reproductive technologies.

The first speaker was Konrad Zamirski, Ph.D. (attorney), who gave a presentation: The need for changes to family law in Poland in the field of life protection. During his presentation, the author noted that legal protection of life in Poland is as efficient as in other countries. Currently, the Constitution of the Republic of Poland of 1997 guarantees the inherent and inalienable dignity of every person by the protection of life from the moment of conception. The basis of legal institutions is not only the legal protection of life, but also the protection of the family and other aspects related to it. The Convention on the Rights of the Child (1989) also covers the issue of protection of children requiring special care and legal protection before and after birth, regardless of constitutional principles and related laws which do not include general criteria for the protection of life. This is not just a matter of exclusion of euthanasia, but it is a general problem of the entire system, basically the state's policy of defining common values in a disseminated and culturally variable environment. The paper refers to challenges concerning legal validity as the basic norm involving the protection of children, women and people, as well as it draws attention to systemic deficiencies existing in the legal and social framework in the adopted constitutional variant, which constitutes inadequate privacy protection.

The second speaker was Anita Klimas, M.A. (attorney), who presented a paper entitled: The issue of anonymous gamete donation in the context of the right to know one's origins. The speaker stated that the proper development of every person depends on many factors, including awareness of one's own origins. Her considerations analyse the scope of anonymity of reproductive cell and embryo donors, as well as the child's subjective right to know his or her biological parents, which is considered from a psychological and ethical perspective. There is also a medical aspect in favour of disclosing the father's personal data to the child, i.e. the need to recognise and treat genetic diseases affecting the donor. On the other hand, there is a fear of possible legal consequences resulting from the filiation relationship (e.g. burdening the father with alimony obligations). The regulations of the Infertility Treatment Act generally guarantee the anonymity of reproductive cell and embryo donors. However, from this statement it can be concluded that there are doubts about the compliance of the scope of disclosure of donor data with international acts.

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The next speaker was Klaudia Kijańska, Ph.D. (attorney), who presented a paper entitled: Denial of paternity in vitro within Polish family law. The author emphasised that the chosen topic involves an analysis of the applicable family law regulations in the context of the denial of paternity in cases of in vitro fertilisation. This area constitutes a solution strictly connected with infertility treatment. As a general rule, the husband of the child's mother is presumed to be the father. In this regard, the analysis focuses on two scenarios: the husband's consent to the initiation of assisted reproduction procedures and the absence of such consent. Furthermore, the discussion also concerns the misapplication of subjective rights and the individual's right to privacy.

The next speaker was Michał Służalec, Ph.D. (attorney). During his presentation, it was emphasised that the selected topic concerns the formal conditions of the Polish law on the use of reproductive cells and embryos in the treatment of infertility. The specific scope of the discussion focuses on demonstrating that the use of reproductive cells is the final stage of infertility treatment - that is, when other methods have proven ineffective. The analysis of the occurrence includes positive and negative reasons for the use of reproductive cells in medically assisted procreation procedures. There is also the issue of lack of remuneration for the donation of reproductive cells and embryos, which requires an analysis of existing legal solutions.

Another participant was the student Jasmin Jankowska, who presented a paper: Legal challenges related to in vitro fertilization based on the example of Denmark. The speaker noted that modern medical technologies, including in vitro, allow couples struggling with infertility to have children. The author also emphasised that one of the key issues is to make the decision to start treatment at the appropriate time. Denmark is the leader in the use of in vitro technology and meets the needs of its patients. Denmark has taken a number of actions and procedures to combat procrastination for women and couples struggling with this problem. The paper presented solutions adopted by Denmark in the context of solutions introduced in other European countries. The presentation also indicated the social and moral aspects of couples' procrastination. The motives that guide doctors when deciding to start therapy were also exemplified.

Anna Kremplewska, M.A. presented a paper entitled: Legal and ethical aspects of surrogacy agreements. Her speech examines the legal and ethical complexities of surrogacy contracts, highlighting the challenges arising from the intersection of science, ethics and law. Surrogacy, a practice whereby a woman agrees to carry a child for commissioning parties, is becoming increasingly common but remains legally ambiguous in many jurisdictions. The article outlines two basic forms of surrogacy: full and partial surrogacy, with different implications for the parties to these agreements. Legal dilemmas include the determination of the mother's parentage, the enforceability of surrogacy contracts and the permissibility of remunerating surrogate mothers. Ethical issues focus on the commercial treatment of human life, the

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exploitation of surrogates and the potential emotional harm caused by surrogacy to surrogates and children. The article also outlines regulatory trends in surrogacy internationally.

Another speaker was Joanna Slawinska, M.A., who pointed out that legal provisions regarding in vitro fertilization are controversial, which is why not all countries have decided to sanction them. The method of counteracting the effects of infertility, in vitro, involves fertilization outside the woman's body. Türkiye is an example of quite radical sanctioning of assisted procreation methods; it is the only country where a human embryo is considered a human being from the moment of its creation and is covered by the guarantee of human rights. In vitro fertilisation is allowed in both Turkey and Finland and is regulated by a special law. Unlike Finland, Türkiye limits the number of embryos used in one procedure. Carrying out research on the obtained material is prohibited by Turkish law, but permitted by law in Finland. The right to in vitro fertilisation in Turkey is available only to married husbands and wives, while the law in Finland also gives this option to heterosexual couples who are not married, as well as to homosexual relationships. In Turkey, full reimbursement of the costs of the procedure is possible, while in Finland only partial reimbursement.

Aleksandra Drozd, M.A., presented a speech entitled: Responsibility of the entity of wrongful birth and wrongful life claims in the case of a sick child born through the in vitro procedure. In her paper she noted that with the development of medicine, the number of pregnancies using the in vitro procedure is increasing, this is due to the worldwide problem of infertility. The in vitro procedure itself is presented as a remedy for infertility, as a method of treating infertility, while in vitro is not a cure. A couple having difficulty in conceiving a child naturally will not be healed after implementing in vitro method, and will still not be able to conceive a child naturally. A child born with certain disabilities may be the reason of parents' claims for social security benefits based on disability, but this fact is not covered by the accident compensation scheme as presently drafted. Parents, on the other hand, by filing a lawsuit in court may, although in author's opinion unfairly, seek compensation for the birth of the child and for the costs they have to incur in connection with this birth. However, this line of jurisprudence completely ignores the inalienable and inherent dignity of the child.

The last speaker was Michal Skwarzyński, Ph.D. (attorney), who presented a paper entitled: Refusal to participate in the in vitro procedure as a matter of conscientious objection protection. The speaker noted that the issue of participation in the in vitro procedure is very complex. In addition to the in vitro procedure, the issue of conscientious objection arises. The findings of the research concern the unresolved problem of defining the role of conscientious objection in Central European countries. Unfortunately, the specific nature of these countries in this regard is not recognized. The first step should be to define conscience clause, which is considered to be "the right to act in accordance with one's own conscience, and consequently also the freedom from coercion to act against one's own conscience", and conscientious



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objection occurs in situations where an obligation arises to act or refrain from action and the objection consists in refusal to fulfil such an obligation. Human dignity expressed and protected, in this case by human right to freedom of conscience and religion, is the normative source of conscientious objection.

After presentation of all the papers, Marek Bielecki, Ph.D., D.Sc. thanked all the participants and invited them to participate in other events organised as part of the activities of the Central European Academy.

Bielecki Marek