



Surrogacy in Cyprus: A Legal and Human Perspective

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Parenthood is a profound journey that encompasses love, responsibility and the nurturing of new life. For many, the path to parenthood can take various forms - including that of surrogacy. The law defines surrogacy as the pregnancy of a woman caused by the transfer of embryos in her uterus which are foreign to her own body, with the purpose of carrying a child for a couple or a single woman unable to do so. In Cyprus, surrogacy is governed by Law 69(I)/2015 on the application of Medically Assisted Reproduction. The law addresses numerous aspects of surrogacy, including - but not limited to – its scope of application, the respective rights and obligations of the parties involved and the strict requirements for the lawful formation and execution of a surrogacy arrangement. The foundational principle and main purpose of the legal framework for surrogacy is lies in Article 3 of the law: The application of the relevant methods “in a manner that primarily takes into account the best interests of the child to be born.”

Surrogacy: by whom, for whom?

According to Law 69(I)/2015, surrogacy is limited in its scope of application. It is available to adult individuals up to the age of natural reproductive capacity of the person - for women; the age of 53. It applies to both couples and single women, who are medically unable to carry children or where surrogacy is medically necessary to prevent the transmission of a serious disease to the potential foetus. The law emphasizes that surrogacy by medically assisted reproduction is a complicated procedure both biologically and psychologically for all parties involved. So, while it can provide a viable solution for many individuals facing difficulties in conceiving, it must be undertaken only when appropriate under the circumstances and conducted in a safe and regulated manner.

The law imposes limitations on women wishing to serve as surrogate mothers. A woman may act as a surrogate only twice, provided that both pregnancies are successful and result in the birth of a child. In addition, she must already be a mother

to at least one of her own children before serving as a surrogate. The rationale behind these limitations is clear. The former functions as a mechanism for preventing the commercialization of surrogacy; crucial to preserving the ethical principles that guide the practice. The latter restriction functions as a legal safeguard in favour of the intended parent(s). Its purpose is to preclude women who have not yet experienced maternity from serving as surrogates. This measure is intended to prevent potential complications that could compromise the surrogacy process, such as the surrogate developing an emotional attachment to the child and subsequently refusing to relinquish the child to the intended parent(s).

A legally and ethically challenging concept

It is crucial to address that surrogacy is a complex and sensitive topic. The decision to proceed with a surrogacy arrangement requires careful consideration. It is a decision that should be taken following professional medical and psychiatric consultations and a thorough examination of the legal and ethical risks entailed. It is evident throughout the law that all relevant procedures must be carried out with the fully-informed consent of all participating individuals. The intended parent(s) and surrogate must be made aware of the medical and psychological effects they may endure in the process, as well as the possible ethical dilemmas and risks surrounding the practice.

Legally speaking, the route to parenthood through surrogacy is complex. It raises questions regarding the legal parenthood of the child, the obligations of the surrogate towards the parent(s) and vice versa. Given the nature of the practice and the emotional complications that it carries, it is only appropriate that the law places down several safeguards to protect the rights of everyone involved. For this very reason, Law 69(I)/2015 is carefully crafted to ensure the parties' rights at either end are respected and their respective obligations to each other are upheld. It is essential that anyone interested in a surrogacy arrangement must familiarize themselves with the relevant law.

Legal Parenthood

Post birth, the surrogate mother must hand over the baby to the couple or single woman who become(s) the legal parent(s) of the child from the point of fertilization and placement of the embryo into the surrogate's uterus. They assume the same rights and responsibilities as the parent(s) of a child conceived through a natural pregnancy. The surrogate has no connection to the child, legally. This is the most important part of the agreement; foundational to the concept of surrogacy, and main safeguard of the commissioning parent(s)' rights. At no point does the law recognize

the surrogate as the legal mother. It follows that, after birth the surrogate is discharged from any further obligations towards the intended parent(s) and most importantly, the child. It follows that any abandonment or refusal on the part of the parent(s) to take delivery of the newborn constitutes a criminal offence and it is punishable by imprisonment of up to five years.

The process: a step-by-step analysis

Step I: Obtaining Approval of The Council of Medically Assisted Reproduction

Surrogacy is a long, legally complex multi-step process which requires the assessment and approval of medical professionals, the Council of Medically Assisted Reproduction and the court. Law 69(I)/2015 sets out an outline of the procedure that must be followed from beginning to end.

The initial stage of the process is to obtain the written approval of the Council of Medically Assisted Reproduction. The law sets out the criteria that the Council will apply in assessing whether to grant the relevant approval. In conducting its assessment, the Council will examine the following:

- Whether the woman is medically unable to carry a child.
- Whether the parties have completed the required medical and psychiatric evaluations to determine their fitness and readiness to proceed with the surrogacy.
- The surrogate's overall health, encompassing both her physical and mental capacity to carry a child.
- The source of the female gametes used for the conception of the embryo. The law strictly prohibits the use of the surrogate mother's own gametes, which must be obtained either from the intended mother or from a third-party donor. This criterion is designed to protect the intended parent(s) by ensuring no biological connection between the surrogate and the baby. This serves as a dual safeguard: first, by acting as a precaution measure to reduce the likelihood of a strong emotional bond forming between the surrogate and the foetus; and second, by preventing the surrogate mother from appealing to the court post-birth, to establish legal motherhood of the baby, as this is permitted solely where the surrogate's gametes were involved in conception.
- The parties must have signed a written declaration affirming their consent to the procedure and confirming that they have not agreed to any form of remuneration as consideration.

- Whether the parties are permanently or habitually residing in the Republic. The law allows for the use of an overseas surrogate mother only if no woman in Cyprus is willing to act as a surrogate. In such cases, the surrogate is legally required to travel to Cyprus from the 28th week of her pregnancy until the birth of the child. Yet again, the law appears to safeguard the commissioning parent(s)' rights. By ensuring the surrogate remains within national borders, it becomes easier to monitor the pregnancy and ensure compliance with national surrogacy laws and regulations.

Step II: Obtaining a Court order

After assessing the above criteria, the Council will decide whether to grant approval to proceed. After receiving the approval, the couple or single woman must apply to the court to obtain a surrogacy order. The order will be issued on the discretion of the court, under any terms and conditions it deems appropriate, to ensure the safe and effective execution of the surrogacy.

Step III: Entering into a written agreement

Upon the issuance of a surrogacy court order, the intended parent(s) must enter into a written agreement with the surrogate, and where the surrogate is married, with both the surrogate and her husband. The law stipulates the minimum content of a surrogacy agreement to ensure that such agreements are properly drafted, which can be summarised as follows:

Firstly, as already noted, the agreement must specify that the surrogate mother is obliged to relinquish the baby to the legal parent(s), upon birth. She assumes no further obligations towards the parent(s) or the baby and holds no rights or authority with respect to the child.

Secondly, the agreement must clearly outline the parent(s) role in funding the pregnancy of the surrogate. Considering surrogacy is voluntary and no remuneration is provided to the surrogate, it follows that the intended parent(s) are financially responsible for all pregnancy-related expenses incurred throughout the course of the pregnancy. These expenses include – but are not limited to - prenatal costs (such as monitoring and screenings), childbirth costs and postnatal care relating to the surrogate's health. Additionally, the parent(s) are required to compensate the surrogate for any loss of income during periods of absence from her workplace, should she have been employed prior to the pregnancy. Alternatively, a letter of

guarantee may be issued to cover the associated costs covering a period of 11 months.

Lastly, as previously noted, the agreement must specify that the surrogate is required to reside in the Republic from the 28th week of pregnancy until the birth of the child.

Commercialized surrogacy: a criminal offence

The law on surrogacy has been designed to give the opportunity to couples or single women who are medically unable to carry, to become parent(s) using Medically Assisted Reproduction, while maintaining strict boundaries for the safe and ethical execution of the practice. The law attempts to limit the use of these biological advancements and technical advancements to facilitate healthy pregnancies for disadvantaged people who truly wish to become parent(s). Its main purpose? To provide safe solutions with foremost consideration the best interests of the child.

In light of this, any exploitation of the practice of surrogacy for commercial purposes is strictly prohibited. The legislators' approach is stringent; criminalizing not only the execution of commercial surrogacy but also any acts aimed at promoting or facilitating the practice. Such acts include: entering into negotiations, offering information, facilitating surrogacy arrangements, advertising individuals' desire to become parent(s) through surrogacy or advertising a woman's willingness to serve as a surrogate. All of the above constitute criminal offences, punishable by imprisonment, fines or both, depending on the discretion of the court and the severity of the offence.

How We Can Assist

Surrogacy is a legally and emotionally complex process that requires careful planning and expert guidance at every stage. Our firm has extensive experience advising intended parents on surrogacy arrangements, including the structuring and negotiation of surrogacy agreements, compliance with applicable local and international legal frameworks, coordination with medical and regulatory bodies, and the management of parental rights and citizenship matters. We work closely with our clients to ensure that their interests are fully protected and that the process is conducted lawfully, ethically, and with clarity, supporting intended parents from the initial planning stage through to the successful completion of the surrogacy journey.

