

## LE RÉGIME JURIDIQUE DE L'IDENTITÉ GÉNÉTIQUE DE LA PERSONNE EN DROIT EUROPÉEN

Dragoş CHILEA\*

**ABSTRACT:** *In the first decades of the twentieth century, the study of human heredity consisted of the applied science of eugenics and the theoretical science of genetics. Geneticists studied the mechanisms of heredity, while eugenicists sought to apply this knowledge to manage society.*

*Surrogacy is an arrangement where a woman agrees to become pregnant and deliver a child for a contracted party. She may be the child's genetic mother (the more traditional form of surrogacy), or she may, as a 'carrier', carry the pregnancy to delivery after having been implanted with an embryo, the latter being an illegal medical procedure in some jurisdictions. Surrogacy or Surrogate means substitute. In medical terminology, surrogacy indicates an arrangement whereby a woman agrees to undergo the pregnancy, labor, and delivery for another individual who either cannot through artificial insemination or surgical implantation of a fertilized ovum or embryo, or chooses not to. In gestational surrogacy (Host method), a female host is implanted with an embryo that is not her own, and becomes pregnant with a child to which she is not the biological mother. After birth, the gestational carrier turns over the child to the biological mother and/or father to raise, or to the adoptive parent(s) (in which case, the embryo would have been a donated embryo). Commercial surrogacy is a form of surrogacy in which a gestational carrier is paid to carry a child to maturity in her womb and is usually resorted to by well-off couples who can afford the cost involved or people who save or borrow in order to complete their dream of being parents. The intended parents may arrange a surrogate pregnancy because of female infertility, or other medical issues which may make the pregnancy or delivery risky. The intended mother could also be fertile and healthy, and prefer the convenience of someone else undergoing pregnancy, labor, and delivery for her.*

*The intended parent could also be a single male wishing to have his own biological child, or a single woman who is unable to bring a pregnancy to full term. Some homosexual male couples also turn to surrogacy as an option to becoming parents. In France, since 1994 any surrogacy arrangement that is commercial or altruistic is illegal or unlawful and sanctioned by the law (art 16-7 du code civil).*

**KEYWORDS:** *genetic identity, surrogacy, intended parent, surrogacy arrangement.*

**JEL CLASSIFICATION:** *K 10, K 33*