



Course Syllabus

Course Code MLAW-535DE	Course Title Family Law and Bioethics	ECTS Credits 10
Prerequisites None	Department Law	Semester Fall/Spring
Type of Course Elective	Field Human Rights and Social Justice	Language of Instruction English
Level of Course 2 nd Cycle	Lecturer(s) Dr Nikolaos Koumoutzis	Year of Study 2 nd
Mode of Delivery Distance Learning	Work Placement N/A	Co-requisites None

Course Objectives:

The course is designed to introduce students to some aspects of the family law regulation of medical assistance to human reproduction, highlighting the bioethical principles and considerations which underlie this framework. The key element of the analysis is the fundamental right to medically assisted reproduction and its limitations. Under this lens, various rules are analyzed, such as the rules concerning the general requirements of access to the services of artificial reproduction, the methods of collaborative reproduction (heterologous, through surrogacy) and post mortem reproduction, the rules providing for the parentage relation between the child born and the recipients of the treatment, and, finally, the rules setting out the available options for the disposition of the supernumerary embryos or gametes. The above developments have as basis of reference the groundbreaking Greek and Cyprus laws on medically assisted reproduction, but they are not restricted in the respective national perimeters; instead, they adopt a broader comparative perspective, to take into account the relevant European law and especially the case law of the European Court of Human Rights.

Learning Outcomes:

After completion of the course students are expected to:

1. Have gained good knowledge of the normative framework of Family Law and Bioethics

2. Demonstrate understanding of the bioethical dilemmas and decisions which dictate the attribution or exclusion of the right to medically assisted reproduction in particular contexts
3. Be able to engage in debates concerning the above subject matters, formulating well-reasoned and coherent arguments

Course Contents:

1. THE RIGHT TO MEDICALLY ASSISTED REPRODUCTION

Sedes materiae: art. 8 ECHR and art. 5 § 1 Greek Constitution – Scope: ability to create a child and become its legal father/mother – Limitations: art. 8 § 2 ECHR and art. 5 § 1 Greek Constitution – Outline of the Laws No 3089/2002 (Gr), 3305/2005 (Gr), 69 (I) 2015 (Cy); points of convergence and divergence.

2. THE GENERAL REQUIREMENTS OF MEDICALLY ASSISTED REPRODUCTION

Necessity (medical or other) & the ruling of the ECtHR in *Dickson v The United Kingdom* – The giving and withdrawing of consent & the ruling of the ECtHR in *Evans v The United Kingdom* – Age limits – Marital status and gender – Cloning – Choice of sex

3. HETEROLOGOUS ARTIFICIAL REPRODUCTION

Use of foreign sperm, ova, fertilized ova in the Greek/Cyprus law – Objections – The legislative treatment of heterologous artificial reproduction at European level & the ruling of the ECtHR *S.H. and others v Austria* – Donor anonymity – The prohibition of contestation of paternity of the spouse or partner and of establishment of paternity with the known donor [arts 1471 § 2 (2), 1478 § 2, 1479 § 2 Greek Civil Code]

4. ARTIFICIAL REPRODUCTION POST MORTEM

Post mortem insemination stricto and lato sensu in the Greek/Cyprus law – Objections – The legislative treatment of heterologous artificial reproduction at European level – The system of judicial authorisation enshrined by art. 1457 Greek Civil Code

5. SURROGACY

The acceptance of gestational (not full surrogacy) in the Greek/Cyprus law – Objections – The legislative treatment of surrogacy at European level – The problems generated by inter-country surrogacy and the rulings of the ECtHR in *Mennesson v France*, *Labassee v France*, *Foulon and Bouvet v France*, *Paradiso and Campanelli v Italy* – The system of judicial authorisation enshrined by art. 1458 Greek Civil Code

6. THE ESTABLISHMENT OF PARENTAGE IN THE CASES OF ARTIFICIAL

REPRODUCTION

Establishment of paternity and maternity in the case of heterologous reproduction – Establishment of paternity in the case of reproduction post mortem – Establishment of maternity in the case of surrogacy – The innovation of the so-called ‘indirect’ or ‘automatic’ voluntary recognition of paternity (art. 1475 § 2 Greek Civil Code) – The principle of ‘socio-affective’ parentage

7. DECISIONS ABOUT THE DISPOSITION OF THE SUPERNUMERARY GENETIC MATERIAL

The distinction between ‘supernumerary’ genetic material and genetic material of ‘simple donors’ – Available options for the parties – The declaration of will: ability, form, withdrawal – The disposition of the supernumerary genetic material in cases of lack of declaration of will – The legal nature of the genetic material

Learning Activities and Teaching Methods:

Lectures, Personal guidance, Case-study analysis, Video-streamed courses, Forum, Final exam

Assessment Methods:

Interim individual studies, Formative assessment activities, Final exam

Textbooks – Bibliography:

Title	Author(s)	Publisher	Year	ISBN
<i>Life without person. The Constitution and the use of the human genetic material (2nd ed.) [in Greek]</i>	T. Vidalis	Ant. Sakkoulas	2003	
<i>Biolaw. 1st Vol.: The person [in Greek]</i>	T. Vidalis	Sakkoulas	2007	
<i>The Oxford handbook of reproductive ethics</i>	Leslie Francis (ed.)	Oxford University Press	2019	

<i>Regulating Reproductive Donation</i>	Susan Golombok/Rosamund Scott/John B. Appleby/Martin Richards/Stephen Wilkinson (eds.)	Cambridge University Press	2016	
<i>Medical Law. Text, Cases and Materials (4th ed.)</i>	Emily Jackson	Oxford University Press	2016	
<i>Medical law and ethics (7th ed.)</i>	Jonathan Herring	Oxford University Press	2018	
<i>Artificial insemination and family law (2nd ed.) [in Greek]</i>	E. Kounougeri-Manoledaki	Sakkoulas	2005	
<i>Studies on family law and biomedicine law [in Greek]</i>	E. Kounougeri-Manoledaki	Sakkoulas	2010	
<i>Biomedical Evolutions and Constitutional Law [in Greek]</i>	I. Kriari-Katrani	Sakkoulas	1994	
<i>Artificial insemination and genetic technology: the legal-ethical dimension [in Greek]</i>	Collective Volume	Sakkoulas	2003	
<i>Medical assistance to human reproduction: 10 years of implementation of Law 3089/2002 [in Greek]</i>	Collective Volume	Sakkoulas	2013	
<i>Assisted reproduction and alternative family formations [in Greek]</i>	Collective Volume	Sakkoulas	2014	

<i>The artificial reproduction in the civil code [in Greek,</i>	Th. Papachristou	Sakkoulas	2003	
<i>Human reproduction. Private autonomy and its limits [in Greek]</i>	Th. Trokanas	Sakkoulas	2011	
<i>Human reproduction and civil medical liability [in Greek]</i>	K. Fountedaki	Sakkoulas	2007	