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THE PROBLEMS OF CONTRACTUAL REGULATION OF SURROGACY IN UKRAINE

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Ukraine is classified as a country, where surrogacy is allowed at the legislative level. Surrogacy has been practiced in some form in Ukraine since the 1990s, but, as of now, the country's legislation on surrogacy is quite limited and mainly regulated by the Ministry of Health decrees, Civil Code, Family Code and judicial practice. Thus, one of the problems of surrogacy is the lack of comprehensive legislation in Ukraine. It creates problems for the parties to the contract, lawyers, and courts. The shortcomings of such regulation may include the ambiguity of legal rights and obligations of the parties to the contract, responsibility for the child, payment conditions, as well as ethical issues related to surrogacy.

The lack of clear legal regulation raises questions about the place of a surrogacy contract in the legal system of Ukraine. The surrogacy contract is governed by both the provisions of both civil and family law. The special nature of

surrogacy relationships lies in the fact that its main purpose is to enable a married couple to exercise their right to motherhood and fatherhood as provided for by Articles 49 and 50 of the Family Code of Ukraine. Therefore, the surrogacy contract has the family law nature. However, the surrogacy contract itself regulates the relationship between the surrogate mother and the biological parents of the child, and therefore, it is a civil law contract, which should be governed by the provisions of civil law since the relationship between the parties is purely of the civil law nature.

Besides, it is necessary to determine to which type of contract the surrogacy contract belongs. Some scholars believe that the surrogacy contract is not an independent contract and it belongs either to a contract for the provision of services (surrogate mother provides a service to the intended parents for carrying and giving birth to a child) or to a lease agreement (the surrogate mother's body is leased for the period of pregnancy and childbirth). However, the specific subject matter and object, the difference in the method of performing the services provided under the surrogacy contract, its social purpose, and other specific characteristics require the recognition of this contract as an independent type of contractual obligation and its separate classification in the text of the Civil Code of Ukraine.

Another problem is that the foreigners, whose countries prohibit surrogacy, use our country as the place where surrogacy services may be obtained. It is worth noting that surrogacy is not allowed in all countries. Therefore, the foreigners whose countries prohibit surrogacy come to countries where it is allowed and search for a surrogate mother. It may seem that nothing illegal is happening, but in practice the problems do arise.

In this respect let us consider a court case where the French citizens entered into a surrogacy agreement in Ukraine [8]. After the surrogate mother gave birth to the children, they were issued birth certificates, and the genetic parents (foreigners) applied to the French embassy in Ukraine to obtain the necessary documents to take the children to France and grant them the French citizenship. However, the embassy refused because surrogacy is prohibited in France.

The European Court of Human Rights has repeatedly emphasized in its decisions the violation of the provisions of the UN Convention on the Rights of the Child by states that do not recognize commissioning parents as the legal parents of a child born through surrogacy, and, therefore, do not allow this child to enter the territory of the state, obtain the citizenship, and inherit from their biological parents. The Court has pointed out the legal dangers to which the children are subjected in the result of the French judicial practice with regard to their individuality, nationality, and inheritance rights, and found France guilty of violating Article 8 of the Convention on the Rights of the Child, namely, regarding the child's right to family ties.

However, despite the European Court of Human Rights' decision, states continue to violate the rights of children born through surrogacy, thus, creating mechanisms of illegal resistance. Studying the experience of other countries

regarding the regulation of surrogacy, it should be noted that it is legislatively prohibited in France and Germany.

The use of surrogate mothers, including that on a commercial basis, is legislatively allowed in most states of America, South Africa, the Russian Federation, Georgia, and Ukraine. In such countries as Greece, Ireland, Finland, and Belgium the use of surrogacy to treat infertility is not regulated by law, though it does exist.

However, in some countries, only non-commercial surrogacy is allowed: when the surrogate mother does not receive a reward, advertising for surrogacy is prohibited, and surrogates are not recruited. This legislation is applied in Australia, the United Kingdom, Denmark, Israel, Spain, Canada, the Netherlands, and certain states of the USA.

Thus, it can be concluded that by allowing or prohibiting the use of surrogacy, states are guided by the policy they pursue in the field of family relations, as well as the moral and religious beliefs of the society.

To sum up, it should be noted that a separate legal act is needed to clearly define the subjects who have the right to use surrogacy services and provide such services, as there is currently no specific age defined for a woman who becomes a surrogate mother. Regarding the subjects who have the right to use surrogacy services, this right should be granted exclusively to a couple who, due to certain physical disabilities, cannot independently realize their right to parenthood. This will reduce the risk of child abandonment and ensure the protection of their interests.

Besides, specific provisions regarding the surrogacy contract (form of the contract, rights and obligations of the parties, liability for non-performance, etc.) need to be regulated, as currently there is no separate regulation of such an agreement, which creates problems for the parties, lawyers, and courts.

It is also worth prohibiting the provision of surrogacy services to foreigners from the countries where surrogacy is prohibited by law.

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LOCAL LEGAL REGULATION OF REMUNERATION

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Introduction: The issue of local legal regulation of labor remuneration has long attracted the attention of scholars in legal doctrine. It can be confidently stated that the question of local and centralized legal regulation of tripartite labor relations is inherent to any legal phenomenon in labor law. Despite thorough research in the field of wages, the issue of local regulation of labor remuneration currently lacks proper coverage. It should be emphasized that this problem has not only not lost its relevance but, in the conditions of the introduction of martial law in Ukraine, is being filled with somewhat new meaning.

Objectives: The aim of the research on local regulation of labor remuneration is an attempt to build a sequence that would allow for an understanding of the transition from the most significant functions and tasks of such regulation, which led to the development and adoption of local acts on labor remuneration issues, to the least significant in the implementation of the social orientation of local legal regulation of wages, as well as the expediency of such regulation.

Methods: During the investigation I mostly used analytical method and analyzed the provisions of labor law of Ukraine and other.

So, the history of local acts that regulate labor remuneration dates back to the 19th century. This type of act emerged among the first, along with those regulating internal regulations. The purpose of their development and adoption was to create a connecting link between the employer and the subject performing labor activities. The main purpose of a local act is to ensure increased labor productivity through objective assessment of work and further stimulation. Therefore, the primary function of local regulatory acts that regulate labor remuneration is the function of objective evaluation of the latter.

To clarify the meaning of local wage regulation, it is advisable to analyze the specifics of functional orientation inherent in local legal regulation and payment for work. The following functions of local legal regulation are generally accepted at the doctrinal level: (a) implementation of legislative provisions, (b)