

Spanish homosexual couple and surrogate pregnancy

While some countries, like the U.S.A., accept surrogate pregnancy among permitted techniques of assisted reproduction, Spanish law considers it illegal. That is why a certificate issued in the U.S.A. establishing the parenthood of a baby born in this country to a surrogate mother would not be registered in Spain; accordingly the baby would not have Spanish nationality; and consequently, he would need a visa to come to Spain.

This apparently neutral facts may not describe a theoretical situation but correspond whit a quite real one. A Spanish homosexual married couple from Valencia decided to try surrogate pregnancy after several failed attempts of international adoption; as for a national adoption, they feared they would not be awarded the “certificado de idoneidad” due to their homosexual condition. They therefore moved to the USA looking for better chances. Today, the intended parents and (their?) two twin babies born in the USA to a surrogate mother are the major figures of a complicated situation. The couple is in the U.S. since the Spanish embassy has denied the babies the visa to enter Spain. So far, the twins bear American nationality to prevent them from being stateless.

According to press reports, the couple has ruled out the option of returning to Spain by registering the babies as born to a Spanish female mother; they want them to be acknowledged as their children, and them to be granted the Spanish nationality. Faced with the Spanish refusal they might decide to remain (to exile?) in the U.S.A., where they have been offered a residence permit. They have warned the Spanish government that they will start a legal battle both in the U.S.A. and before the European Court of Human Rights, claiming violation of the Declaration of the Rights of the Child. Considering the importance of their aim, how much it is worth; but also knowing how exhausting such processes will be, we can only wish them courage and luck.