

The European Court of Human Rights delivers its advisory opinion concerning the recognition in domestic law of legal parent-child relationship between a child born through a gestational surrogacy arrangement abroad and the intended mother.

As previously reported on Conflicts of Laws, the ECtHR was requested an advisory opinion by the French Court of Cassation.

On April 10th, the ECtHR delivered its first advisory opinion. It held that:

“In a situation where a child was born abroad through a gestational surrogacy arrangement and was conceived using the gametes of the intended father and a third-party donor, and where the legal parent-child relationship with the intended father has been recognised in domestic law,

1. the child’s right to respect for private life within the meaning of Article 8 of the European Convention on Human Rights requires that domestic law provide a possibility of recognition of a legal parent-child relationship with the intended mother, designated in the birth certificate legally established abroad as the “legal mother”;
2. the child’s right to respect for private life does not require such recognition to take the form of entry in the register of births, marriages and deaths of the details of the birth certificate legally established abroad; another means, such as adoption of the child by the intended mother, may be used”.

For a brief summary of the advisory opinion and the case background see the

Press Release.

For further details see the Advisory Opinion.