Chapter 6

Hungary: The Regulation of Assisted Reproductive Technologies and the Principle of the Best Interests of the Child



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Abstract

Assisted reproductive technologies (ART) have fundamentally reshaped the understanding of family and reproduction. As certain ART continue to challenge region-specific bioethical norms, they have given rise to distinctive legislative approaches globally. Hungary has faced emerging infertility treatments since the 1970s. Through ongoing professional and public debate, the country continues to refine legal responses to the most ethically controversial forms of ART. A careful analysis of Hungary's constitutional framework, statutory provisions governing healthcare, reproductive medicine, family law, legal parenthood and child protection reveals a more pronatalist state approach to ART utilisation, which remains embedded in traditional family values. Fundamental bioethical questions, particularly concerning the constitutional and legal status of embryo protection, remain in the background of Hungarian law. These tensions highlight the complexity of balancing reproductive innovation with deeply rooted cultural and moral commitments.

Keywords: assisted reproductive techniques, surrogacy, status of embryo, family law, presumptions of parenthood, children's rights, Hungary, right to health, medical law, bioethics

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1. Introduction

ART[1] have become one of the most dynamic intersections of medicine, ethics, law and social policy. Addressing medical infertility was the initial motivator for developing ART. However, these technologies trigger several ethical and moral questions about how we, as a society, define and conceptualise the foundations of family, biological relationships, parenthood and childrearing. The gradual reconceptualisation touches on several areas of jurisprudence as the connected foundational values reflected in the legal system are deeply rooted in cultural, moral and constitutional traditions. Hungary too faced the discoveries in reproductive medicine. ART has been available in the country since the 1980s. The regulatory framework has developed gradually; however, it has not developed proactively. Hence, the ethical dilemmas arising from the utilisation of ART have been the topic of professional and public discourse, as certain discrepancies and grey areas persist.[2]

This is understandable as ART highlighted the inherent tension between the fundamental rights of the subjects involved, that is, the intended parents and the child, before and after birth. Constitutional provisions regarding the protection of human dignity, right to life, right to health and rights of family and children have to be balanced with other individual rights linked to reproductive health. The Hungarian legislation grants special protection to foetal life from the moment of conception. However, this does not apply to IVF embryos, as the legislation distinguishes between embryonic and foetal life protection. Additionally, several provisions relate to family, marriage and child protection, which decisively influence the regulation of ART. Consequently, access to ART and its primary purpose can be understood within the Hungarian legal framework as the treatment of medical infertility in married heterosexual couples. The group of beneficiaries is defined by Hungary's value-based approach to family protection, rooted in traditional values and reflecting a pronatalist orientation.

Access to ART in Hungary is further shaped by the state's response to pressing demographic challenges, where ART is positioned as a strategic solution. Infertility affects approximately 15 percent of the global reproductive-age population at some point in their lives. Hungarian medical literature places domestic prevalence within a similar range of 10 to 15 percent.[3] Partial data on IVF cycles and live births emerged from a parliamentary report, revealing a pattern of increasing domestic utilisation of ART, though the government has acknowledged a notable gap in its knowledge of procedures performed abroad.[4]

1 For the essential elements of ART technology, see Kovaček Stanić, 2024, pp. 123–138.
2 For an analysis of ethical and legal issues related to ART, see Nagy, 2023, pp. 173–201.
3 Lengyel and Danis, 2025, p. 36.
4 In 2017, 1,470 children were born alive from 7,473 embryo transfers. In 2018, 1,726 children were born from 9,005 embryo transfers. In 2019, 1,948 children were born from 10,170 embryo transfers. In 2020, 1,719 children were born from 9,573 embryo transfers. In 2021, 2,035 children were born from 12,237 embryo transfers. See Rétvári, 2023.

Since 2020, Hungary's policies have expanded the support for infertility treatment and assisted reproduction, notably through free access to infertility diagnostics, treatment evaluations and necessary medications for couples seeking to conceive. Hence, although Hungary presents a deep commitment to advance pronatalist objectives in reproductive healthcare, the legislation of medical, constitutional and family law presents some contradictions, particularly regarding embryo status, the legal consequences of third-party reproductive involvement, the rights of children born through ART and surrogacy.[5]

2. Policies Regarding Medical Help Through ART

The emergence of new ART has reshaped the way we view reproduction, family and childrearing. Previously, the creation of a family was exclusively linked to marriage and natural reproduction. However, the new technologies have revolutionised this concept. ART represents a breakthrough in infertility treatment and has redefined our understanding of traditional reproduction and the notion of family. In contemporary times, scientific and technological advancements enable transformative outcomes that shift 'fundamental aspects of human existence from the nature-controlled 'realm of chance' to a part of human design and the 'realm of human freedom'.[6] These developments have given rise to numerous ethical, bioethical and moral questions. Although these technologies have existed since the 1970s, society's reactions to them have been mixed. Bioethics helps us navigate these complex and often sensitive issues, even though there are no clear or universally accepted answers. Instead of providing definitive solutions to ethical dilemmas, bioethics clarifies the essence of these dilemmas, identifies the conflicting interests at stake, explores alternative approaches to resolving them and rules out options that are widely regarded as morally or socially unacceptable. Hence, it serves as a critical and reflective framework that promotes informed and balanced discussion in the ethically complex realms of science and medicine.[7]

Bioethical and moral value systems are influenced by specific cultural and regional contexts. The ongoing tension between paternalistic and patient-centred approaches to medicine has shifted modern medical decision-making towards emphasising personal autonomy. In reproductive decisions involving assisted medical procedures, the patient's autonomy remains a key principle. However, to balance this with the other core bioethical principles, such as beneficence, non-maleficence

5 For a comprehensive analysis of the above issues and domestic conditions, see Sápi, 2024a, pp. 181–195.

6 Habermas, 2010, p. 53.

7 Hidvéginé Adorján and Sáriné Simkó, 2018, p. 60.

and justice, bioethical, social and legal sciences have established clear and decisive boundaries for the use of these technologies. Although there is a stronger emphasis on patient autonomy, the focus remains fairly pluralistic, as it is closely linked to the patient's individual value system, education level, socioeconomic and cultural background and the extent to which they take an active role in medical decision-making.[8] Nevertheless, the prevalence of ART and its acceptance by society mutually influence each other. Thus, if the prevalence of ART is higher in a given society, the society is likely more accepting of these technologies.[9] Hence, public debate, along with bioethical, medical and legal discussions surrounding assisted reproduction, continues to evolve regionally.[10]

The development of ART in Hungarian circumstances made its scientific breakthrough at the Obstetrics Clinic of the University of Pécs Medical University, with a research group led by Dr. Imre Csaba, in 1988, when the first Hungarian baby, Zsuzsanna, was born through *in vitro* fertilisation (IVF) technology.[11] Since then, the medical practice has gradually utilised several types of ART. However, the legal background at the beginning was minimal and incomplete.[12] The 1997 Act on Healthcare dealt with assisted reproduction in detail. Ever since, the 'test-tube baby' program has revolutionised infertility treatment in Hungary, offering hope for childless couples.[13]

In Hungary, the bioethical discourse on new biotechnological advancements can be traced back to the contemplation of the Hungarian Scientific and Research Ethics Committee of the Scientific Council for Health (hereafter, the Committee) since the birth of the first IVF baby, Louise Joy Brown, in the UK. However, some key questions regarding ART ought to be answered unambiguously, preferably accompanied by ethical guidelines.[14] A great source of professional bioethical assessment of the time is presented in the Committee's publication, Statements of the Scientific and Research Ethics Committee (1990–1999).[15] The findings of the Committee could be summarised as the challenge faced by ART regarding long-standing moral and legal principles and the necessity to re-establish clear national ethical guidelines, while duly regarding international examples.[16] Moreover, the report underscores the personal responsibility of physicians and researchers, particularly due to the absence of

8 Sass, 1990.
9 Szalma, 2016, p. 154.
10 For more about the ethical and legal development on ART see Navratyil, 2011, pp. 109–121.
11 Pécsi Orvostudományi Egyetem Általános Orvostudományi Kar, 2021.
12 Decree No. 12/1981 (29 September) of the Ministry of Health.
13 Szíjártó, 2023, p. 112.
14 Temesi and Mandl, 1999, p. 17.
15 Ibid.
16 For example, the findings and guidelines of the Warnock Committee in the UK, one of which was the suggestion that the 'the embryo of the human species ought to have a special status', accompanied by strict boundaries for embryo research, including the establishment of a 14-day limit for research on embryonic development. This '14-day rule' became internationally influential. See more in: Warnock, 1984.

well-defined moral and legal frameworks in Hungary at the time this document was drafted. The Committee warned about upcoming re-evaluations of traditional moral values and suggested particular ethical sensitivity based on the respect for life, while utilising these techniques.[17]

The ethical dilemmas raised by ART have long been debated, particularly within the context of the Hungarian Catholic Church. The Church's stance aligns with the general opposition of the global Catholic Church, frequently referring to the *Donum vitae,* the doctrinal basis of its position. The Church's scepticism towards the use of IVF stems from concerns about potential abuses and the objectification of embryos, as it maintains that, from the moment of conception, the embryo is entitled to the respect for human dignity.[18] The Catholic Church's more conservative representatives go further, arguing that IVF procedures and the resulting unused, surplus embryos, destined to be destroyed, are morally equivalent to abortion.[19]

Although they constitute a minority compared to the total population and the number of people struggling with infertility, an increasing number of individuals are confronted with the fact that their infertility stems from their body's inability to receive, carry or deliver an embryo. Thus, surrogacy seems to be the only path for intended parents to have a genetic child.[20] However, the public discussion has been more heated regarding surrogacy, with an intriguing legal development. Referencing the above-mentioned standpoint of the Committee for nanny pregnancy (altruistic form of surrogacy), although surrogacy was never formally incorporated into the Healthcare Act as an available form of ART, such arrangements have been known to the Hungarian public. With the neighbouring country, Ukraine, which traditionally allows even the most controversial form of surrogacy, commercial surrogacy, Hungarian couples could potentially access such services abroad.

17 'The ethical use of ART is acceptable only in officially designated institutions that meet the necessary professional, technical, and infrastructural requirements. Existing and newly established laboratories must be regularly inspected by an authorized committee to ensure compliance. When a new, previously untested method is introduced, the laboratory or research group leader holds full responsibility for meeting all professional and material standards and obtaining the required authorizations'. Additionally, the Committee partially supports the most controversial ART types. For instance, the IVF is ethically acceptable for medical reasons only with the possibility of the child to familiarise with the circumstances of birth; cryopreservation of ova is for later implantation, under the current circumstances, yet not ethically acceptable; cryopreservation of pre-embryos is not permissible until the legal clearance of the status of the embryo; the donation of pre-embryos is supported; gestational and partial-nanny pregnancy (altruistic surrogacy) is acceptable on strictly medical grounds; experiments on pre-embryos are acceptable if they serve the prevention or treatment of diseases, thus directly or indirectly promote human health; sex selection is ethically acceptable only for the prevention of the transmission of sex-linked hereditary diseases. However, these ethical statements should not be regarded as final because they shall be further developed and revised based on new scientific findings. See more in: Temesi and Mandl, 1999, p. 17.

18 Szíjártó, 2023, pp. 124–125.

19 In this view, the embryos are regarded as victims and those participating in IVF are seen as complicit in their destruction. See Hámori, 2016, pp. 91–151.

20 Szabó-Tasi, 2012, p. 7.

Til date, neither Hungarian law nor medical practice supports arrangements where an IVF embryo could be implanted into a woman other than the one whose eggs were used for fertilisation, or into an intended mother who was otherwise capable of carrying a pregnancy, yet relied on a donor egg for IVF. With the evolution of reproductive medicine, some countries opted for utilising surrogacy as an infertility treatment even before the enactment of the Hungarian Act on Healthcare of 1997. This likely motivated the near-regulation of surrogacy arrangements.[21] However, in Hungary, neither type of surrogacy has been introduced legally. The ethical concerns and the legally grey area[22] invokes ambiguity in the public opinion of the Hungarian society.[23]

Social attitudes are strongly shaped by concerns about exploitation and inequality, as expert commentary compares surrogacy to prostitution. The potential exploitation of economically disadvantaged women is inherently present in surrogacy arrangements, as economically well-off couples could afford financially demanding, time-consuming procedures. The arising social inequality likely leads to unfair dependence and exploitation.[24] Surrogacy and surrogacy tourism[25] are latent activities in Hungary, thus one could only rely on investigative journalism and unofficial reports on its practice. Additionally, women who decide to become a surrogate

21 Szász, 2024, p. 87.

22 We refer to the legally grey area in the sense that both public and private legal instruments discourage the practice of surrogacy, both altruistic and commercial. The Civil Code in Art. 4:115 stipulates the legal presumptions on motherhood according to the Roman law principle. Thus, the birth mother is the legal mother of the child. Additionally, the criminal law environment is significant, where some practices associated with surrogacy arrangements could fit the statutory elements of criminal offences, such as violation of family status (Art. 213), violation of the right to medical self-determination (Art. 218) and human trafficking and forced labour (Art. 192). Additionally, the recently revised Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims qualified 'exploitation of surrogacy' under the umbrella term of 'trafficking of human beings'. Thus, Hungary, as a member state, is obliged to criminalise conduct including new types of reproductive exploitation, which coerce or deceive women into acting as surrogate mothers, and ensure effective, proportionate and dissuasive penalties.

23 Unofficial data and reports suggest that such interventions have occurred domestically. Potentially, Hungarian infertile couples could pursue surrogacy abroad, most commonly in the Czech Republic, where these medical services are readily accessible and where Hungarian language information is available, designed to attract clientele from Hungary. See in Patakfalvi, 2025.

24 Nagy, 2023, pp. 187–188.

25 Foreign surrogacy-related cases occasionally surface in Hungary, though the practice remains largely latent. The Immigration and Nationality Office rejected a Ukrainian birth certificate-based application for civil registry entry, arguing that such certificates do not establish biological descent under Hungarian law. The Office suspected surrogacy involvement, noting that the applicant failed to demonstrate the mother's pregnancy, contrary to Hungarian public policy, and surrogacy was unrecognised domestically. However, both first and second instance courts overturned this decision, invoking the best interests of the child principle. The courts ruled that it was in the child's 'undisputed best interest' to have their citizenship settled if the father was of Hungarian citizenship. The appellate court held that mere suspicion of surrogacy was insufficient grounds for denying registration and the burden of proof lies on the Immigration Office. See Budapest Court of Appeal Case No. 2.Kf.27.291/2012/8.

frequently do it as a measure of last resort to escape their vulnerable financial position, which reinforces the argument of structural vulnerability. However, the inherent desire for parenthood experienced by infertile couples and the hardships experienced during futile infertility treatments awaken a degree of societal empathy. Nevertheless, surrogacy remains morally unclear within Hungarian society.[26]

Some interesting insights on ART in Hungary are available at the Ombudsman's office, a domestic human rights institution. A notable report from 2018 comprehensively examined several complaints from citizens regarding the access and execution of ART. The report, focusing on the institutional practice and ethical concerns about ART in Hungary, evaluated whether institutions complied with applicable laws and constitutional requirements. Among the key findings, the Ombudsman pointed out inconsistent practice on how patients were informed about embryo-related decisions, terminological conflict between the foetus and embryo, and contradicting rules regarding the storage, duration and destruction of gametes and embryos.

These overall recommendations encompassed the review and revision of all legislation and regulations about embryo storage, use, destruction and donation. Furthermore, it argued for an extension of and clarity in defining the maximum legal storage time for frozen embryos and the creation of detailed, unambiguous rules for embryo donation, including consent, procedure, documentation and institutional obligations.[27] The main concerns surrounding the uncertain legal status of the embryo, the fate of stored embryos and legal certainty regarding the persons entitled to decide upon their storage have been minimally resolved and implemented through a revision of Art. 178, para. (5) of the Act on Healthcare. It extended the storage time of embryos created for reproductive purposes to 15 years, with the possibility of an additional extension of 15 years, setting the maximum storage time at 30 years. Within this period, the person entitled to make decisions determines the storage duration. Furthermore, a partially relevant amendment clarified the continuation of the reproductive procedure for a woman who becomes single. Hence, in the absence of the required declaration of exclusion, the reproductive procedure shall continue until the completion of the course-based intervention.[28]

3. Constitutional Provisions

The constitution or civil code of most countries contains general human rights principles that must be respected in healthcare provision. Constitutionally enshrined values represent legally binding norms with the authority of fundamental

26 Balázs, 2024.
27 Ombudsman Report AJB-1232/2018
28 Art. 38, para. 1 of Act LXXVII of 2024 amending Art. 168 (1) of Act CLIV of 1997 on Healthcare.

law; therefore, there are value categories whose constitutional status stems from the constitution-making power.[29] The realisation of the right to health is a fundamental pillar of a democratic state governed by the rule of law. Thus, the right holds, irrespective of whether a country includes every essential element of the right in its constitution or it is partially constitutionalised and implemented through lower-level legislation.[30]

The Fundamental Law of Hungary is no exception, as several provisions are linked to the basic principles of medical law, precisely, for executing ART following fundamental legal and ethical values. Among the values enshrined in the Fundamental Law that guide the lawful performance of ART are those connected to medical law. These include Art. II on human dignity and the right to life, Art. III on prohibition of torture, inhuman or degrading treatment, Art. VI on privacy and protection of personal data, Art. XV on equality and non-discrimination, Art. XVI on the protection of children and Art. L on marriage as a union between a man and a woman, and family based on marriage or parent-child relationships. These provisions serve a dual purpose as they facilitate standard physician-patient relationships while articulating the key principles governing reproductive rights and family creation. Furthermore, they define the place of ART within this constitutional framework through the interpretation of these fundamental values and rights.

The protection of human dignity is embedded in the Fundamental Law. Thus, every human being has the right to life and human dignity, along with the protection of the life of the foetus. Embryo protection is a decisive matter if we research ART, as it involves the handling of embryos, even those created through IVF. The Fundamental Law protects prenatal life, although the specific provisions do not suggest whether this protection is without contradiction. Distinguishing the line between embryo and foetus protection and reproductive decision making regarding abortion and IVF is essential, which would determine the region's bioethical indicators.[31] The article on non-discrimination might apply to access to ART. Hungary 'ensures fundamental rights to everyone without any discrimination, in particular without distinction based on race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status'. Primarily, in the Hungarian legal environment, infertility treatment is designed to address the challenges of childbearing between married couples, *de facto* partners of different sexes and, in exceptional cases, for single women. Although the non-discrimination provision does not explicitly mention 'sexual orientation', it can be widely interpreted under the phrasing 'any other status'.

The provisions on family, marriage and child protection are relevant, as they provide specific protection for the

29 Ádám, 2010, p. 115.
30 Julesz, 2018, pp. 137–138.
31 More about the disparities of the Hungarian law on embryo protection: See Chapter 5.

> [I]nstitute of marriage, as a union between one man and one woman, established through their voluntary decision, as well as the family as the foundation for the survival of the nation. Family ties shall be based on marriage or the relationship between parents and children. Human beings shall be male or female. The mother shall be a woman; the father shall be a man.[32]

Thus, the wording of the Fundamental Law places greater emphasis on families with children, acknowledging their reproductive role and function, while falling short of presenting the family as an inherent value in itself.[33] The commitment to creating a comprehensive support system, where all wanted children are born, has economic and social aspects, which the Fundamental Law recognises.[34] This could potentially be extended to the commitment to facilitate wide access to ART.[35] This support is specifically stipulated in Art. L, para. (3), whereby families are entitled to protection and support, which are regulated by a cardinal Act.[36] The Fundamental Law expresses that the child and the family comprise the resource that, although private, is the most important public matter. Subsequently, Hungary, in several initiatives, introduced 'family-friendly measures' to create a supportive legal framework for those who decide to establish a family with children.[37] Thus, the demographic challenges are guided by the pronatalist approach of the government policies, that is, confronting population decline and insufficient birth rates through comprehensive family policies, focusing on substantiating and aiding infertility treatment and reinforcing conventional family models. Within this framework, ART becomes a fundamental demographic approach.[38]

Child protection in the Fundamental Law is expressed in Art. XVI. Its main focus is granting children the right to the protection and care necessary for their physical, mental and moral development. Child protection in the Hungarian legal system has been in focus in recent years. Thus, the cardinal legislation[39] has been revised, along with some provisions of the Fundamental Law. The protection of family, marriage and children's healthy development is placed at the forefront of constitutional protection. Therefore, it demonstrates the commitment to safeguard the traditional

32 Fundamental Law, Art. L.
33 Schanda, 2014, p. 511.
34 Kiss, 2023, Art. L.
35 See more in Chapter 5.
36 More specifically the Act CCXI of 2011 on the Protection of Families.
37 Sápi, 2024, p. 429.
38 Sipos and Szalma, 2023, p. 50.
39 For example, Act XXXI of 1997 on the protection of children and on guardianship administration.

value system, which forms an integral element of Hungary's constitutional identity and public morals.[40]

Furthermore, the medical law-related provisions enshrined in Art. VI protect the right to privacy, family life and protection of personal data. Reproductive rights are inherently connected to personal autonomy and fall within the broader framework of protections designated to private and family life.[41] Regarding reproductive rights, the Constitutional Court of Hungary issued a key decision, elaborating on the constitutionality of the annulment of the provisions on altruistic surrogacy (nanny pregnancy) in the Act on Healthcare.[42] To interpret the access to reproductive rights, the Court delivered that 'the right to freedom of self-determination does not extend to an obligation for the state to provide the possibility for any arbitrary medical intervention'. The freedom of self-determination is linked to surrogacy arrangements, although this right affects the rights of others as well. Hence, the state has the discretion to decide upon its legalisation and is not obliged to automatically introduce it as a reproductive option derived from a constitutional right. This applies to all other types of ART, as they can raise complex medical, ethical and legal questions. This attitude towards ART aligns with the guidance and the case law of the European Court of Human Rights (ECtHR), as a certain procedural approach is associated with Art. 8 – the right to respect for private and family life and the reproductive rights stemming from it. The ECtHR protects these rights by analysing whether the legal safeguards were effective, rather than evaluating the substantively conceptualised reproductive rights in the national legislation.[43] Subsequently, the types of ART to be legalised to facilitate reproductive health depend on the discretion of the Hungarian legislator.

A particularly relevant provision of the Fundamental Law addresses the prohibition of torture and inhuman or degrading treatment, which must be respected in

40 Nevertheless, this approach to family and child protection does not mean that non-traditional family forms are excluded from such protection. Family protection is a fundamental principle and is expressed in the Family Law provisions of the Civil Code. The family is protected as a social unit, focusing on several different relationships and recognised family ties, such as marriage, parentage, adoption and guardianship, and other forms of cohabitation regulated by law. See Barzó, 2017, pp. 34–38.

41 Reproductive rights encompass the values informing decisions by individuals or couples about whether, when and how to reproduce. The right not to procreate addresses contraception and abortion access, while the right to procreate involves assisted reproductive technologies, surrogacy, uterus transplantation and sterilisation procedures. Beyond these, the conditions surrounding reproduction and childbirth include matters such as prenatal diagnostic testing and the approval of home births. See Hervey and McHale, 2015, pp. 156–183.

42 The petitioners argued that the amendment to the Act on Healthcare was formally unconstitutional on several grounds. The timing of the removal of the provisions on altruistic surrogacy was problematic, as it was done merely three days before the amendment to the Healthcare Act was published. They claimed that this last-minute removal violated legal certainty and undermined the constitutionally protected legislative process by modifying multiple unrelated laws simultaneously. Moreover, the drafters did not respect the procedural requirement of consulting relevant professional and social organisations, as required under Art. 20 of the 1987 Act XI on Legislation. See Decision 108/B/2000 of the Constitutional Court of Hungary.

43 Spano, 2014.

the course of healthcare. The phrasing of the Fundamental Law indicates a bioethical connotation, stipulating that

> No one shall be subjected to torture, inhuman or degrading treatment or punishment, nor shall anyone be held in servitude. Human trafficking is prohibited. It is forbidden to carry out medical or scientific experimentation on a person without their informed and voluntary consent. Practices aimed at human eugenics, the use of the human body or its parts for profit, and human cloning are prohibited.[44]

It addresses current issues in biomedicine and establishes constitutional limits and prohibitions regarding organ trafficking and certain genetic interventions.[45] Within reproductive healthcare, the relevant provisions describe the boundaries of preimplantation genetic diagnosis, foetal reduction, forced sterilisation and the creation of gene-edited or so-called 'designer' babies associated with the 'new eugenics' movement.[46]

4. Medical Regulation and Practice of ART

In the legal landscape, the initial regulatory background of the Act on Healthcare of 1972 did not mention ART, nor did the medical ethical guidelines discuss the associated issue. IVF treatment has been performed since the 1980s, despite the absence of moral and ethical scientific considerations. The legal framework, as established by Decree No. 12/1981 (IX.29) of the Ministry of Health, was minimal to regulate certain types of ART, duly and comprehensively. The enactment of Decree No. 30/1998 (VI.24.) of the Ministry of Health enhanced the detail and accuracy of the regulations concerning ART. Nevertheless, Act CLIV of 1997 on Healthcare, Chapter IX (Special Procedures Aimed at Human Reproduction, Research Involving Embryos and Gametes, and Artificial Sterilisation) purposefully regulates ART, although not comprehensively.[47]

44 Fundamental Law Art. III.
45 Kiss, 2023; Fundamental Law Art. III.
46 Kovács, 2025, p. 510.
47 For example, the Decree does not thoroughly address the ethical questions linked to embryo and stem cell research. Another delicate question is the forms of consent of 'eligible parties' who can decide upon offering the embryo for medical research purposes. See more in: Zeller, 2009.

In connection with certain procedures aimed at human reproduction, the examination of Act CLIV of 1997 on Healthcare and the decree(s)[48] issued for its implementation is indispensable for studying the topic. Chapter IX of the Act contains the detailed regulations of certain procedures aimed at human reproduction, defining the interventions that may be lawfully carried out in Hungarian institutions authorised for that purpose. These reproductive procedures include fertilisation outside the body and embryo implantation, artificial insemination (AI) performed with the germ cells of the spouse or partner or with donated germ cells, fertilisation outside the body and embryo implantation carried out with donated germ cells, embryo implantation performed with embryo donation or any other method facilitating the fertilisation of the female germ cell, along with the implantation and development of the fertilised germ cell.[49]

The Act on Healthcare prohibits the use of non-human (that is, animal) germ cells or embryos for fertilisation or embryo implantation. Although this prohibition may seem far-fetched, the prohibition on fertilising a human egg cell with the sperm cell of a mammal or implanting an animal embryo into a human uterus appears in the regulations of other European states as well. The unification of human and animal cells (and partly, due to the hereditary material located in the mitochondria, the genetic stock) and the creation of hybrids cannot fall within the framework of assisted reproductive procedures, as combining the germ cells of primates and humans cannot create an embryo.

There is a procedure that tests the fertilisation ability of sperm cells on the egg cell of a laboratory small mammal, for example, a hamster, which is excluded by the Act on Healthcare. However, the unification of animal and human cells may arise in connection with research where the human genetic material would be inserted into an animal egg cell deprived of its nucleus, creating human embryonic stem cells. This procedure is called therapeutic cloning, which is carried out in the hope that the created cell lines would provide promising raw material for basic research. However, the prohibition in Art. 166, para. (2) of the Act on Healthcare does not apply to this case, since there is neither fertilisation nor embryo implantation.

A criminal sanction is attached to the abovementioned prohibition. According to Art. 172, para. (2) of the Criminal Code, anyone who transplants a human embryo into the body of an animal, fertilises a human and an animal germ cell or uses a non-human germ cell or embryo for human fertilisation or embryo implantation, shall be punished with imprisonment from two to eight years. Furthermore, the Act on Healthcare prohibits the use of germ cells originating from a corpse for reproductive

48 Decree No. 30/1998 (VI.24.) of the Ministry of Health on the detailed regulations concerning the performance of special procedures for human reproduction, and the handling and cryogenic storage of gametes and embryos. The decree lists in detail, and with exact medical terminology, the available types of ART and the requirements for their performance.

49 Act on Healthcare Art. 166, para. (1). Regarding point e) being left blank, nanny pregnancy (altruistic form of surrogacy) was repealed by Art. 32, para. (1) of Act CXIX of 1999.

procedures. Such a case may be, for example, when a widow would like to obtain and store sperm from a man who died suddenly in an accident (brain death) for later reproductive procedures.

The moral background and the arguments behind the prohibition are complex. Although it can be argued that the widow does not have disposal rights over the deceased's body (and over his germ cells), assisted human reproductive procedures are meant to treat infertility, which in this case is not realised.[50] Moreover, Section 169 of the Criminal Code threatens that the use of a germ cell from a dead person or a dead foetus for a special procedure aimed at human reproduction can lead to imprisonment for one to five years, along with punishment for the preparation for such an act.[51] An important argument may be that, in such a case, the child would be half-orphaned before conception, which would be considered undesirable. Hence, the legal status of a child born in this manner would be unresolved according to family and inheritance law regulations.

Among the possibly utilised types of ART, Hungary allows AI, both heterologous and homologous.[52] The essence of both of these procedures is that during the woman's ovulation period, the man's sperm cells are placed directly into the fallopian tube, facilitating conception. The most groundbreaking technique, IVF, is known to laypeople as the 'test-tube baby program'. Perhaps, it is not an exaggeration that if we ask anyone what the procedure aimed at human reproduction is called, we will receive the answer 'test-tube baby program'. However, evidently, this is merely one branch of the procedures. Notably, this procedure is more burdensome for the mother's health because during each ovulation cycle, only one or two egg cells reach the phase where they can receive the sperm cell.[53] For the procedure to be successful, the mother must take hormonal medications of various strengths and, before the implantation, she must undergo other hormone therapies. The so-called GIFT method (gamete intrafallopian transfer) appeared roughly at the same time as the IVF procedure, and can be performed in Hungary.[54]

Another similar intervention procedure is the ZIFT method (zygote intrafallopian transfer). Here the egg cell is extracted; however, the *in vitro* fertilised egg cell (the single-celled zygote) is introduced into the fallopian tube, as opposed to the traditional procedure where the fertilised egg cell is implanted into the uterine cavity. If the parties are not able to provide germ cells for the successful execution of the

50 More about post-mortem fertilisation, see De Negri, 2022, pp. 5–20.

51 Dósa, 2015, p. 50.

52 AI by Donor; by Husband; by cohabitation partner.

53 The essence of the procedure is that, within the framework of a laparoscopic operation, under anaesthesia or without anaesthesia, the woman's egg cell is removed, the follicular fluid is aspirated by an ultrasound method, it is fertilised outside the body – *in vitro*, in glass, in a Petri dish – with the previously prepared male sperm cells and the fertilised egg cell is implanted back into the woman's uterus at about 6–8 weeks of development (embryo transfer).

54 The procedure is similar and, in some cases, may represent an alternative to *in vitro*. Here, the extracted egg cell is introduced simultaneously with the sperm cell into the ampullary part of the fallopian tube through a laparoscope. See Kanyó, 2003, p. 6.

procedure, donor germ cells may be utilised. However, if both germ cells originate from a donor, there is no genetic match between the child and the parents.

Regarding *in vitro* procedures, it is important to briefly discuss embryo donation. There is a possibility that during an external fertilisation, several ova become fertilised, which can be implanted in case of procedure failure, without the mother going through the entire procedure again. For later 'usability', such ova are frozen and stored. If the first implantation is successful, the parties in the procedure may decide to donate the frozen embryo(s) to couples who cannot provide their gametes. Thus, couples who underwent a successful implantation may help other infertile couples.[55]

In addition to sperm donation, it is possible to carry out egg donation, although this is a more complex and complicated procedure. In contrast to sperm donation, egg donation has a much shorter history, as the first successful intervention of this kind was carried out in 1983.[56] The cell extraction, as in the case of sperm donation, is preceded by a comprehensive medical examination. However, in contrast to the procedure for men, this intervention involves more discomfort and higher risks, with a different assessment. Before the egg cell extraction, hormone stimulation takes place, where the synchronisation of the donor's and the recipient's menstrual cycles is essential. The extraction is a relatively quick process that requires a surgical intervention. However, in contrast to sperm cells, the success rate of freezing egg cells is lower.[57]

Notably, there have been some developments in the legal circumstances of egg donation in Hungary.[58] The Proposed Amendment to the Healthcare Act (Bill T/12787) modernises the regulations on both female and male gamete donation to further facilitate and support infertile couples, aligning with the Hungarian government's policy to support the birth of desired children. The Proposed Amendment stresses that the compensation possibility for egg donation would be introduced, as a ministerial regulation to standardise compensation for both anonymous and directed donations. This would encourage eligible egg donors to undergo a demanding medical procedure. Additionally, directed donation, previously only available for egg donation, shall be extended to sperm donation, expanding the donation channels. The Proposed Amendment establishes unambiguously that cryopreservation for personal reproductive use is available for female gametes. Hence, the Proposed Amendment expands domestic ART services to prevent or reduce reproductive tourism.

55 Embryo protection will be discussed in later chapters.

56 Frankó, 2014, p. 50.

57 Kovács, 2025, pp. 511–513.

58 The legal requirements for the donation of eggs are different from those of the sperm. Eggs may be donated by a designated recipient, provided that there must be a familial or close personal relationship between the donor and the recipient. Additionally, the donor must offer eggs exclusively for use by the recipient specified in the donor's declaration, ensuring that the donation is targeted and intentional. See Act on Healthcare Art. 171, para. (1).

The Proposed Amendment, after undergoing the necessary legislative stages, was supposed[59] to take effect on January 1, 2026.

The law regulates the types of procedures and defines who may participate in them. The procedure may be performed for a married or cohabiting couple of opposite sexes, if, due to a health reason (infertility)[60] in either party, no healthy child could be conceived naturally. In case of cohabitants, a reproductive procedure may only be carried out if neither of the partners is in a marital relationship.[61] Furthermore, if, as a result of the procedure, fertilisation has taken place, but the marital/cohabiting relationship has ended, the procedure may be continued with the single woman. The legislator allows, in exceptional cases, for a single woman to participate exclusively in the procedure if, due to her age or health condition (infertility), she is unlikely to have a child naturally. However, this rule grants an exemption regarding marital status and concerning the indication.[62] Hence, access to ART for single women must be justified by age or health condition. Nonetheless, this wording is rather uncertain, especially because the age limit for natural conception is difficult to determine objectively. Moreover, the use of assisted human reproduction procedures has an age-related condition: it can only be used if the woman has not reached the upper limit of reproductive age.[63]

We briefly discuss how the procedure of ART is carried out. Either partner in a relationship can initiate the process by seeking medical consultation at a reproductive healthcare facility. Medical evidence of infertility must be documented and the initiators must undergo comprehensive medical assessments to ensure that they are suitable for the procedure. Additionally, the infertile individuals must provide written informed consent after receiving detailed information about the procedure, its success rates, potential risks and alternative options.[64] Decisions regarding the specific type of ART to be employed are made by the treating physician or medical team specialising in reproductive medicine.[65] Healthcare providers must obtain an

59 The proposed Amendment has not yet been part of the parliamentary debate agenda.

60 Infertility, in the overwhelming majority of cases, is a diagnosis related to a partnership. The current professional regulation defines infertility as the failure to achieve a successful pregnancy after one year of regular sexual intercourse timed with ovulation. In the case of a single woman, this condition cannot always be examined; therefore, only cases with organic reasons for infertility may be considered (for example, the absence of both ovaries).

61 Act on Healthcare Art. 167, para. (1).

62 Ibid., Art. 168, para. (1).

63 Single women can be beneficiaries of embryo preservation. A single woman exercises the right of disposal over the embryo created outside the body and not implanted. She may renounce her right of disposal; the formal requirement of such renunciation is that it must be included in at least a private document providing full probative force. See Art. 1/A; Art. 4, para. (5) of Decree No. 30/1998 (VI.24.) of the Ministry of Health on the performance of special procedures aimed at human reproduction and on the detailed rules for the disposal and frozen storage of germ cells and embryos.

64 Act on Healthcare Art. 168.

65 This decision is based on several factors, including the medical diagnosis of infertility, the couple's medical history, the woman's age, previous treatment attempts and current professional protocols. See Ibid., Art. 168, para. (2).

operating license from the relevant healthcare authority to perform ART procedures.[66] It is important to understand which institutions are currently authorised to perform human reproduction procedures. The legislator stipulates that a reproductive procedure may only be carried out upon the recommendation of an appropriately qualified specialist doctor and by a healthcare provider possessing an operating license and defined by law.[67]

4.1. Regulatory and Institutional Framework of ART Providers

The Act on Healthcare narrowed the scope of providers who, regardless of financing, are entitled to perform reproductive procedures. While previously every healthcare provider possessing an operating license for such activity was authorised to carry out these procedures, under the new regulation, reproductive procedures may be performed exclusively by healthcare providers authorised by the state and by clinical centres of universities operating as public foundations.[68] The conditions under which an operating license may be granted to a healthcare provider are defined by Decree No. 60/2003 (X.20.) of the Ministry of Health, Social and Family Affairs on the professional minimum requirements necessary for the provision of healthcare services.

This decree defines minimum requirements and professional codes only regarding IVF (in the Health Act, fertilisation outside the body and embryo implantation) and the frozen storage of germ cells and pre-embryos. However, it excludes insemination (AI), although that too is a reproductive procedure under Art. 166, para. (1) of the Health Act. A healthcare provider entitled to perform reproductive procedures may not use, even as a cooperating partner, another healthcare provider who does not meet the above conditions. Furthermore, a reproductive procedure may not be carried out at a privately owned healthcare facility, even if it takes place within the framework of private financing. The previously operating private providers were bought out by the state and designated to effectively stop population decline and make infertility treatments widely accessible.[69] From the point of view of competition law, the acquisition of control over private providers was classified by

66 Ibid., Art. 169, para. (2).

67 The interventions may be used in a publicly financed form at providers contracted with the National Health Insurance Fund (NEAK): Dunamenti REK Ltd., Clinical Centre of the University of Pécs, Clinical Centre of Semmelweis University, Albert Szent-Györgyi Clinical Centre of the University of Szeged and Clinical Centre of the University of Debrecen.

68 Act on Healthcare Art. 168 (This novelty was introduced by Act CI of 2021 on certain asset-management matters and on the amendment of certain laws for the purpose of strengthening the coherence of the legal system).

69 Act CI of 2021 on certain asset-management matters and on the amendment of certain laws for the purpose of strengthening the coherence of the legal system. Amending Act LXXXIII of 1997 on the Benefits of Mandatory Health Insurance.

legislation as a synthesis of national strategic importance carried out in the public interest.[70]

It is worth understanding the changes linked to demographic policies that emerged after 2010, corresponding with Hungary's pronatalist government policy under the current administration. As the government reconceptualised infertility beyond a medical matter, infertility treatments were no longer regarded as individual health services but as mechanisms to elevate the national birth rate. This ideological transformation resulted in expanded public subsidisation, broader free access and state takeover of the infertility treatments.[71] A particular development was the government's determination to solely oversee and facilitate the ART sector. Starting in late 2019, the government declared its plan to nationalise private fertility facilities.[72] By 2021, this strategy was duly achieved, as from September 30, 2021, only centres providing care under state ownership and financed from the central budget were authorised to perform interventions for infertility treatment; the operating licenses of private institutions for this activity expired on June 30, 2022 (the ongoing treatments and frozen samples were transferred to the state provider designated by the Ministry of Human Capacities). Since 2020, the medicines used in infertility treatment have been 100 per cent state-funded. Hence, the output guaranteed universal treatment access through the removal of financial obstacles and the synchronisation of reproductive healthcare with national population objectives.[73]

On January 1, 2024, significant regulatory modifications were implemented to modernise and simplify the system. The amendments transformed the number of accessible ART treatments and the related financial support, from counting implantations to counting stimulations or commenced cycles.[74] The revised regulations permit up to six procedures of ovulation induction and AI and up to five procedures of medication-assisted stimulation for egg cell retrieval. This modification clarifies

70 See Government Decree No. 317/2019 (XII.19.) on the classification of the acquisition of control by the Hungarian State over FORGÁCS INSTITUTE Health and Service Limited Liability Company, and the acquisition of the properties necessary for the activities of FORGÁCS INSTITUTE Health and Service Limited Liability Company, as a merger of national strategic importance carried out in the public interest. Government Decree No. 318/2019 (XII.19.) on the classification of the acquisition of control by the Hungarian State over 'KAÁLI' Outpatient Gynecological Institute Limited Liability Company, KAÁLI REK Reproduction Center Limited Liability Company, Pannon Reproduction Institute Health and Service Limited Liability Company, and the acquisition of the properties necessary for their activities, as a merger of national strategic importance carried out in the public interest.

71 Government Decision No. 1011/2020. (I.31) on the implementation of the National Human Reproduction Program.

72 Government Decree No. 317/2019 (XII.19), Government Decree No. 318/2019 (XII.19), Government Decree No. 319/2019 (XII.19) and Decree No, 21/2019 (XII.19) of the NVTNM.

73 Currently, 13 state-run fertility centres operate nationwide – seven in Budapest and six in other cities (Debrecen, Győr, Kaposvár, Pécs, Szeged and Tapolca) – raising important questions about equitable geographic access. See more in Lengyel and Danis, 2025, pp. 25–61.

74 On the specifically available infertility treatments, see Decree No. 49/1997 (XII.17) of the Minister of Welfare on infertility treatment procedures available under the compulsory health insurance scheme.

the qualification criteria and ensures financial tracking of the actual commencement of medical cycles rather than implantation results.[75] Additionally, when at least one living child results from publicly funded ART treatments, couples gain eligibility for four supplementary publicly financed cycles.[76]

The recent changes enacted in the government Decree No. 43/1999 on the detailed rules for financing healthcare services from the Health Insurance Fund further motivate the healthcare institution providing ART services with performance-based remuneration. Hence, in case of every resulting live birth under the Reconstructive Reproductive Medicine service within publicly funded care, the healthcare service provider shall receive performance-based remuneration.[77] This further underscores the state's commitment to achieving successful births, especially for patients struggling with infertility.

5. Family Law Regulations

Alongside health regulations governing assisted reproduction, the new Civil Code elaborates the legal framework concerning the family status of children born through these procedures. The Family Law Book of the Code codifies longstanding judicial practices and aligns with the principles of the rule of law and the protection of family life. Over the past decade, these provisions have proven effective and stable. The regulation of parental status ensures an orderly family structure, where the child's legal family corresponds to biological descent and is duly recognised in the birth register. This legal regularity provides the foundation for a child to grow up in a secure and recognised family environment. A clear and stable determination of the family status of a child born via ART serves the child's right to identity, along with additional social rights. Birth registration serves the child's long-term well-being. It is a prerequisite for the realisation of children's rights to access education, adequate living standards, healthcare, social support and other forms of protection to which they are entitled.[78] The Hungarian Civil Code lists the legal facts that establish paternity as the matrimonial bond of the mother. In case of life partners undergoing the special procedure for human reproduction (which qualifies as ART), paternity acknowledgement and the determination of paternity are made by court decision. Additionally, it defines the legal facts establishing maternity at birth and by court decision.[79]

75 Art. 2, para. (1), points ca) and cb) of the Decree.
76 Government Decree No. 43/1999 on the detailed rules for financing healthcare services from the Health Insurance Fund.
77 Ibid., Art. 44/B. 2)-2c).
78 de Groot, 2014, p. 144.
79 Civil Code Art. 4:115.

5.1. The Matrimonial Bond of the Mother

As long as paternity can be established based on the presumption of paternity that comes first in the order, the presumption that comes later in the order cannot be applied. The only exception is when a presumption of paternity arises from a reproductive process (discussed later). The presumptions of paternity are uniform, which means that they have the same legal consequences, regardless of whether the child is born in or out of wedlock. The presumption is automatically created based on marriage. The father is the man with whom the mother has been in a marital relationship for all or part of the period from the beginning of the child's conception until the child's birth, that is, within 300 days before the child's birth.[80]

5.2. Special Procedure for Human Reproduction Between Spouses

A special procedure for human reproduction may be carried out for persons who are married or are in a *de facto* partnership. The basis of this paternity is infertility. However, in *de facto* partners, reproductive procedures are allowed if neither of the partners is in a marriage. This is because if a child is born from a reproductive procedure between spouses, the paternity is based on the presumption of marriage. Consequently, the reproductive procedure only creates paternity in the case of *de facto* partners.[81]

In Hungary, if a mother gives birth to a child during her marriage, the authorities register the husband as the child's father, even if the mother has been living with another man for a long time.[82] The same applies if the mother gives birth to a child during her marriage through a reproductive procedure with her partner. This is because the child would be fathered *De jure* by the mother's spouse, instead of the male partner involved in the procedure. Hence, the Act on Healthcare emphasises that no *de facto* partner in a reproductive procedure can be in a spousal relationship. Thus, anyone wishing to have a child through artificial means must settle their personal relationship.[83]

However, there may be cases where the marriage is terminated during the reproductive process, for example, the death of the husband or partner following the fertilisation of the female gamete. An embryo created outside the body acquires the status of a foetus from the day of implantation. Hence, paternity determination in such cases is not always straightforward. If the fertilisation was not extrauterine (e.g. AI) and was followed by the termination of the marriage, the legal paternity of the child is established by the mother's marriage. This is because the date of conception falls within the marriage. If the insemination took place outside the body and the

80 Civil Code Art. 4:99, paras. (2)–(3).
81 Sápi, 2021, pp. 135–137.
82 Civil Code Art. 4:99, para. (3).
83 Act on Healthcare Art. 167, para. (1).

embryo was implanted at the time of the dissolution of the marriage, the situation remains the same, as the date of conception (implantation) falls within the marriage. However, if fertilisation took place outside the body and the embryo had not been implanted, the reproductive process may continue after the 'termination of the marriage' at the written request of the woman.[84]

5.3. Presumption of Paternity Based on the Reproductive Process

A presumption of paternity arising from the reproductive process requires that the applicants constitute an opposite-sex partnership, neither applicant has a subsisting marriage, the male partner engaged in the reproductive process and the child's conception resulted from the said process. A *de facto* partnership refers to a relationship where two individuals live together outside of marriage, sharing an emotional and financial life in the same household (cohabitation). Such a partnership requires that neither person be married or in any form of partnership with someone else, that they not be related in the direct line and that they not be siblings.[85] The partners need not be of different sexes; hence, a *de facto* partnership may be formed between same-sex partners.[86]

Although the legislator acknowledges this type of legal relationship, access to ART is allowed for heterosexual *de facto* partners only.[87] Additionally, the Fundamental Law defines a woman as a mother and a man as a father.[88] It highlights the protection of families, which, first of all, is based on heterosexual marriage and subsequently includes the protection of the parent-child relationship. Thus, the utilisation of ART and infertility treatment is designed to help heterosexual couples and individuals. Therefore, for *de facto* partners, a reproductive procedure can only be carried out if neither partner is in a spousal relationship. A contrary situation would hinder the wishes and legitimate interests of the applicants and the child, as the man involved in the reproductive procedure, in many cases, the biological father, should be the legal father of the child.

84 Ibid., Art. 168, para. (1).

85 Civil Code Art. 6:514.

86 Registered partnership is a family relationship between persons of the same sex that establishes personal status and has the same characteristics as marriage between persons of different sexes. The regulations of the Civil Code about registered partnership refer to both heterosexual and homosexual partners. Nevertheless, a specific regulation allows officiated homosexual relationships, namely Act XXIX of 2009 on Registered Partnership, on Related Matters, and on the Amendment of Certain Acts Necessary to Facilitate the Certification of Cohabitation. Arts. 1–2 stipulates that a registered partnership could be concluded between two persons of the same sex who have reached the age of 18 years. Such individuals may enter a registered partnership before the registrar if they mutually state their intention to do so. Other formal requirements include publicity, which means a public place in general, and the presence of two witnesses. See Csűri, 2010, p. 13.

87 Act on Healthcare Art. 167, para. (1).

88 Fundamental Law Art. L.

The law lays down a further condition that the parentage must be the result of a reproductive procedure. The medical reason for the infertility may arise in the male partner, and during the reproductive process, the mother becomes pregnant as a result of sexual intercourse with another man. In such a case, the reproductive procedure does not give rise to a presumption of paternity, since the procreation was not the result of the reproductive procedure. This applies to both married and *de facto* couples.

5.4. Conflict Between Presumptions of Paternity Based on Marriage and Presumptions of Paternity Based on the Reproductive Process

In certain situations, there may be a conflict between the applicability of the presumption of paternity based on marriage and based on the reproductive process. These cases have been provided for in the legislation. One such circumstance is when a woman, who was a de facto partner, marries a man after a successful reproductive procedure, that is, after becoming pregnant but before the child is born. However, the marriage is not to the partner who was involved in the reproductive procedure. According to the rules, the partner, instead of the spouse, shall be considered the father of the child.[89] This is similar to when the presumed period of conception, 300 days, has not elapsed between the termination of the mother's marriage and the birth of the child resulting from the reproductive procedure with the ex-partner.

In both cases, the law, following the principles of reasonableness and fairness, prioritises the reproductive procedure, instead of the marriage. Hence, it excludes the husband's paternity. This is partly because both the mother and her partner had undergone the special procedure to have children together. On the other hand, it is likely that the partner is also the biological father of the child, thus it is appropriate and justified, that the presumption of paternity based on marriage is overridden.

5.5. Determination of Paternity by Court Decision

Judicial establishment of paternity is not permitted in cases involving ART. This is because, although ART is permitted under certain circumstances, it cannot result in the donor's paternal or maternal status being established or enforceable based on private law relationships. Furthermore, the family status of a child born by gamete donation is governed by the Civil Code. If the parentage is the result of a reproductive procedure, there is no judicial determination of paternity or maternity against the person who donated gametes or embryos for the procedure. This applies to anonymous gamete donors and to cases where the female gamete is offered to a recipient related to the donor.

89 Civil Code Art. 4:100, para. (2).

5.6. Related Rules for Rebutting the Presumption of Paternity

If a child is born through a reproductive procedure, the presumption of paternity can only be challenged on formal grounds if the husband or partner did not consent to the procedure. This is because, in a certain category of reproductive procedures, the presumed father is not the biological father of the child, whose tracing is unauthorised by the legislation. Therefore, the legislator should not give the presumed father the legal possibility to challenge the presumption of paternity on the basis that the child is not his. He can only do so if he subsequently proves that the human reproductive procedure was carried out without his consent or his consent did not include the use of gametes from the donor.

The consent form must indicate the specific intervention to be used. For instance, in a case, the court highlighted that consent is not of a general nature. In this case, there was a 'statement of consent' by the man, the content of which was later disputed. It did not expressly exclude the use of donor sperm; however, the man claimed that he had originally intended to use his own gametes, yet the woman used donor sperm. Hence, he sought to have the paternity annulled for the child who was born of this procedure. He claimed that the use of a donor was not discussed in the assisted reproductive procedure, and he could not have consented to it. The court decided that it was established beyond doubt that the use of sperm from a foreign donor was not involved in the case, as the parties had been informed that the procedure could be successfully carried out using their own sperm. The medical documentation for the procedure listed the male partner as the sperm donor. Hence, if there is a declaration of consent from the man, it must be explicitly related to the specific procedure. Or else, the presumption of paternity can be challenged.[90]

5.7. The Question of Motherhood

For a long time, the status of motherhood was not a matter of dispute: the law, going back to Roman law (*mater semper certa est*), treated motherhood as a fact and not as a presumption. However, as medical science evolved, the identity of the genetic mother and the birth mother does not necessarily coincide. Genetics and surrogacy (parenthood) are often separated in reproductive procedures, such as the use of donor gametes or embryo donation. Following international practice, the Family Law Book decides the choice between the birth mother and genetic mother by considering the woman who gave birth to the child as the mother. This new rule is important for the reproductive procedures permitted under existing law, and is decisive for so-called surrogacy (surrogacy – nanny pregnancy). This provision means that a woman who has asked another woman to carry an embryo from her egg, and give birth to the child, cannot be considered a mother. The identity of the mother

90 Curia Pfv.21526/2014. (EH 2015.08.P8). See Supreme Court of Hungary, 2015.

can be established with much greater certainty than that of the father because the maternity status can be recorded at birth.

5.8. Parentage Arising from Surrogacy Arrangements

Surrogacy has not been legally introduced as a type of ART in the Hungarian legal system. However, in the 1990s, based on the ethical guidelines of the Committee, domestic policymakers explored ways to regulate altruistic surrogacy, referred to as *dajkaterhesség*, and prepared detailed statutory provisions. Although these rules never entered into force,[91] the preparatory work demonstrates that Hungary once aimed to integrate surrogacy into its healthcare system in a carefully regulated, non-commercial form. The Draft of Act CLIV of 1997 Act on Healthcare proposed altruistic surrogacy, permitting the implantation of an embryo created from the gametes of a married or cohabiting couple into another woman's uterus, provided that the intended mother was physically unable to carry a pregnancy, faced serious health risks or was unlikely to give birth to a healthy child.[92] The requirements to become a surrogate mother were fairly strict. Only a woman who was a close relative of the intended parents, legally competent, medically capable of carrying a pregnancy, between 25 and 40 years old and had already given birth to a live child could become a surrogate mother. The regulation specified legal safeguards for the presumptions of parenthood, stating that the intended parents would have to make a joint request, while the surrogate mother and her spouse or partner would consent to prevent the activation of the presumption of paternity in favour of the surrogate's partner.[93] The legislator planned to refine procedural rules in a ministerial decree and postponed the entry into force to allow time for harmonisation with family and inheritance law.[94]

91 The constitutionality of this last-minute annulment came before the Constitutional Court in Decision 108/B/2000. In its ruling, the Court emphasised that the right to self-determination does not oblige the state to provide access to any chosen medical intervention and access to ART is not a fundamental right. The Court underscored that surrogacy raises complex medical, ethical and legal issues that require a well-established professional consensus, which did not exist at the time. Although the dissenting opinion sharply criticised the lack of proper consultation and the failure to establish expert bodies intended to oversee reproductive technologies, these views did not alter the outcome.

92 This model expressly excluded the use of third-party donor gametes, reflecting the legislator's intention to preserve a direct genetic link between the child and intended parents, avoid misuse of reproductive materials and reduce uncertainties around parentage and identity.

93 Draft of the Act CLIV of 1997 on Healthcare Art. 183.

94 The parliament eventually removed all provisions on surrogacy from the Act before it came into effect. The official explanation stressed that related branches of law were unprepared for such a complex institution and medical, ethical and legal dilemmas were not yet sufficiently understood. See About Art. 16, Justification for Section 16 of Bill No. T/1517 on the amendment of certain laws related to state organisation, as well as the laws on real estate registration, healthcare, and fisheries and angling.

Hence, surrogacy in Hungary is not explicitly regulated, meaning it is neither expressly permitted nor prohibited. Thus, the legal environment remains largely silent on the matter, while implicitly restricting it through various provisions of private and public law. Nevertheless, Hungarian couples who wish to pursue surrogacy may do so abroad under jurisdictions where it is legal, and return home with the intended child. However, legal ambiguities arise upon their return, particularly when having the foreign birth certificate recognised by Hungarian authorities. Given Hungary's restrictive stance towards surrogacy, the authorities may, based on legal interpretation or suspicion, refuse recognition of the parent-child relationship and, in certain cases, initiate criminal proceedings if deemed applicable.

Nevertheless, there are a few possible pathways for the intended parents to establish their parental status. The intended parents must register the foreign birth certificate in the Hungarian civil registry, managed by the competent government office under Decree No. 32/2014 (V.19.) of the Ministry of Justice, which is necessary for the child to receive Hungarian citizenship. Although in Hungary, the birth mother is recognised as the mother, a feasible way for the intended mother to get recognised is open adoption.[95] Furthermore, the intended father may acknowledge paternity and make a full declaration of acknowledgement of the surrogate mother's child. This is possible only if the surrogate mother was not married or the surrogate mother's husband rebutted the presumption of paternity. In this case, the wife of the 'intended father', who has legally become the father of the child, can adopt her spouse's child, if the surrogate mother agrees. Hence, the age requirement mentioned above can be waived.

Another way of establishing parenthood between the intended parents and the child is when only the implantation of the embryo takes place abroad in the surrogate mother's womb; however, the actual birth occurs on Hungarian territory. This allows a specific legal solution, namely, the intended father makes a full declaration of acknowledgement of the child, while the birth mother, that is, the surrogate mother, consents to the open adoption of her child by the intended mother. A significant advantage of this procedure is that there is no need for the recognition of foreign official or court documents in Hungary, making the sorting out of the legal relationship simpler and prompt, despite public policy concerns. However, in this situation, a certain method for challenging the presumption of paternity could be activated. The Civil Code stipulates that if the presumption of paternity is based on a full declaration of paternal acknowledgement, it may be challenged because the declaration of paternal acknowledgement was made to circumvent legislation.[96]

95 In this case, the surrogate mother who gives birth, if married, then the husband together with the father, consents to the adoption of the child by the 'intended parents'. It is important to respect the adoption rules, which state that the child may only be adopted by a person who is not more than 45 years older than the child.

96 Civil Code Art. 4:107, para. (2), point c).

Notably, the legal loopholes do not mean that Hungarian citizens can always have children abroad through surrogacy with impunity. In such a case, serious criminal offences, such as 'change of family status' or 'trafficking in human beings', could be established if the real background is revealed. Hence, the aim should be to ensure that similar situations are treated in the same way by law enforcement, and the rights of children born through surrogacy are not affected. However, the reality is that often the foreign birth certificate does not indicate that a surrogacy arrangement had taken place, listing the intended parents as legal parents. The non-disclosure of surrogacy creates significant challenges for national authorities, who often lack sufficient information about the circumstances of the child's birth. For instance, in some cases, lower courts ordered the registration of Hungarian intended parents based on foreign documentation.[97] However, the Appellate Court later overturned such decisions, instructing the lower courts to re-examine the cases and seek additional verification from relevant foreign authorities.[98]

6. Rights of the Child and ART

The Hungarian legal system grants the protection of families and children in both public and private legal settings. This protection applies to children born via ART as well, regardless of the circumstances of birth, although these children might have some specificities regarding protection and additional challenges in exercising their rights. The Fundamental Law recognises the protection of children, guaranteeing their right to the care and protection necessary for proper physical, mental and moral development.[99] The 15th Amendment strengthened this right by stipulating that 'This right shall prevail over any other fundamental right other than the right to life'.[100] The constitutional protection of children and family is primarily supported as a moral commitment to traditional family structures and children's developmental welfare.[101]

Notably, the rights and protection of children born via ART have different ethical and legal considerations according to their developmental stage and the nature of human rights concerns at stake. Distinctions should be made between

97 Bereczki, 2018, p. 35.

98 Budapest Court of Appeal Case No. 2.Kf.27.291/2012/8.

99 Fundamental Law Art. XVI.

100 The priority of the child's right to healthy development might have significant implications in the reproductive decision-making of the intended parents to turn to controversial types of ART, which eventuate in non-traditional family forms.

101 This commitment is further reflected in the requirements to access ART, as the Hungarian legal system supports the utilisation of ART as a solution for the rising problem of infertility in heterosexual marriage.

three categories: children born through surrogacy arrangements, children currently conceived and children yet to be conceived.[102] General human rights concerns are invoked concerning the embryo created via IVF. These rights become more concrete and individualised once the child is born through some form of ART.[103] However, the developmental stages of the embryo and the circumstances of its conception can reframe the due legal protection. These circumstances could challenge the state's fundamental duty to protect the right to life and raise critical questions regarding whether, under what conditions and within what scope of discretion embryos should be granted moral status.[104]

Constitutionally, the Fundamental Law of Hungary protects human dignity, stipulating that 'Human dignity is inviolable. Every human being has the right to life and to human dignity; the life of the foetus shall be protected from the moment of conception'.[105] The embryo's human dignity is defined as the value worthy of protection through the phrasing of the Fundamental Law. Hence, it is an objective institutional duty of the state.[106] The special nature of this protection lies in the fact that it always concerns a biologically and ethically unique individual life. The protection is not limited to life provided by a legal entity. However, in contrast to the subjective right to life, this protection is not absolute. Thus, it can be balanced with other rights, such as the right to health or self-determination, giving the legislator space for discretion.[107]

In Hungary, the embryo is granted relative legal protection to its right to life and dignity, allowing the state to balance these rights with others.[108] Additionally, the decisions of the Constitutional Court underscored that the legislator has the margin

102 More about the children's rights in ART concerning the developmental stage, see Sándor, 2021.

103 The legal status and protection of embryos present two distinct scenarios, as IVF embryos and in vivo embryos invoke different ethical and legal considerations. The in vivo embryo features in abortion cases, where ethical deliberation requires balancing individual autonomy against public interests, especially the pregnant woman's bodily autonomy and self-determination against the embryo's right to life. Here, the core tension lies between the woman, who is an established subject of rights, and the embryo, which is treated as a moral object worthy of protection but not yet a bearer of rights. The legal protection of the IVF embryo is framed through the potential risks of manipulation, abuse and misuse, and the issues surrounding medical research on embryos. See Navratyil, 2005.

104 Sándor, 2021, p. 35.

105 Fundamental Law, Art. II.

106 Explanatory Memorandum to Bill No. T/2627 on the Fundamental Law of Hungary.

107 Tersztyánszkyné Vasadi, 2009, pp. 97–98.

108 Jobbágyi, 1997, pp. 75–91.

to determine the non-existence of the legal capacity of the embryo.[109] However, the status of the IVF embryo can be examined independently, since, unlike an in vivo embryo, the only distinction between the two lies in their location – while the in vivo embryo develops within the womb, the IVF embryo exists in a petri dish. Nevertheless, giving legal status to either one of these embryos would logically give it to the other one too, undermining the right to abortion.

However, if the IVF embryo is granted legal subjectivity, it would cause legal concerns about the fate of the surplus embryos. Thus, the 'objectification' of the IVF embryos is a likely solution for the practically grounded approaches of medicine and law.[110] The Hungarian legal system distinguishes between the legal definition of the foetus and the embryo. The Act on Healthcare, in Art. 165, stipulates that the living human 'embryo' exists from the completion of fertilisation until the 12th week of pregnancy, while the foetus is the human being developing within the womb from the 12th week of pregnancy. This distinction is deliberate and points to the abovementioned 'objectification' for free utilisation in science.[111] Additionally, Art. 179 para. (3) of the Act on Healthcare grants legal status to the embryo, as the IVF embryo attains the legal status of a foetus from the day of implantation.

However, Act LXXIX of 1992 on the Protection of Foetal Life does not base the legal protection on the differentiation of the developmental stage, stating in its introductory note that 'Foetal life, which begins at conception, deserves respect and protection'. The law chooses the wording 'foetal life' rather than human life and defines the protection starting from conception, excluding abortion, as attainable through instruments outside the scope of criminal law.[112] Notably, the Act on the Protection of Foetal Life was enacted following a series of abortion cases brought before the Constitutional Court in the 1990s. The Act focuses on the protection of the in vivo embryo and does not address the status or protection of the *in vitro* embryo. Its primary purpose is to safeguard the embryo and the family, and regulate the legal framework governing abortion.[113]

109 For example, Decision 64/1991, 48/1998 and Decision (XI.23.) of the Constitutional Court. Moreover, the findings of the previous decisions are important and can be applied to the IVF embryo. The Constitutional Court has underscored that the state's duty to protect life cannot be determined by the developmental stage of embryos. It concluded that distinctions between the stages of foetal development or between born and unborn life are merely practical compromises. As expressed in the Decision, 'Why, for example, is the state 'more strongly' interested in preserving a more developed foetus than one younger than three months, even though – if protected – the latter too would have matured? Since the foetus, throughout its entire existence, represents potential human life, on what basis can the intensity of its protection be divided into stages? If, on the one hand, it is declared that the right to life also extends to the *nasciturus* (the unborn), then on what theoretical grounds can a distinction nonetheless be made between the protection of the lives of those already born and those not yet born'?

110 See Jobbágyi, 1997, pp. 198–201.

111 More about the 'objectification' of embryos, see Gyöngyösi, 2002, pp. 286–375.

112 Kovács, 2024, p. 23.

113 Filó, 2016, pp. 254–257.

Overall, the Act on Healthcare grants minimal protection to the IVF embryo. However, this has some morally questionable repercussions, as some other paragraphs facilitate 'objectification',[114] while the in vivo embryo enjoys legal safeguards supported by the Act on the Protection of Foetal Life.[115] Hence, the regulation on embryo protection is inconsistent in the Hungarian legal framework.[116] The Constitutional Court delivered two cornerstone decisions on the legal and ethical considerations of abortion, highlighting key theoretical and legal foundations relevant to the status of the embryo. First, Decision No. 64/1991. (XII.17.) of the Constitutional Court elaborated that addressing the question of whether the foetus is legally a human being and possesses individual rights to life and dignity cannot be avoided. This attains full constitutional significance because one must take a position on the foetus's fundamental rights status.[117] Furthermore, it found that 'the question of the foetus's legal personality cannot be resolved through interpretation of the current Constitution'.[118] It elaborated that the Constitutional Court can issue a substantive opinion on the constitutionality of any statutory regulation concerning foetal legal personality only after the legislature has decided on the matter.[119]

The second decision of the Constitutional Court revealed some particularities in the ethical and legal elaboration, while strengthening the findings that the state grants protection of foetal life, without it being a legal entity. Nevertheless, according to the Constitutional Court, if the legislature does not recognise the foetus as a legal person, then in determining the conditions for terminating a pregnancy, it must consider the competing rights at stake, including the mother's right to self-determination. Consequently, an absolute prohibition on abortion would be unconstitutional.[120]

The right to health is stipulated in Art. XX of the Fundamental Law, highlighting that health encompasses both physical and psychological dimensions. The subsidiary

114 The Act on Healthcare does not stipulate a specific number of embryos for individuals engaging in ART. However, Decree No. 30/1998 (VI.24.) of the Minister of Welfare on the detailed rules governing the performance of special procedures for human reproduction, and the regulation of the use and frozen storage of gametes and embryos sets numeric limits for embryo transfer during IVF, and details the framework for cryopreservation. Nevertheless, the Act on Healthcare enables foetal reduction even when the embryos are healthy to protect the mother's life or health and ensure the safe birth of healthy children, as stipulated in Art. 185.

115 Notably, the protection of the foetus is stipulated in the legislation enabling abortion. The concrete protection of the foetal life is not pointed out; however, it is exhibited as an abstract principle. Furthermore, foetal protection is mainly achievable through the elevated protection of pregnant women. See in Kovács, 2015.

116 Pivotal Decisions of the Constitutional Court highlight this conclusion, Decision No. 64/1991. (XII.17.); Decision No. 48/1998. (XI.23.). The Constitutional Court did not make a value judgment regarding the legal subjectivity of the embryo; it left this question to the discretion of the legislator. See more in: Navratyil, 2005; Gyöngyösi, 2002, pp. 365–368; Jobbágyi, 2004; Tersztyánszkyné Vasadi, 2009, pp. 93–102.

117 C) b. of the Reasoning of the Constitutional Court of Decision No. 64/1991. (XII.17.)

118 Ibid., D) 1.

119 Ibid.

120 III. a) of the reasoning of the Constitutional Court of Decision No. 48/1998. (XI.23.).

rights to the right to health are encompassed in the Fundamental Law, referring to the right to decent housing, access to public services, health during work, organisation of healthcare, and to practice sports.[121] Overall, the constitutional legal provisions facilitate the level of health protection that can realistically be achieved through available regulatory and financial means.[122] Regarding the right to health of children born via ART, the method of preimplantation genetic diagnosis can be carried out.[123] However, the Act on Healthcare prohibits procedures to select the sex of progeny purely for reasons other than heritable disease linked to sex. The alteration of the other genetic characteristics of an unborn child, may only be carried out for the prevention or treatment of expected diseases of the unborn child, to the extent and in the manner strictly necessary for that purpose.[124] Nonetheless, the extent and necessary purpose are not clearly determined in the legislation.[125]

The non-discrimination of children born via ART is expressed in the non-discrimination article of the Fundamental Law, which guarantees fundamental rights to everyone without discrimination based on birth or any other status.[126] Moreover, the Family Law Book of Civil Code contains the best interests of the child among its core principles,[127] which encompasses the equality of children, regardless of whether they were born in or out of wedlock.[128] Hence, a child cannot face negative consequences because of the conditions or manner in which they were born, allowing children conceived through ART to be treated equally as those conceived naturally. Act XXXI of 1997 on the Protection of Children and Guardianship Administration highlights the equal protection of children.[129]

The most controversial forms of ART, such as surrogacy and 'reproductive tourism' for accessing types of ART unavailable or available under stricter circumstances in the home country, carry inherent risks for children. Crossing national borders can increase the potential risks of commodification and trafficking. This means that the right not to be sold and trafficked may be at risk if a commercial

121 Julesz, 2021, p. 107.

122 See Zakariás, 2023.

123 Preimplantation genetic diagnosis in ART is not without ethical challenges, as the preimplantation genetic diagnosis is not intended to eliminate diseases in embryos before implantation, rather to avoid transferring an embryo that carries a disease. In practice, this can lead to the destruction of embryos identified as having a medical condition. Moreover, if utilised without safeguards, it might open up a pathway for selective reduction based on sex, genetic disease or disability initiated by the intended parents because of the undesirable characteristics of the future child. Furthermore, it can promote the potential manipulation of the redundant embryos, which were not implanted. These circumstances challenge the objective duty of the state to safeguard the right to life, and whether, under what circumstances, and within what margin of appreciation is the embryo given moral status. See Sándor, 2021; Kovács, 2025, p. 536.

124 Act on Healthcare Art. 182, para. (2).

125 Navratyil, 2005, p. 10.

126 Fundamental Law Art. XV.

127 Civil Code, Art. 4:2.

128 Barzó, 2017, p. 44.

129 Act XXXI of 1997 on the Protection of Children and Guardianship Administration Art. 3 para. (2).

surrogacy arrangement arises.[130] Another key issue for ART children is how their identity is framed once they are born. The right to know one's origins has a key impact on the child's healthy development, thus its construction goes beyond the guarantees of nationality, legal status and birth certificate.[131] The circumstances of birth are not necessarily disclosed to the child, especially if the intended parents choose to utilise more controversial types of ART, as their parental legal status and the unity of the family environment could be undermined with the disclosure.

The Civil Code incorporates the principle that a child's right to be raised in their family or family environment and maintain their existing family relationships may be restricted only in exceptional cases defined by law and solely in the child's best interests. Often, children born via ART divide biological and legal parenthood. The Hungarian legal system follows that the mother of the child is conclusively established based on the birth. However, as neither anonymous egg donation nor surrogacy arrangements are permitted, a scenario in which the birth mother is not recognised as the child's legal mother cannot legally arise.[132]

Focusing on the child's right to know their origin and circumstances of birth, the Act on Healthcare regulates the right to respect personal data and data control[133] of the biological parent or the donor. Although international trends favour increasingly open and transparent gamete donation practices,[134] Hungary adopts a semi-anonymous model. Under this approach, while the child cannot access the donor's identity or personal information, upon reaching adulthood, they are entitled to learn about the circumstances of their conception and birth to the extent that available data permits.[135] Whether information is shared with the child upon reaching adulthood depends on the biological parents, while whether it is shared immediately before the child reaches adulthood depends on the person serving as their legal representative.[136]

130 The Hungarian Criminal Code lists crimes against the order of medical interventions and research in Part XVI., where criminal offences, which violate constitutional fundamental values, such as life, physical integrity, health and individual rights, are associated with bioethics.

131 Somfai, 2006, p. 26.

132 This is especially evident if the IVF utilises donor gametes or if the intended parents engage in surrogacy, where the gestational mother, the genetic mother and the intended mother differ. The complexity of the surrogacy arrangements blur the line between traditional determination of legal parenthood and the actual underlying biological and gestational facts. If the possibility of using both donor sperm and ova in the IVF is added to the surrogacy arrangements, the potential parental claims may extend to as many as five individuals. See more in: Navratyil, 2012, pp. 140–141.

133 Before the donated gametes are released, the facility storing them must verify the safe usage and biological compatibility. Additionally, the identifying data of the persons undergoing the procedure must be provided. The storing facility of the gametes may not disclose, transmit or make public any information about the circumstances of the release or about the individuals involved. See Act on Healthcare Art. 173.

134 See more in Kovács, 2025.

135 Act on Healthcare Art. 179, para. (1).

136 Ibid., Art. 179, para. (3).

The extent of data which can be disclosed to the child is broad and aims to strengthen the possibility of the donor to maintain anonymity, as the family name, given name, maiden name and address cannot be disclosed.[137] This parallels the adoption and identity disclosure of the biological parents to the child. However, adoption serves the right of an existing child to grow up in a family environment, while ART, with the involvement of donor gametes, promotes family creation, serving the intended parents' reproductive rights.[138]

Nevertheless, Art. 4:135 of the Civil Code establishes the adopted child's right to information about their biological origins through the Guardianship authority. Children may request basic facts if their biological parents are living without any age restrictions. Furthermore, access to personal identifying data about biological parents and siblings is subject to strict conditions, balancing the child's right to know their origins against the biological relatives' privacy rights. Such information can only be released with the explicit consent of the biological parent or sibling. The regulation further addresses the child's access to health-related information about their biological parents.[139] Although the regulation is not extended to children born via ART; they have limited access to trace their origins.

The best interest of the child[140] is a core principle in international children's rights, encompassing that all decisions made about the child should be made primarily focusing on their best interests. This principle is incorporated into the Hungarian legal system as well. Additionally, it is encompassed in the basic principles of family law in the Civil Code.[141] Here, the best interests of the child are interpreted amid family relationships.[142]

The definition of the child in the Hungarian legal framework aligns with the definition of the child expressed in the United Nations Convention on the Rights of the Child (UN CRC). The Civil Code stipulates that any person under 18 years of age is a minor.[143] However, an exception exists whereby an individual may attain legal adulthood from the age of 16 years through marriage. Upon marriage, such individuals acquire the same rights and obligations as adults.[144] Furthermore, the UN CRC expresses that special safeguards and care shall be granted to children before

137 Weiss, 2002, p. 12.
138 Navratyil, 2022, p. 117.
139 Barzó, 2017, p. 364.
140 The UN CRC has been fully incorporated in the Hungarian legal system, although there have been some criticisms highlighted regarding the child's best interests principle. In the Hungarian translation of the UN CRC, the expression mindenek felett álló érdeke is used, meaning 'paramount interest'. However, this interpretation is not in line with what the original text intended to express. Hence, Hungarian legislation consistently follows the terminology of the child's 'paramount interest'. This may lead to misinterpretation because the child's best interests may not be the same as the child's paramount interests.
141 Civil Code Art. 4:2.
142 Szeibert, 2024, pp. 10–11.
143 Civil Code, Art. 2:10.
144 Ibid., Art. 4:9, para. (2).

and after birth. The Hungarian legal system reflects this approach through constitutional protection of human dignity, right to life and special protection through Act LXXIX of 1992 on the Protection of Foetal Life. However, as mentioned, there is a distinction in the legal definition of the embryo and the foetus. Thus, embryos, before the transfer, have the potential for 'objectification', highlighted in the phrasing of the Act on Healthcare,[145] and the possibilities of carrying out embryo research.[146] Nonetheless, despite limited academic interest in this area, the comprehensive emphasis on children's right to healthy development, grounded in the Fundamental Law and reinforced through specific legislation, extends to children born via ART, ensuring that they benefit from Hungary's broader child protection framework.

7. Conclusion

Hungary's regulation of ART highlights the complex task of blending scientific advancement with deeply embedded constitutional values, social norms and ethical principles. Over recent decades, Hungary has significantly expanded ART availability while aligning the legislative framework with traditional family values. However, this has left some unresolved ambiguities in the regulatory framework. The determination to support ART as a tool for addressing demographic decline is most visible in the sweeping institutional restructuring between 2021 and 2022. Hungary fully subsidises infertility medications and has expanded the number of publicly funded IVF cycles, signalling a policy commitment to ensuring that all desired children can be born.

The support is expansive, although the eligibility criteria are restricted to heterosexual married or cohabiting couples. Furthermore, surrogacy is legally prohibited and gamete-donor transparency remains limited. The family law provisions on legal parenthood provide that children born through ART are integrated into a stable family structure. However, surrogacy remains a grey area, forcing Hungarian intended parents to pursue cross-border surrogacy arrangements. This gives rise to legal uncertainties regarding the child's legal status, the establishment of intended parents' legal parenthood and the preservation of the child's right to knowledge about their identity and circumstances of birth, as this information often remain undisclosed or inaccessible.

145 Gyöngyösi, 2002, pp. 386–387.

146 Nevertheless, the Act on Healthcare does not allow creating embryos specifically for research purposes. Thus, only already created embryos for reproductive purposes, with proper authorisation, or damaged embryos can be utilised for research. The donated embryos can be cryopreserved up to 10 years and if offered for research, can be kept viable for an additional 14 years.

The protection of children's rights is well-developed in Hungary, enshrined both in constitutional provisions and specific statutory legislation governing child welfare and guardianship. It centres on safeguarding children's welfare and ensuring their healthy development. While children born through ART enjoy equal legal protection as those conceived naturally, additional challenges and regulatory gaps emerge in areas such as parenthood recognition and identity rights, which reflect the unique circumstances and ethical complexities inherently embedded in assisted reproduction. Moreover, the contradictory legal status of in vivo and *in vitro* embryos, although constitutionally protected as foetal life, subjects them to different regulatory treatment.

The complexities stemming from ART require a nuanced approach in the legislation. Hungary's approach to ART reflects a complex and evolving framework shaped by pronatalist ambitions, constitutional traditions and medical regulation. As demographic challenges arise, infertility rates might intensify. With cross-border practices becoming accessible, the future legislative development shall seek to balance the expectations of the beneficiaries and stakeholders with individual rights, legal guarantees and legal policy objectives, while upholding the principles of reproductive autonomy, equality and the best interests of the child.

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