

SPERM DONATION,  
SINGLE WOMEN AND FILIATION

Elena IGNOVSKA



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*Distribution for other countries:*

Intersentia Publishing nv  
Groenstraat 31  
2640 Mortsel  
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Sperm Donation, Single Women and Filiation  
Elena Ignovska

Note: This book is the product of a PhD project under the supervision of Professor Gerd Verschelden, University of Ghent, Faculty of Law, to whom the author is very grateful.

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Cover image: © Gustav Klimt (1862–1918), Baby (Cradle) – Courtesy of National Gallery of Art, Washington

ISBN 978-1-78068-336-2  
D/2015/7849/95  
NUR 822

British Library Cataloguing in Publication Data. A catalogue record for this book is available from the British Library.

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*To my family,  
our history, presence and future*

# FOREWORD

On 10 September 2014, Ghent University Law School (Belgium) awarded Elena Ignovska the degree of Doctor of Law. It was my privilege to supervise her three year research project resulting in this doctorate, which was funded by the Basileus Erasmus Mundus Action 2 Programme of the European Commission. The present volume is the commercial edition of her dissertation, which was entitled “Affiliation of Children Conceived by Sperm Donation to Single Women: The (Im)possibility to Establish Fatherhood from an International Perspective with a Focus on the Republic of Macedonia”.

This book holds a methodologically well thought-out analysis of the complex and captivating issues connected with deliberate solitary motherhood both in international law and in the national law of ten European countries. It is a legal dissertation based on empirical, sociological and ethical literature. This multifaceted approach helps to develop the author’s argument. Discussing the topic from interdisciplinary, national and international viewpoints and in a historical context offers a clear perspective for finding universal solutions. This opens the until now mostly nationally perceived field of family law up to international observation, and thus enhances the discussion on affiliation in the Macedonian family law context.

From a fitting abstract position, the author offers in Part II an original analysis using three different perspectives: the standpoint of the single mother with the desire to have children, the viewpoint of the sperm donor, and thirdly the perspective of the children, born of single mothers who were fertilised with donor sperm. One of the key issues is whether the right to have access to assisted reproductive technology of the deliberately solitary mother combined with the protection of the donor’s anonymity isn’t inevitably in conflict with the child’s fundamental human rights, including the right to know one’s genetic identity, the right to family life (and to have a relationship with one’s parents) and the right to due process. The author makes a comparative assessment throughout the whole thesis, by collating the position of children born of single mothers fertilised with sperm from an anonymous donor and the position of children of heterosexual couples or (of secondary importance) of children born to single mothers whose fathers are known.

As a conclusion, Ms Ignovska expresses a well founded, balanced and nuanced preference to give priority to the fundamental rights of the child over the desires of single mothers and donors.

The bibliographical unit encompasses not only legal documents, court judgments and literature, but also medical websites, newspaper articles and public and governmental opinions.

The author has dealt with the subject in a thorough and creative way, resulting in refreshing insights. The sense of nuance as well as an understanding for the position of all actors, are clearly the strengths of this PhD thesis. The combination of the legal, ethical and sociological positions of the participants of the reproductive project of single women conceiving children with the assistance of sperm donors is enriching. The author clearly shows her ability to keep up with an evolving research topic, to find the rationale behind the policy, and accordingly to anticipate future action in terms of turning policy into law and its consequences.

Elena Ignovska already proved to be a researcher with a particularly broad view on the law when she was working at the University Ss. Cyril and Methodius in Skopje (FYR of Macedonia). Even before she came to Ghent, she had acquired expertise in the fields of family law, the law of succession, and sociology of the family, all subjects which proved to be extremely relevant for this research project. Her constant drive to gain more in-depth knowledge and to further improve her research skills is witnessed by her additional degree in Bioethics. During her time spent in Ghent, Ms Ignovska was always eager to present and discuss her work in progress, in order to get extra feedback, looking for new perspectives. During our discussions, I was impressed by her very extensive knowledge of the literature and her exhaustive and creative thinking about the subject, always proceeding in a very cautious way with all appropriate differentiations and nuances, understanding the position of the three main actors: the single woman, the sperm donor and the child.

This book offers innovative perspectives, not only for Macedonian citizens, but for all legal scholars. It reminds us that, in the words of Karl Marx, the philosopher's task is not so much to describe the world, but to change it. The author's hope has been to cast light on the problems of children conceived by sperm donation to single women in Macedonia, and to advance their perspectives. May this aspiration come true in a practical sense. I have no doubt that this thesis will prove to be of value for the development of Macedonian Family Law in the next years or decades.

Prof. Dr Gerd Verschelden  
Director of the Institute for Family Law  
Ghent University, Belgium

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## LIST OF ABBREVIATIONS

ART	assisted reproductive technologies
Brussels II	Council Regulation (EC) No 2201/2003 of 27 November 2003
bis Regulation	concerning Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters and the Matters of Parental Responsibility
CCC	Convention on Contact concerning Children
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
Draft Recommendation	Draft Recommendation on the Rights and Legal Status of Children and Parental Responsibilities
ECECR	European Convention on the Exercise of Children's Rights
ECHR	European Convention on Human Rights
ECLSCBOW	European Convention on the Legal Status of Children Born Out of Wedlock
ECtHR	European Court of Human Rights
HEFA	Human Fertilisation and Embryology Authority
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IVF	in vitro fertilisation
UDBHR	Universal Declaration on Bioethics and Human Rights
UDHGHR	Universal Declaration on the Human Genome and Human Rights
UDHR	Universal Declaration on Human Rights
“White Paper”	Report on Principles Concerning the Establishment and Legal Consequences of Parentage