



**LEGAL ISSUES OF THE IMPLEMENTATION OF THE
CHILDREN RIGHT TO KNOW THEIR BIOLOGICAL
PARENTS: CASE OF LITHUANIA IN THE
PERSPECTIVE OF INTERNATIONAL PRIVATE LAW**

DOCTORAL THESIS

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ANNOTATION

This thesis analyzes the right of children to know their biological parents, focusing on the case of Lithuania within the framework of private international law. It addresses the legal, social, and psychological implications of this right amidst changing family structures and reproductive technologies.

The study begins by examining the development of children's rights and the right to know one's origins through a review of national and international laws. It identifies challenges such as adoption, donor anonymity, and surrogacy that limit access to biological information.

Empirical research through interviews with legal experts and affected individuals reveals gaps between legal frameworks and their application, highlighting the need for reform.

The thesis proposes legal amendments to enhance transparency and access to biological information, aiming to balance the interests of children and parents while contributing to the discourse on children's rights.

The doctoral thesis consists of 167 pages.

Keywords: Children's Rights, Biological Parentage, International Private Law, Adoption Law, Legal Regulation, Identity Formation.

ANOTĀCIJA

Šajā darbā tiek analizētas bērnu tiesības zināt savus bioloģiskos vecākus, pievēršoties Lietuvas gadījumam starptautisko privāttiesību ietvaros. Tā aplūko ar šīm tiesībām saistītās juridiskās, sociālās un psiholoģiskās sekas mainīgajā ģimeņu struktūrā un reproduktīvo tehnoloģiju kontekstā.

Pētījums sākas ar bērnu tiesību attīstības un tiesību uzzināt savas izcelsmes pētījumu, izvērtējot nacionālos un starptautiskos tiesību aktus. Tiek identificēti tādi izaicinājumi kā adopcija, donora anonimitāte un aizvietotājmātes, kas ierobežo piekļuvi bioloģiskajai informācijai.

Empīriskais pētījums, veicot intervijas ar tiesību ekspertiem un ietekmētajām personām, atklāj atšķirības starp tiesību sistēmām unto piemērošanu, uzsverot reformu nepieciešamību.

Disertācija ierosina tiesību aktu grozījumus, lai uzlabotu caurspīdīgumu un piekļuvi bioloģiskajai informācijai, cenšoties līdzsvarot bērnu un vecāku intereses, vienlaikus veicinot diskusiju par bērnu tiesībām.

Doktora disertācija sastāv no 167 lapām.

Atslēgvārdi: Bērnu tiesības, Bioloģiskā vecāku identitāte, Starptautiskās privāttiesības, Adopcijas likumi, Tiesiskais regulējums, Sociālā vecākattiecība, Identitātes veidošanās.

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LIST OF ABBREVIATIONS

- (AID) Artificial insemination with donor
- (CISSS) Centres intégrés de santé et de services sociaux (Integrated health and social services centers)
- (CIUSSS) Centres intégrés universitaires de santé et de services sociaux (Integrated university health and social services centers)
- (DNA) Deoxyribonucleic acid
- (DPJ) Director of Youth Protection
- (EU) European Union
- (ECHR) European Convention for the Protection of Human Rights and Fundamental Freedoms
- (ECtHR) European Court of Human Rights.
- (UN) United Nations
- (LAT) Supreme Court of Lithuania
- LR - Republic of Lithuania
- (LR CC) Civil Code of the Republic of Lithuania
- (LR CPC) Civil Procedure Code of the Republic of Lithuania
- (MAP) Medically assisted procreation
- (PMA) Procréation Médicalement Assistée (French: Medically Assisted Procreation)
- (WHO) World Health Organization
- (VTAS) – Child Rights Protection Department
- (UNICEF) United Nations Children's Fund
- (UNCRC) United Nations Convention on the Rights of the Child

INTRODUCTION

The relevance of the topic

All children have the natural right to live with their parents, communicate with them and maintain legal, social, and emotional ties. The father and mother whose DNA the child carries are usually called the child's biological parents¹. Adoptive families, blended families, and families using medical insemination techniques include additional kinship ties that raise many questions². No longer necessary and fragile, marriage is no longer the linchpin of our constructions of family and filiation³. Today, the family is defined much more in terms of the child, the only permanent reality. But while in the past the children's father was the mother's husband, this is no longer always the case, as is clearly illustrated by situations of family reunification following divorce(s)⁴. However, they are not the only ones to 'introduce' other 'parents', to add 'social parents' to 'blood parents'⁵. Family relations with the child according to the law bind legal parents, but nowadays biological parents are increasingly being replaced by other persons, i.e. i.e. carers, guardians or adoptive parents who are not necessarily related⁶. When a child loses one or both parents; there is a need to transfer the responsibilities of biological parents to other persons or institutions⁷. With the emergence of a family that wants to fulfill the rights and duties of parents and with whom there is no biological connection, the institute of social parents appears which successfully replaces biological parents⁸.

According to UNICEF, about 15.1 million orphans worldwide have lost both of their parents. As children move from one stage of development to another, they acquire new cognitive

¹ Lamçe, J., & Çuni, E. (2013). The right of the children to know their origin in adopting and medically assisted reproduction. *Mediterranean Journal of Social Sciences*, 4(6), 605. DOI: 10.5901/mjss.2013.v4n6p605

² Cohen, T. F., Strong, B., & DeVault, C. (2008). The marriage and family experience: Intimate relationships in a changing society. Thomson/Wadsworth.

³ Stambolis-Ruhstorfer, M., & Descoutures, V. (2020). Licence required: French lesbian parents confront the obligation to marry in order to establish kinship. *International Social Science Journal*, 70(235-236), 79–97. DOI: 10.1111/issj.12219

⁴ Uzun, H., Karaca, N. H., & Metin, Ş. (2021). Assessment of parent-child relationship in COVID-19 pandemic. *Children and Youth Services Review*, 120, 105748. DOI: 10.1016/j.chilyouth.2020.105748

⁵ Melina, L. (2000). Talking to children about their adoption: When to start, what to say, what to expect. *Adopted Child*, 19, 1–4. DOI: 10.1186/1742-4755-6-7

⁶ Hegar, R. L., & Rosenthal, J. A. (2009). Kinship care and sibling placement: Child behavior, family relationships, and school outcomes. *Children and Youth Services Review*, 31(6), 670–679. DOI: 10.1016/j.chilyouth.2009.01.002

⁷ Winokur, M., Holtan, A., & Batchelder, K. E. (2014). Kinship care for the safety, permanency, and well-being of children removed from the home for maltreatment. *Cochrane Database of Systematic Reviews*, (1). DOI: 10.1002/14651858.CD006546.pub3

⁸ Doolan, M., Nixon, P., & Lawrence, P. (2004). Growing up in the care of relatives or friends: Delivering best practice for children in family and friends care. Family Rights Group.

skills and psychosocial structures⁹. They have different views on life and often have more worries or problems¹⁰.

Under 7 and 9 (3) articles of the Convention on the Rights of the Child each child has the right to know his or her parents. Also separated from his or her biological parents' child has the right for regular contacts with them¹¹.

This one of the most important child's rights is declared in 7 th. article of the Child's Rights Convention and it means that all children have a right to know their biological parents. It should be noted that this child right in the national law is guaranteed by article 3.148 of Lithuanian Civil code. Under this article: "grounds for paternity affiliation shall be scientific evidence¹² and other means of proof provided for in the Code of Civil Procedure¹³.

In Lithuania in 2018 Guardianship (care) was established for 2,033 children, in 2019 – 1312 children, in 2022 this number reached 877, and in 2021 - 953. According to the data of the Department of Statistics in Lithuania in 2018 103 children were adopted, in 2019 – 74 children, 2020 – 51 children, and in 2021 - 57 children¹⁴. Statistics show that cases of social parenting exist and are common. The child's natural right is to grow and develop in the family, therefore, when the need for social parenting arises, state institutions must find the best form of social parenting (guardianship or adoption) for the child to adequately ensure his rights and best meet his legitimate interests¹⁵.

The relevance of the topic is determined by the fact that we currently have the recognition of biological paternity in the law, but in court practice we see that biological paternity is no longer the main reason for legalizing and maintaining parental relations¹⁶. Not so long ago, biological parenthood had priority over social parenthood, but today much attention is paid specifically to the legitimate interests of the child and attempts are made to find a balance between the interests

⁹ Melina, L. (2000). Talking to children about their adoption: When to start, what to say, what to expect. *Adopted Child*, 19, 1–4. DOI: 10.1186/1742-4755-6-7

¹⁰ Lyons, D. (2018). Domestic implementation of the donor-conceived child's right to identity in light of the requirements of the UN Convention on the Rights of the Child. *International Journal of Law, Policy and the Family*, 32(1), 1–26. DOI: 10.1093/lawfam/ebx017

¹¹ United Nations Treaty Collection, "United Nations Treaty Collection," November 20, 1989, Retrieved 07.19.2024, From: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en.

¹² The Crown Prosecution Service, "Expert Evidence, The Crown Prosecution Service," November 20, 2023, Retrieved 07.19.2024, From: <https://www.cps.gov.uk/legal-guidance/expert-evidence>.

¹³ The Constitutional Court of The Republic of Lithuania, On the compliance of Paragraph 2 of Article 153, Paragraph 3 of Article 319, and Paragraph 3 of Article 352 of the Code of Civil Procedure of the Republic of Lithuania (wording of February 28, 2002) with the Constitution of the Republic of Lithuania (2002).

¹⁴ Ministry of Social Security and Labour of Lithuania, "Number of Children Placed under Guardianship (Care) by Municipalities." (Official Statistics Portal, 2023), Retrieved 07.15.2024, From: <https://osp.stat.gov.lt/statistiniu-rodikliu-analize?hash=96dc968e-41f0-44da-a575-e09d8dd78198#/>.

¹⁵ United Nations General Assembly, "Convention on the Rights of the Child," November 20, 1989, Retrieved 07.24.2024, From: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

¹⁶ Barker, K. K. (2004). Bargaining or biology? The history and future of paternity law and parental status. *Cornell Journal of Law and Public Policy*, 14, 1.

of adults and the interests of children. Courts adhere to the principle of the primacy of the child's interests¹⁷. Child protection and child rights are part of the legal framework of our time¹⁸. To ensure the most effective implementation of parental rights and responsibilities for children, appropriate legal regulation of biological and social parentage institutes is important¹⁹.

This paper examines the important and significant issue of social parenting in a child's life, the social relations between the child and the social parents, which can be seen as more important than the relations of biological parenting. This work will compare the importance of biological and social parenthood in the implementation of parental responsibilities and will evaluate who can best ensure the legitimate interests of the child.

The dissertation formulates a problematic situation

As children become an essential pillar of couples' identities, more and more families are developing their relationships with children who are not their biological children. Another example is adoptive families, like those who turn to medical insemination to overcome infertility or male sterility (artificial insemination with donor sperm) or female sterility (implantation of embryos formed with donor oocytes), given that these biomedical responses are modern only in its technical nature. The legal regulation of the institutes varies in different countries, but in Belgium or France, for example, medical assistance during childbirth is carried out secretly and the anonymity of donors is guaranteed. In this case, when it comes to children's right to know their biological parents, one must be disappointed. Questions arise, whose rights are more important: the children's right to know their biological parents, or the biological parents' right to remain anonymous. These are questions to which there are no concrete answers, but they are inevitable and cause concern. Our societies have an obligation to address the regulation of children's right to know their biological parents. First, because according to the 1993 May 29 Under the Hague International Convention, children now have the right to know their origins; secondly, because various opinion movements supported by psychologists and psychoanalysts, in the name of children's interests, spoke against maintaining the anonymity of the donor for medically assisted childbirth and against the adoption of (full) kinship "erasing" the original kinship. Finally, because more and more individuals want it. For example, adopted children or persons born through assisted fertilization or surrogacy institutes have created associations that help in the search for biological parents. Biological parents who abandoned their child, especially some mothers who gave birth at an early age and did not have the means to take care of their child, are looking for ways to find their

¹⁷ NeJaime, D. (2020). The constitution of parenthood. *Stanford Law Review*, 72, 261. DOI: 10.2139/ssrn.3465635

¹⁸ Luis Arechederra, "The Right of the Born to Biological Truth," *Humanities and Medical Ethics Unit*, 2010, Retrieved 07.19.2024, From: <https://en.unav.edu/web/humanities-and-medical-ethics-unit/bioethics-material/el-derecho-del-nacido-a-la-verdad-biologica#gsc.tab=0>.

¹⁹ Eekelaar, J. (2017). *Family law and personal life*. Oxford University Press.

children. Assistance is sought from various organizations responsible for the implementation of children's rights.

The problem analyzed in the work is proved by the fact that more than a third of the world's children do not have their own birth registration certificate for various reasons. For example, in France more than 400,000 children do not know who their biological parents are. One reason of such situation is legal anonymous childbirth, for example in Italy, Austria, or other countries²⁰. As a result of anonymous childbirth, a woman can choose the right to remain anonymous. Such mother's decision can restrict the child's right to know his or her biological parents²¹.

So-called "foster" families, adoptive families, blended families, families using medical insemination or using surrogacy all feature parallel kinship ties²². As Agnès Fine rightly points out, "the principle of choice is central to the recent development of Western parenting²³." However, while this is in line with current trends in modern family life, it does raise a number of questions, as our Western kinship system has traditionally been reluctant to make room for additional kinship ties. Questions arise; can a child have several fathers and mothers? Should they have identical status? Which parents should the child choose in the future? How can children know their biological parents and understand their identity?

The relationship between biological parents and their children is exceptionally close and comprehensive, at least from a child's perspective. A child's relationship with his or her biological parents is the closest of that child's human relationship²⁴. This determines the identity of the child. Children may be born to different parents, and assisted reproduction or surrogacy procedures mean that the child's right to know their biological parents must be properly regulated and enforced, so that the child's current and future well-being is important²⁵.

In decisions making whether to establish or challenge paternity, courts must follow the principle of the protection and safeguarding of the rights of the child enshrined in both international and national law, according to which action or adoption of a child must be based on the protection of the child rights for the child best interests. Under 3 articles of the United Nations Convention

²⁰ Desy, A., & Marre, D. (2024). The reproductive journeys of French women over 40 seeking assisted reproductive technology treatments in Spain. *Social Science & Medicine*, 351, 116951. DOI: 10.1016/j.socscimed.2024.116951

²¹ Lemrová, A., et al. (2021). Anonymous births: A conflict of three rights--Which prevails? *Social Pathology & Prevention*, 7(2).

²² Hertz, R. (2006). *Single by chance, mothers by choice: How women are choosing parenthood without marriage and creating the new American family*. Oxford University Press.

²³ Fine, A. (2013). *Adoptions: Ethnologie des parentés choisies*. Éditions de la Maison des sciences de l'homme.

²⁴ Ainsworth, M. S. (1989). Attachments beyond infancy. *American Psychologist*, 44(4), 709. DOI: 10.1037/0003-066X.44.4.709

²⁵ Besson, S. (2007). Enforcing the child's right to know her origins: Contrasting approaches under the Convention on the Rights of the Child and the European Convention on Human Rights. *International Journal of Law, Policy and the Family*, 21(2), 137–159. DOI: 10.1093/lawfam/ebm007

on the Rights of the Child: "*in all actions relating to a child, whether taken by public or private social security courts, administrative or legislative bodies, the best interests of the child shall be a primary consideration*"²⁶.

Problems in this situation may arise from the relationship between biological and actual parenting. In solving mentioned problems, the courts must protect the best interests of the child in this situation. For example, in the court decision *Nylund v. Finland* of the European Court of Human Rights²⁷ was stated that it was fully justified for national courts to give priority to the best interests of the child when deciding on a biological fact. In this case the court rejected the applicant's argument that the importance of protecting the biological relationship between father and child outweighed the need to protect the social institution of the family²⁸. In another case of admissibility, *Yildirim v. Austria*, the European Court of Human Rights²⁹ the expiry of the limitation period for bringing an action before the court did not infringe the applicant's right to respect for his private life, which was not known to the father of the child who was expecting his spouse during the marriage. The court upheld the State's argument that it would not be in the best interests of the child to initiate paternity proceedings, as the child would have been in danger of losing the applicant's maintenance when the identification of the biological father was unclear. The European Court of Human Rights has recognized that the right balance between the different interests has not been upset and that the best interests of the child are a priority when the limitation period is exceeded. The right balance must be struck in each specific situation between the interests of the person seeking to determine parenthood, also the family and society, the best interests of the child must always be considered³⁰.

To facilitate the harmonious physical and psychological development of the child, it is necessary to consider that paternity is not only a biological but also a legal link between the child and the recognition of paternity in each case. It is important to establish a relationship between the child and his or her biological parents. The decision to challenge paternity must also aim to ensure that the child is not left without a father or mother, and in the case of problems solving related with the relationship between biological and actual paternity. All the above criteria should be considered before the decision making considering the best interests of the child³¹.

The research problems under consideration include three interrelated questions:

²⁶ United Nations General Assembly, "Convention on the Rights of the Child," November 20, 1989, Retrieved 07.24.2024, From: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

²⁷ European Court of Human Rights, *Nylund v. Finland* (dec.) (June 29, 1999).

²⁸ Diduck, A., Peleg, N., & Reece, H. (2015). *Law in society: Reflections on children, family, culture and philosophy: Essays in honour of Michael Freeman*. Brill.

²⁹ European Court of Human Rights, *Nylund v. Finland* (dec.) (June 29, 1999).

³⁰ *Ibid.*

³¹ European Court of Human Rights, *Nylund v. Finland* (dec.) (June 29, 1999).

1. The problem of disputing paternity in the absence of a basis for biological paternity. When deciding questions regarding the dispute of paternity, the most important are the interests of the child itself, and establishing biological parentage does not necessarily mean acting in the best interests of the child, i.e. i.e. the biological connection between child and parent is no longer the sole basis of parenthood. More and more often, the courts must determine the importance of social parenting in the child's life, considering the child's legitimate interests.

2. The problem of lack of consent of biological parents for adoption. Without the consent of biological parents to adopt a child, such a child loses the possibility to enter the list of children for adoption and to be adopted in the future. Such a situation determines that the child will not be adopted, and at the same time it will prevent him from being adopted and having adoptive parents, thus limiting the child's natural right to have a father and mother.

3. The problem of evaluating the opinion expressed by the child, when the court decides the issue of determining the child's place of residence. The court must provide opportunities for the child to be heard, if his maturity allows it, and decide that fully satisfies the child's interests. The assessment of the circumstances is an objective matter, so it is debatable whether in all cases the decision that best meets the legitimate needs and interests of the child is made.

Above all, the final thesis will examine the answers provided by the law as our societies, filiation is established by the law. Legal definitions of paternity and maternity are based not only on genetic reality, but also on the fiction and reality of social situations. Marriage, for example, makes the husband the father of the children his wife brings into the world, even if they are not actually conceived by him. The same applies to the voluntary declaration of natural paternity. The law particularly protects voluntary filiations such as adoptive paternity and maternity, and the paternity of a man who has consented to the insemination of his partner or wife. However, for several decades now, particularly since the passing of the 1972 law on paternity proceedings at the international level, the implicit reference has been the search for the truth, in this case the biological truth. Its application in case law means that today, the problem of determining paternity exists and is deepening due to technological progress and the development of the mentioned new institutes in family law. However, even when the law makes a clear and unambiguous ruling, the tension between blood and will is very much present in practice.

The scientific novelty of the PhD thesis

The right to know one's origins can be defined in very simple terms: the possibility of accessing nominative data from which a child can identify his or her birth parents ³². The process

³² Lindgren, M. (2024). Disciplined parents and autonomous children: Information sharing as governing device in Swedish identity-release gamete donation. *International Journal of Law, Policy and the Family*, 38(1), ebad029. DOI: 10.1093/lawfam/ebad029

of tracing one's origins is a set of steps taken by a person to reconnect with his or her past, more specifically with his or her biological and/or symbolic antecedents. In the case of children abandoned at birth, these steps - some of which never come to fruition - are most often triggered at key moments in their lives, notably when they themselves become fathers or mothers, and wish to pass on to their children a history rather than a secret³³. Knowing one's past is an essential part of building one's identity. This fundamental need can be expressed at any stage of life, whether the person is a child or an adult, adopted or not³⁴. This quest for origins helps to build self-esteem; the child born under X is the victim of a narcissistic wound. Parents may also want to know what happened to their child, adopted or not. As the law stands, however, information about an abandoned child is covered by secrecy³⁵. What's more, when the wanted parent is outside the country, the search for origins - at least if it's not an obstacle course - looks like an impossible, even unreal undertaking. Searching for one's personal origins involves a series of steps that people take to reconnect with their past, without reintegrating it³⁶. What is sought is merely the satisfaction of an irresistible urge to know where one comes from, but without any legal consequences for the person's status. This need to know can be initiated by the child, as is often the case, but also by the mother and rarely by the father³⁷.

The right to know one's origins is enshrined in some national and international legislation. However, has not yet acquired the status of a right in the subjective sense³⁸. In many countries as well as in Lithuania, it remains uncertain, inoperative, or even non-existent. Indeed, whatever the case, the right to know one's origins is still the subject of debate, with responses varying from one legal tradition to another. Some countries, for example, recognize childbirth under X (in secrecy about the mother's identity), while others provide for the right to know one's biological parents³⁹.

The novelty of the topic is determined by the fact that in modern times we have the recognition of biological paternity in the laws, but in court practice we see that biological paternity

³³ Altalib, H., AbuSulayman, A. A., & Altalib, O. H. (2024). Parent-child relations: A guide to raising children (Revised Edition). International Institute of Islamic Thought (IIIT).

³⁴ Castellanos-Jankiewicz, L. (2024). A new history for human rights: Conflict of laws as adjacent possibility. *Journal of the History of International Law/Revue d'histoire du Droit International*, 1(aop), 1–42. DOI: 10.1163/15718050-12340123

³⁵ Shuttleworth, P. D. (2023). Recognition of family life by children living in kinship care arrangements in England. *The British Journal of Social Work*, 53(1), 157–176. DOI: 10.1093/bjsw/bcaa080

³⁶ Altalib, H., AbuSulayman, A. A., & Altalib, O. H. (2024). Parent-child relations: A guide to raising children (Revised Edition). International Institute of Islamic Thought (IIIT).

³⁷ *Ibid.*

³⁸ Castellanos-Jankiewicz, L. (2024). A new history for human rights: Conflict of laws as adjacent possibility. *Journal of the History of International Law/Revue d'histoire du Droit International*, 1(aop), 1–42. DOI: 10.1163/15718050-12340123

³⁹ Dambach, M., & Cantwell, N. (2024). Child's right to identity in surrogacy. In *Research handbook on surrogacy and the law* (pp. 108–129). Edward Elgar Publishing.

is no longer the main reason for legalizing and maintaining parental relations⁴⁰. Not so long ago, biological parenthood had priority over social parenthood, but today much attention is paid specifically to the legitimate interests of the child and attempts are made to find a balance between the interests of adults and the interests of children. Courts adhere to the principle of the primacy of the child's interests⁴¹.

Inscribed in the most intimate part of each person's history, the ties that bind a child to his or her parents seem self-evident⁴². However, changes in marital and family lifestyles, and the diversification of ways of conceiving and raising children, are multiplying the places and situations where this assertion may be called into question⁴³. Recomposed families, adoptive families, families created through medically assisted procreation, "homoparental" families in which one or more same-sex couples raise a child: these diverse relational configurations are gaining increasing visibility, sparking several social and political debates⁴⁴. They are leading us to question the very nature of the relationship between parents and children.

Why should we pass on our origins to our children?

The quest to understand one's roots cannot be separated from each person's contemplation of their individual identity, which defines what makes them unique while still being closely connected to others. Inquiring about one's roots is both a natural psychosocial and a legal process; every individual, at some moment and with different levels of intensity, experiences the urge to learn more about their origins to develop their personal identity. It's a question of appropriating one's history, understanding one's past, solidifying one's roots in order to better apprehend the present and the future. The development of psychology and law has highlighted the considerable role that knowledge of one's origins plays in personality development. Numerous studies⁴⁵ have shown that, to grow and develop in the best possible conditions, human beings need, from childhood onwards, to situate themselves in relation to their past (origins in the broadest sense) and their future⁴⁶.

The practical significance of the PhD thesis

⁴⁰ Lamçe, J., & Kau, R. (2023). Contesting marital presumption of paternity – Biological father's legal position. Comparative overview in Albania and the Western Balkan countries. *Studia Iuridica Lublinensia*, 32(2), 173–188. DOI: 10.17951/sil.2023.32.2.173-188

⁴¹ Altalib, H., AbuSulayman, A. A., & Altalib, O. H. (2024). Parent-child relations: A guide to raising children (Revised Edition). International Institute of Islamic Thought (IIIT).

⁴² Winnicott, D. W. (2021). The child, the family, and the outside world. Penguin UK.

⁴³ Golombok, S. (2015). Modern families: Parents and children in new family forms. *Cambridge University Press*.

⁴⁴ Fish, J. N., Reczek, R., & Ezra, P. (2024). Defining and measuring family: Lessons learned from LGBTQ+ people and families. *Journal of Marriage and Family*. DOI: 10.1111/jomf.12749

⁴⁵ Ife, J., Soldatić, K., & Briskman, L. (2022). Human rights and social work. *Cambridge University Press*.

⁴⁶ Jovic-Prlainovic, O. S. (2021). Judgments of the European Court of Human Rights v. the Republic of Serbia on the application of genetic testing in paternity litigation. *Strani Pravni Zivot*, 2021, 47. DOI: 10.5937/spz65-31432

It is tempting to link the right to know one's origins with personality rights. If we accept that the right to know one's origins is a personality right, then we must also recognize that the biological parent has a personality right, i.e. a right to secrecy, which enables him or her to continue his or her life without the child's knowledge⁴⁷. For the defenders of secrecy, the suffering caused by ignorance of one's origins cannot justify that of another person. Nor would it be legitimate to make access to one's origins a personal right. The argument that neither the legislator nor the judge is able to assess the legitimacy of the motives driving the claimant, even when the search for one's origins becomes a pathological obsession, is to be believed. However, in the face of these doctrinal debates and legislative impasses, international law is attempting to make a dent in the immense ocean of secrecy⁴⁸.

Although biological parenthood and the child's right to know their biological parents are sufficiently analyzed in scientific articles, it must be noted that there is very little research and scientific discussion about the type of social parenthood. Social parenting is considered a social connection with a non-biological child of that person in the family. This work examines the important and significant issue of social parenting in the child's life, the social relations between the child and the social parents, which can be seen as more important than the biological parenting relations and the child's right to know his biological parents. This study will compare the importance of biological and social parenthood in the implementation of parental responsibilities and will evaluate who can best ensure the legitimate interests of the child. The obtained results of the study will be relevant and useful both for theorists and practitioners of family law. It is expected that the legislators could improve the problematic areas of biological and social parenthood, considering the results obtained in the thesis. For legal practitioners, this work will help to apply legal acts regulating issues of biological and social parentage more rationally and efficiently. The study is also useful for researchers who delve into the legal regulation of biological and social parenting institutes and the aspects of the implementation of parents' rights and responsibilities to children, as the conducted research can contribute to deeper scientific research in the future.

The object of the research. The child's right to know his/her biological parents within the framework of international private law.

The subject of the research encompasses the identification and in-depth assessment (analysis) of the legal challenges and obstacles faced by children when willing to exercise their right to know their biological parents.

⁴⁷ Preložnjak, B. (2020). Modern challenges in the implementation of the child's right to know his origin. EU and Comparative Law Issues and Challenges Series (ECLIC), 4, 1175–1203. DOI: 10.25234/ecllc/11914

⁴⁸ *Ibid.*

The aim and objectives of the research is to determine the appropriate recognition of the implementation of the children's right to know their biological parents as a natural right of the child, revealing the problematic issues of the practical application.

Research tasks

1. Define the concept of biological parentage.
2. To examine the legal acts regulating the assurance of parental rights and responsibilities for children, social parenting institutes and the legal consequences of non-fulfillment of parental rights and responsibilities for children.
3. To analyze court practice and identify problems arising from the legal regulation of biological and social parentage.
4. Based on the data of the performed analysis, submit proposals for the improvement of legal regulation.

Empirical and theoretical **methods** of social science for the research were chosen, considering the thesis object, issues, purpose, and raised tasks:

Document analysis method as one of the main methods used in this work was used to evaluate national and international problematic issues of the children's right to know their origin and biological parents, creating prerequisites for the proper implementation of these rights, as effectively as possible in ensuring children's rights and their legal protection. With the help of this method, it was possible better understanding and deeper evaluation the object of the research and the social processes influencing the implementation of children's right to know their biological parents. Various legal and scientific sources, national and international, legal acts, rulings of Lithuanian and international courts, statistical data, other scientific studies related to the thesis, etc., were collected and studied using this method. Using the document analysis method, legal acts with different legal powers were studied and evaluated. It should be mentioned analyzed documents: the CC of the Republic of Lithuania, the Basic Law on the Protection of Children's Rights of the Republic of Lithuania, the UNCRC, the ECHR, the Hague Convention on the Protection of Children and Cooperation in the Field of International Adoption. This method laid the essential foundations for further analysis and the fulfillment of the set goal and tasks.

The situation of children's rights to know their biological parents in both national and international law was investigated using the method of *systematic analysis*, as this method promotes a systematic approach to the subject of research. With the help of this method, the object of the study was analyzed by dividing it into many elements and distinguishing the cases affecting the implementation of the child's right to know his/her biological parents.

The method of *comparative analysis* was applied in both theoretical and practical aspects, comparing the experience of Lithuania and foreign countries, distinguishing the fundamental

shortcomings of the implementation of the child's right to know his biological parents and the differences in application, summarizing them and forming reasonable conclusions. With the help of this method, the regulation of adoption, assisted fertilization and surrogacy in Lithuania and foreign countries was examined from the point of view of the child's right to know his biological parents, to reveal to what extent, the current regulatory system of adoption, assisted fertilization and surrogacy corresponds to the viewpoint of this child's right. In addition, this method was applied when comparing the legal regulation of Lithuania with the modern practice of the ECtHR, distinguishing similarities and differences that form the basis for modern approaches to the legal regulation of the aforementioned right.

The logical-analytical method was used for the consistent analysis of the scientific sources, legal documents and their content used in this work, for the specification of the theoretical and practical parts of the work, basing this analysis on legal logic, it was aimed to clarify the analyzed legal provisions as precisely as possible and apply them in law. Also, this method helped to combine the parts of the work with each other by maintaining and ensuring the prevailing consistency of reasoning between them.

The method of problem analysis allowed to examine the researched problem in a broader aspect, thereby revealing gaps in the legal regulation of the implementation of the child's right to know his biological parents, identifying complex problems and possible reasons for the non-implementation of this right in certain areas. In addition, this method helped to analyze the problems arising from uneven decisions made by courts in identical legal disputes related to the child's right to know his biological parents when dealing with different legal systems of the countries.

The specifics of the researched object mandated the selection of the *qualitative research method* semi-structured interview. This method was chosen because the solutions to the problems formulated in the thesis require the analysis of many variables. The variables are difficult to determine by theoretical means alone. For the empirical research carried out in the work not to become just a means of data collection.

All discussed methods influenced the interpretation of the sources used in the research, as well as the implementation of the tasks and goals set in the work. These described methods helped to make reasonable and reliable generalizations and conclusions.

The hypothesis: in the thesis it was chosen to formulate a purposeful hypothesis⁴⁹, aimed at proving that the implementation of the absolute right of children to know their biological parents is restricted by legal acts regulating adoption, assisted fertilization and surrogacy institutes.

The approbation of the research results. Problems analyzed in the thesis, the main statements, conclusions and suggestions for better ensuring children's rights to know their biological parents were published in four peer-reviewed scientific articles. The results of the dissertation research were also presented at seven international scientific-practical conferences: in Lithuania, Poland, Spain, Ukraine, Morocco and Turkey. A complete list of publications and reports is given in the next paragraph.

The structure of the thesis consists of the introduction, 3 sections of the main research, as well as conclusions and recommendations. The introduction is intended to describe the topicality and problems of the topic, determining the research object, subject, goal and novelty, as well as the research questions. The first part of the dissertation analyzes general questions on the children's right as a natural right to know their biological parents in the context of international private law. The second chapter discusses the implementation of children's right to know their biological parents in the context of national and international law and identifies the main problems. The third section presents empirical research strategy and methodology. The fourth chapter investigates the practical solution of the legal regulation of children's right to know their biological parents in the context of ensuring the child's natural rights.

The thesis's structural design is depicted in Figures 1 and 2.

Figure 1 presents the prologue of the thesis, establishing the foundations of the undertaken study. It begins by highlighting the interest encapsulated by the research topic, before addressing the problem statement to be investigated. Subsequently, the presentation turns towards the description of the scientific novelty brought by the thesis as well as its practical utility. The following subsection precisely delineates the subject, ambition, and objectives of the study, also incorporating the research tasks to be accomplished. To conclude, this initial part formulates the research hypothesis and outlines the methods envisaged for the evaluation of the results. This preamble is intended to provide a complete and detailed understanding of the context, the main questioning and the legal contours defining this doctoral work.

⁴⁹ Benoot, C., Hannes, K., & Bilsen, J. (2016). The use of purposeful sampling in a qualitative evidence synthesis: A worked example on sexual adjustment to a cancer trajectory. *BMC Medical Research Methodology*, 16, 1–12. DOI: 10.1186/s12874-016-0114-6

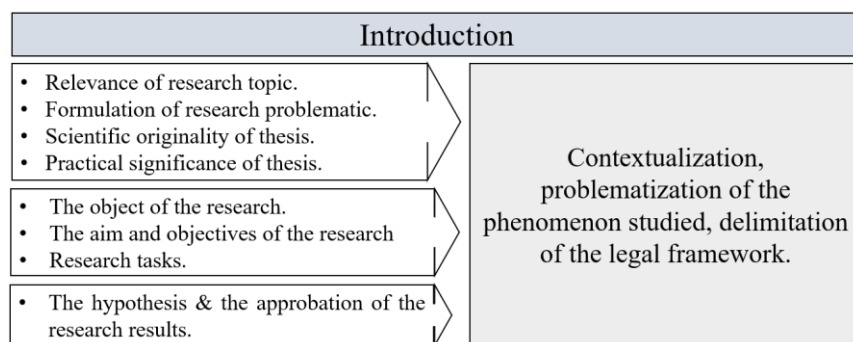


Figure 1. Introductory thesis framework (compiled by the author based on Wilson, 2014; Willig, 2018)

Figure 2 presents the theoretical and empirical structure of the thesis, which is divided into two main axes: on one hand, conceptual considerations and the legal framework, and on the other hand, methodological choices accompanied by empirical findings. The first chapter addresses the general questions related to the right of children to know their biological parents in the context of private international law. The second chapter deals with the implementation of this right within the framework of national and international law, highlighting the major problems encountered. The third chapter describes the empirical research strategy, the methodology adopted, and the practical solutions to issues related to the legal regulation of children's right to know their biological parents in the protection of their natural rights. The conclusion synthesizes the results and proposes relevant recommendations.

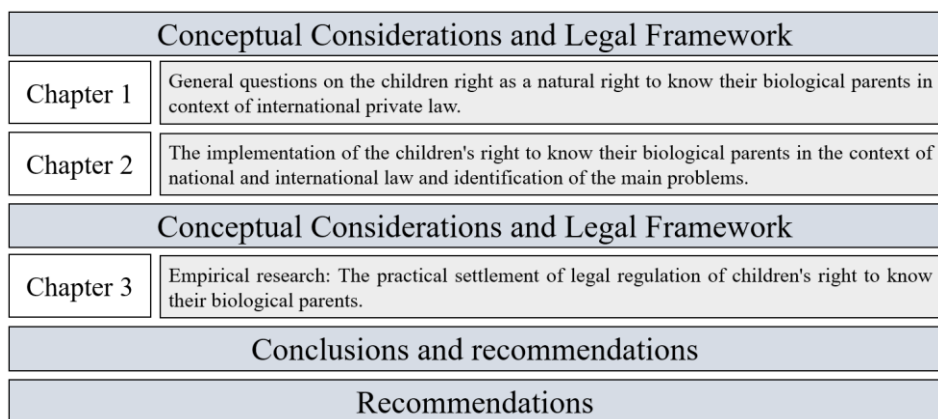


Figure 2. Theoretical and empirical framework of the thesis (compiled by the author based on Vamsi Krishna Jasti & Kodali, 2014)

List of scientific publications related to the doctoral thesis:

1. Labauskas, V.; Perkumienė, D.; Ovčinkovienė, S. (2022). Challenges of legal regulation of rights and obligations between children and their parents in Lithuania /Humanities studies. Zaporozhzhia: Publishing house Helvetica, 2022, nr. 10(87), p. 71 - 79, ISSN 2708-0390.
2. Labauskas, V.; Perkumienė, D. (2022). Implementation of the legal regulation of social and biological parenthood analysis of problems in court practice. Šiuolaikinės teisės problemos ir

iššūkiai tarptautinės teisės kontekste/Tarptautinės mokslinės-praktinės konferencijos pranešimų medžiaga ISBN 978-609-8308-04-4. Kazimiero Simonavičiaus universiteto Teisės ir technologijų institutas, Dariaus ir Girėno g. 21, Vilnius, LT-02189/88- 95.

3. Mačiukienė, M., Perkumienė, D., & Labanauskas, V. (2023). Privalomoji mediacija šeimos bylose–iššūkiai ir galimybės. *Miškininkystė ir kraštotvarka*, p. 100-104.
4. Safaa, L., Khazi, A., Perkumienė, D., & Labanauskas, V. (2023). Arts-Based Management between Actions and Conjunctions: Lessons from a Systematic Bibliometric Analysis. *Administrative Sciences*, 13(9), p. 200.
5. Perkumienė, D., Krugliakovaitė, L., & Labanauskas, V. (2023). Peculiarities of the legal regulation of the partnership institute in the Republic of Lithuania. *Miškininkystė ir kraštotvarka= Forestry and landscape management*, 1(21), 117-122.
6. Benhaida, S., Saddou, H., Safaa, L., Perkumiene, D., & Labanauskas, V. (2024). Acquirements of three decades of literature on cultural tourism. *Journal of Infrastructure, Policy and Development*, 8(6), 3817.
7. Labanauskas, V.; Perkumienė, D. Examining the empirical studies in the link between children's rights and biological parents. *Humanities and Social Sciences Communications (Springer journal) - Q1 (the third evaluation round)*.

List of scientific reports related to the doctoral thesis:

1. Presentation in the international scientific conference “Legal regulation issues of children rights to know their biological parents’ protection” in the Kaunas Forestry and Environmental Engineering University of Applied Science International Scientific Conference “Relevant Issues of Environment Management” in Lithuania, Kaunas, on 7nd and 9rd April, 2024.
2. Presentation in the international scientific conference “Legal regulation problems of children and their parents rights and obligations in Lithuania“Contemporary legal problems and challenges in the context of international law 2024, in Lithuania, Vilnius, January 7.
3. Presentation in the international conference „Adoption institute as a violation of children's right to know their biological parents“ in Istanbul University-Cerrahpasa University International Symposium, 2023, December 5-6.
4. Presentation in the international scientific conference “The Regulation Issues of children rights protection” in Extremadura University International Scientific Conference “Problems and challenges of law in the 21st century” in Spain, Caceres, on 22nd and 23rd November, 2022.
5. Presentation in the international scientific conference “The surrogacy institute as a violation of children's right to know their biological parents”, Morocco, Cady Ayad university on 7nd and 11rd November, 2023.

I. GENERAL QUESTIONS ON THE CHILDREN RIGHT AS A NATURAL RIGHT TO KNOW THEIR BIOLOGICAL PARENTS IN CONTEXT OF INTERNATIONAL PRIVATE LAW

The first chapter of the thesis is theoretical and analytical in nature. Considering the problems, goals and objectives raised in the scientific work, this chapter aims to reveal the essential features of children's right to know their biological parents. Also, this part aims to reveal the concept of biological parentage and legal principles of a child's right to know his biological parents in national and international context, children need to know their biological origin and legal environment and cases of limitation and restriction of the child's right to know his biological parents. A detailed theoretical analysis will help to prepare a scientific study, which is presented in the second part of this work, and to better understand and delve into the problems, formulating the practical settlement of issues for legal regulation of children's right to know their biological parents in the third part.

1.1. Children right and legitimate interest to know their biological parents as a natural right and development of this right legal regulation

Like the concept of childhood, the history of children's rights has been shaped by changing economic, social, cultural and political circumstances⁵⁰. Until the 16th century childhood was not perceived as a unique or exceptional period of life. Most children over the age of six were considered small adults and were not separated from adults as a class, i.e. i.e. children were legally and socially considered the property of their parents and were not considered human beings with their own status and rights⁵¹. "Child's rights" is a relatively new concept, although the idea that children need special protection dates to the 19th century. However, the history of children, who were granted a separate set of international human rights, began in the 20th century⁵². In the 1920s, when the rights-based approach to child protection expanded to the international arena after the First World War. In 1924 E. Jebb, the founder of the international organization "Save the Children", persuaded the UN to adopt the Geneva Declaration on the Rights of the Child

⁵⁰ Kjørholt, A. T., et al. (2023). Changing childhoods in coastal communities. *Children's Geographies*, 21(1), 1–12. DOI: 10.1080/14733285.2022.2099876

⁵¹ Kosher, H., Ben-Arieh, A., & Hendelsman, Y. (2016). *Children's rights and social work*. Springer. DOI: 10.1007/978-3-319-43920-4

⁵² Cole-Alback, A. (2021). A brief history of children's rights. The Centre for Research in Early Childhood. Birmingham, England.

⁵³, and in the same year the first international document protecting the rights of the child was adopted - the Geneva Declaration of the Rights of the Child. This declaration is short, containing only five statements, but they provide a concise list of what society "owes the child" and established the notion that children should have certain kinds of rights and declared that humanity should give the child the best ⁵⁴.

World War II brought a new wave of interest in child welfare. The newly established UN was concerned with children's rights from an early stage and in 1959 November 20 the Declaration of the Rights of the Child was adopted, expanding the Geneva Declaration of the Rights of the Child. The Declaration of the Rights of the Child stated that every child has the right to a "happy childhood" ⁵⁵. This declaration is also still characterized by provisions - a protective approach to children's rights based on the assumption of children's dependency and vulnerability. The adopted Declaration gave children ten rights and was supposed to become the UNHCR, which after 30 years adopted by the UN General Assembly, based on This means that a Declaration is a document that specifies agreed standards but is not legally binding. While a Convention is a document that specifies formally agreed standards that signatory states commit to⁵⁶.

The right to know one's parentage is self-evident to most people who know their biological parents, but some children do not know their biological parents ⁵⁷. Leaving aside the sociological aspects of children's desire and need to know their biological parents and focusing on the legal basis, it can be recognized that the rapid development of biotechnology has created many legally sensitive family law issues ⁵⁸.

Natural rights derive from our nature as human beings, what we need as human beings and what we owe to other human beings (this can be called justice)⁵⁹. Natural rights exist independently of customs or legal conventions. When we apply the natural law system, we see that indeed children have rights⁶⁰. One of the natural rights of the child is the right to know his father

⁵³ Mayhew, E. (2019). Eglantyne Jebb and the war against children. *The Lancet*, 393(10184), 1928–1929. DOI: 10.1016/S0140-6736(19)31089-6

⁵⁴ Declaration of the Rights of the Child, "Geneva Declaration of the Rights of the Child of 1924, Adopted Sept. 26, 1924, League of Nations O.J. Spec. Supp. 21, at 43 (1924).," September 26, 1924, Retrieved 07.19.2024, From: <http://hrlibrary.umn.edu/institute/childrights.html>.

⁵⁵ Kosher, H., Ben-Arieh, A., & Hendelsman, Y. (2016). *Children's rights and social work*. Springer. DOI: 10.1007/978-3-319-43920-4

⁵⁶ Cole-Alback, A. (2021). *A brief history of children's rights*. The Centre for Research in Early Childhood. Birmingham, England.

⁵⁷ Besson, S. (2007). Enforcing the child's right to know her origins: Contrasting approaches under the Convention on the Rights of the Child and the European Convention on Human Rights. *International Journal of Law, Policy and the Family*, 21(2), 137–159. DOI: 10.1093/lawfam/ebm007

⁵⁸ Zhussipbek, G., & Nagayeva, Z. (2022). The need to bridge the gap between research on children's rights and parenting styles: Authoritative/democratic style as an acultural model for the child's well-being. *Social Sciences*, 12(1), 22. DOI: 10.3390/socsci12010022

⁵⁹ Montero, J. (2016). Do human rights derive from natural rights? The state of nature, political authority and the natural right to independence. *The Philosophical Forum*, 47, 151–169. DOI: 10.1111/phil.12116

⁶⁰ Finnis, J. (2011). *Natural law and natural rights*. Oxford University Press.

and mother, but even though this natural right is discussed in the world's most widely ratified child rights treaty - the UNCRC, confusion remains⁶¹. Ensuring the rights and legitimate interests of the child is a separate special legal system that originates from human rights but is specifically aimed at the protection of children⁶². This is where the responsibilities of both parents and guardians come into play - to meet the special needs of children, provide them with protection and follow the basic principles of ensuring children's well-being. Parents are the first to have the right to act on behalf of the child and ensure that his rights are respected.

The idea that people have universal rights evokes a wealth of different and contested theoretical and conceptual approaches. Throughout Western history, parents have had almost unlimited rights over their children, and children have been considered the property of their parents. In the 1980s and 1990s, theoretical debates about what it means to say that children have rights failed to reach a general agreement on how best to understand the concept of children's rights, but in the 20th century⁶³ the children's rights movement began, and a deep scientific understanding of children and childhood emerged. Children were no longer considered the property of their parents and began to be recognized as individuals with separate and inviolable rights. Children's rights now refer to a class of rights that includes both child-specific rights and rights for which the identity of the rights holder, who is a child, is crucial⁶⁴. As B. Kairienė states "[...] the situation of a child does not differ from that of adults, therefore the child's social status in society, the attitude towards him as a member of society, the treatment towards him should not be different either" ⁶⁵.

When discussing children's right to know their parentage, they most likely mean that children should have information to identify their parents. Adopted children know who their legal parents are, their adoptive parents, but may not know the circumstances of their birth and whose genes they carry. Certain laws aim to strike a proper balance between the child's and biological parents' rights to learn about one another while considering the child's needs and those of the adoptive parents, ensuring that children can be raised in a secure family environment.

The human rights enshrined in the Universal Declaration of Human Rights apply to all people, regardless of age, and therefore children enjoy the same rights as adults. A child is a person to whom both international and national laws and legal acts guarantee natural rights, just like any

⁶¹ Connolly, M. (2022). Trans parenthood in Ireland: Does every child need a mother? *UC Dublin Law Review*, 22, 95. DOI: 10.2139/ssrn.3789322

⁶² Ife, J., Soldatić, K., & Briskman, L. (2022). Human rights and social work. *Cambridge University Press*.

⁶³ Cunningham, H. (2020). Children and childhood in Western society since 1500. Routledge.

⁶⁴ Ferguson, L. (2013). Not merely rights for children but children's rights: The theory gap and the assumption of the importance of children's rights. *The International Journal of Children's Rights*, 21(2), 177–208. DOI: 10.1163/15718182-02102002

⁶⁵ Kairienė, B. (2012). Vaiko teisinis statusas: Įgyvendinimo problemos. *Socialinių Mokslų Studijos*, 4(4), 1443–1455.

other person⁶⁶. Although the rights of the child are determined by many legal acts, this paper singles out those that directly or indirectly enshrine the child's right to know his biological parents. In the context of the provisions of the ECHR, this right is protected by Article 8. 1 d. established provisions that "everyone has the right to respect for his personal and family life [...]" ⁶⁷. The UNFCCC is the most comprehensive international convention, Article 7 of which 1 d. it is directly established that "the child [...] from the moment of birth has [...] as far as possible, the right to know his parents and to be under their care". Article 3.161 of the CC of the Republic of Lithuania. 2 d. it is also directly established that "a child has the right to know his parents, if this does not harm his interests or the law does not provide otherwise" ⁶⁸. Article 9 of the Basic Law on the Protection of Child Rights. 1 d. it is announced that "from the moment of birth, a child has the right to a name, surname, nationality and citizenship, the right to family and other ties related to his individuality and their preservation [...]", and Article 4 of the same law. it is stipulated that [...] when making decisions or taking any actions related to a child, the child's natural right to grow up in a biological family and preserve family ties must be taken into account, if this does not conflict with the child's interests [...] ⁶⁹. Although the Constitution of the Republic of Lithuania, in contrast to the constitutions of Serbia, Uganda, Namibia, Malawi, Costa Rica and Congo ⁷⁰, does not directly provide for a child's right to know his biological parents, but Article 38 of the Constitution of the Republic of Lithuania. established that [...] the state also protects the family, motherhood, fatherhood and childhood [...], and Art. 18 declares that "human rights and freedoms are natural [...]" ⁷¹.

The concept of the child's interests is enshrined in Article 3 of the United Nations Convention on the Rights of the Child. 1, which establishes that "in all child-related actions taken by public or private social welfare institutions, courts, administrative institutions or legislative institutions, the interests of the child must be taken into account first" ⁷². In this article, "all actions affecting the child" include all decisions, actions, offers, services, procedures and other

⁶⁶ Seimas of the Republic of Lithuania, "Universal Declaration of Human Rights" (1948), Retrieved 07.23.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.278385>.

⁶⁷ Seimas of the Republic of Lithuania, "European Convention on Human Rights" (1950), Retrieved 07.19.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.19841>.

⁶⁸ Seimas of the Republic of Lithuania, "Law No. VIII-1864 on the Approval, Entry into Force, and Implementation of the Civil Code of the Republic of Lithuania." (2000), Retrieved 07.19.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.107687>.

⁶⁹ Seimas of the Republic of Lithuania, "I-1234 Law on the Fundamentals of Child Rights Protection of the Republic of Lithuania" (1996), Retrieved 07.19.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.26397>.

⁷⁰ Kraljic, Suzana. (2021). "The Right to Know One's Origins in Light of the Legal Regulations of Adoption in Slovenia." *Law, Identity & Values* 1:99.

⁷¹ Constitution of the Republic of Lithuania, "Constitution of the Republic of Lithuania | Prosecutor's Office of the Republic of Lithuania" (1992), Retrieved 07.22.2024, From: <https://www.prokuraturos.lt/lt/teisine-informacija/lietuvos-respublikos-konstitucija/5993>.

⁷² United Nations General Assembly, "Convention on the Rights of the Child," November 20, 1989, Retrieved 07.24.2024, From: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

measures, including omissions and omissions⁷³. This term indicates that there are no restrictions on the application of the principle in situations involving children⁷⁴. The term "related" is also mentioned. "Related" refers to forms of action that directly and indirectly affect children. In addition, the term "relating to" shall be understood as relating to, affecting, or influencing children⁷⁵. Finally, the term "should be" is interpreted by the Committee on the Rights of the Child (CRC Committee) as saying that "the term "must be" means strict legal obligations for States Parties to this Convention, and therefore does not provide any discretion and flexibility as to whether the principle "the best interests of the child" should be assessed"⁷⁶. Article 3, 1 of the UNCRC emphasizes that "the interests of the child are paramount". This provision provides for special protection of children in any context and recognizes their unique vulnerability. This principle is non-derogable, which means that it does not allow restrictions even in critical cases. Therefore, the principle of the supremacy of the child's interests is enshrined in the article, which means that the child's interests are the most important when solving all issues related to the child. The concept of the child's interests should be considered a rule of procedure, which means that a decision must be made for a specific child or group of children, while considering both the positive and negative effects of the decision⁷⁷. This principle, as the main interpretive principle of law, requires that "if a legal provision can be interpreted in more than one way, the interpretation that most effectively meets the interests of the child must be chosen"⁷⁸. Thus, children themselves cannot properly exercise their rights to the full extent, so their parents or guardians (caregivers) must ensure this for them. The law does not precisely define what is the best interests of a child, what is best for all children, so decision-making processes always require a comprehensive assessment of the best interests of each child or group of children⁷⁹. The legitimate interests of the child must be assessed as the sum of his best interests, closely related to the rights of the child. Interests are the main factor that needs to be considered and evaluated in all situations that involve the child and his

⁷³ United Nations General Assembly, "Convention on the Rights of the Child," November 20, 1989, Retrieved 07.24.2024, From: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

⁷⁴ Bayefsky, A. F. (2017). The principle of equality or non-discrimination in international law. In *Equality and non-discrimination under international law* (pp. 71–104). Routledge.

⁷⁵ United Nations, "General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3, Para. 1)," May 29, 2013, Retrieved 07.19.2024, From: <https://www.refworld.org/legal/general/crc/2013/en/95780>.

⁷⁶ Vandenhoe, W., Türkelli, G. E., & Lembrechts, S. (2019). Best interests of the child. In *Children's rights* (pp. 59–73). Edward Elgar Publishing.

⁷⁷ Zermatten, J. (2010). The best interests of the child principle: Literal analysis and function. *The International Journal of Children's Rights*, 18(4), 483–499. DOI: 10.1163/157181810X528021

⁷⁸ Wang, D., & Wang, B. (2021). A judicial empirical study on the principle of "the best interests of the child" - From the principles of national conventions to the building of adjudication norms. *Journal of Human Rights*, 20, 1012. DOI: 10.1111/j.1748-720X.2021.02012.x

⁷⁹ Kanics, J. (2017). The best interests of unaccompanied and separated children: A normative framework based on the Convention on the Rights of the Child. In *Unaccompanied children in European migration and asylum practices* (pp. 37–58). Routledge.

social environment⁸⁰. The concept of best interests is very broad and individual to each child and includes the child's well-being and rights to grow up in a safe, harmless environment⁸¹.

According to V. Ravitsky, two approaches can be distinguished, which are based on the concept of the child's right to know his genetic origin. The first is the consistent and reasonable notion that lack of such knowledge harms donor-conceived individuals and that such harm can be measured and demonstrated empirically. The second is conceptual and based on the idea that knowledge is a fundamental human right, and therefore requires no empirical support to demonstrate the harm that occurs when it is violated. Based on both perspectives, the author argues that "individuals have the right to know their genetic origin, and therefore clinical or legal systems that violate this are ethically unacceptable and should be changed at both national and international levels⁸².

De Campos debates the right to know and reveal one's biological origin stems from the very genetic parent-child relationship, which is unique, permanent, and irreplaceable. It is in this sense that the right to know and trace one's biological origins is a natural and basic human nature. First, it is a natural right because, based on the biological/genetic relationship that exists between biological/genetic offspring, this right does not derive from the authority of the state, nor is it dependent on the existence or granted existence of its political institutions. In other words, the right to know and reveal one's genetic origin is a natural, pre-political, pre-state right and it exists. Even if the state and its political institutions do not recognize it, and the state cannot usurp this right from any person⁸³, and as J. Stripeikiene, [...] natural rights are above the law, therefore laws do not establish, but only create a mechanism for their protection [...]⁸⁴.

But a person's origins are never solely biological. Children are also rooted in their parents' desires. French child psychiatrist Daniel Rousseau points out, in connection with the revelation to a child that he or she is the product of a gamete donation - a revelation that is certainly necessary out of respect for the child - that it is also appropriate to express to the child that he or she is first

⁸⁰ Fernández-Andrés, M. I., Pastor-Cerezuela, G., Sanz-Cervera, P., & Tárraga-Mínguez, R. (2015). A comparative study of sensory processing in children with and without autism spectrum disorder in the home and classroom environments. *Research in Developmental Disabilities*, 38, 202–212. DOI: 10.1016/j.ridd.2014.12.034

⁸¹ Tuakli-Wosornu, Y. A., Howsen, E. S., Bejar, M. P., Ganjavi, H., & Mountjoy, M. (2023). The journey to reporting child protection violations in sport: Stakeholder perspectives. *Frontiers in Psychology*, 13, 907247. DOI: 10.3389/fpsyg.2022.907247

⁸² Ravitsky, V. (2017). The right to know one's genetic origins and cross-border medically assisted reproduction. *Israel Journal of Health Policy Research*, 6, 1–6. DOI: 10.1186/s13584-017-0144-9

⁸³ De Campos, T. C., & Milo, C. (2018). Mitochondrial donations and the right to know and trace one's genetic origins: An ethical and legal challenge. *International Journal of Law, Policy and the Family*, 32(2), 170–183. DOI: 10.1093/lawfam/ebv007

⁸⁴ Stripeikienė, J. (2017). Vaiko teisė į pagarbą. *Jurisprudencija*, 24(2), 293–310.

and foremost the fruit of a love, but a fructification aided by a gift. He adds that there is no need to enter into detailed medical technical considerations⁸⁵.

In conclusion, it can be said that in terms of basic human rights, children are clearly rights holders. It is now widely recognized that every child, regardless of age, race, sex, wealth or place of birth, has rights. A child, like any other person, has the right to be treated with respect, a decent life, the right to know his biological parents, and although given that the term "child rights" is not always used correctly, this does not negate the reality that children have inherent rights. The child's right to know his biological origin is one of the natural aspects of the child's right to full and healthy personality development.

1.2. The concept of biological parentage and legal principles of children right to know their biological parents

The term parenthood is defined as the state, responsibilities, or relationship of parents. Many people may think that parenthood is just about having children. However, parenthood is a long and difficult journey, during which a person not only "brings" a new person into the world, but also leads him to adulthood. Parenting requires a lot of energy, effort, determination, courage, and patience⁸⁶.

This co-parenting raises the question of how to define the very category of parent. Who is a parent: the giver of genes or the giver of births? The one who cares for and raises the child? The one who gives the child a name and transfers property? All these components of parenthood are dissociated in other societies, but until recently overlapped in our own⁸⁷. This point has become clear to ethnologists of non-European societies, who have been working on the circulation of children between families, which is particularly important in certain African and Oceanic societies. Whereas in our societies, children "belong" to their own parents, in these societies, child donations generally reflect a kind of right of ascending or collateral kinship (consanguineous and allied) over the child. They also confer on donors a social prestige inconceivable in our own societies⁸⁸.

⁸⁵ Rey, C., et al. (2021). La psychanalyse avec les enfants et les adolescents a une histoire. In *Vocabulaire de psychanalyse avec les enfants et les adolescents* (pp. 471–515). Érès.

⁸⁶ Nomaguchi, K., & Milkie, M. A. (2020). Parenthood and well-being: A decade in review. *Journal of Marriage and Family*, 82(1), 198–223. DOI: 10.1111/jomf.12627

⁸⁷ Ozturk, E. (2022). Dysfunctional generations versus natural and guiding parenting style: Intergenerational transmission of trauma and intergenerational transfer of psychopathology as dissociogenic agents. *Med Sci*, 11(2), 886–904. DOI: 10.5455/medscience.2021.11.366

⁸⁸ Mugadza, H. T., et al. (2021). Engaging sub-Saharan African migrant families in Australia: Broadening definitions of family, community, and culture. *Community, Work & Family*, 24(4), 435–454. DOI: 10.1080/13668803.2020.1826805

Historically, biological paternity was associated with a man's relationship with the child's mother, i.e. the rule *pater est quem nuptiae demonstrant*⁸⁹. This provision means that the mother's husband is considered the child's biological father⁹⁰. Biological parenthood is often defined in the scientific literature as traditional or genetic parenthood. "Genetic paternity is defined as the relationship between two people"⁹¹. Legally, biological parents have a presumptive right to custody of their children. This is a universal practice that leads to an important feature of the parenting institution - children have two guardians by default⁹².

The purpose of parenthood as a family law institute is to ensure the implementation, defense and protection of the child's rights and freedoms⁹³, while implementing the principle of priority protection and defense of the child's rights and interests⁹⁴. Parenthood must ensure the rights and legitimate interests of the child⁹⁵.

The term "paternity" comes from Latin and means "to give birth". Thus, "paternity is a quality attached to any being, especially a person who has given birth to offspring"⁹⁶. More specifically, parenting refers to the care and maintenance of offspring. Paternity provides a legal relationship between parents and children that governs inheritance, financial provision of the child, citizenship, filing and defense of the case in court and legal identity of the child. Parenting means children being with their parents. Parenting refers to what parents do to raise, support, and socialize their children throughout their lives⁹⁷. Hence, parenthood includes not only the biological or actual presence of parents, but also the implementation of responsibilities towards children⁹⁸.

They are most often given to guardians who are themselves capable of giving their own children to others. The notion of child ownership, and the rights it confers on parents in the face of the "cap tation" of their offspring by others, has been the subject of various analyses, all of which describe the strength of the rights held over a child by individuals other than its parents: its potential recipients. The result is a fragmentation of the parental role, as we understand it in

⁸⁹ Browne-Barbour, V. S. (2015). Mama's baby, papa's maybe: Disestablishment of paternity. *Akron Law Review*, 48, 263.

⁹⁰ Joamets, K., & Kerikmäe, T. (2016). European dilemmas of the biological versus social father: The case of Estonia. *Baltic Journal of Law & Politics*, 9(2), 23–42. DOI: 10.1515/bjlp-2016-0010

⁹¹ Douglas, T., & Devolder, K. (2019). A conception of genetic parenthood. *Bioethics*, 33(1), 54–59. DOI: 10.1111/bioe.12503.

⁹² Feinberg, J. (2017). Whither the functional parent: Revisiting equitable parenthood doctrines in light of same-sex parents' increased access to obtaining formal legal parent status. *Brooklyn Law Review*, 83, 55.

⁹³ Eekelaar, J. (2017). *Family law and personal life*. Oxford University Press.

⁹⁴ Loo, H. (2016). In the child's best interests: Examining international child abduction, adoption, and asylum. *Chicago Journal of International Law*, 17, 609.

⁹⁵ Stolzenberg, E. J. (2018). The new family freedom. *Boston College Law Review*, 59, 1983.

⁹⁶ Imp Centre, "Parenthood: Its Meaning and Importance," *I* (blog), January 24, 2017, Retrieved 07.15.2024, From: <https://imp.center/i/parenthood-meaning-importance-5476/>.

⁹⁷ Nomaguchi, K., & Milkie, M. A. (2020). Parenthood and well-being: A decade in review. *Journal of Marriage and Family*, 82(1), 198–223. DOI: 10.1111/jomf.12627

⁹⁸ NeJaime, D. (2020). The constitution of parenthood. *Stanford Law Review*, 72, 261. DOI: 10.2139/ssrn.3465635

Western societies. English anthropologist Esther Goody breaks down parenthood into five distinct elements: conceiving and giving birth, giving an identity at birth (a legal element), nurturing, raising and guaranteeing the child's access to adult status (access to property, a profession, marriage)⁹⁹. The second parental function, the transmission of filiation, is not participated in the societies studied by the anthropologist, but the other attributes of the parental function may be dispersed between several and various individuals. She also shows how, reciprocally, there is a possible fragmentation of the child's duties towards those who raised him or her. With the new pluriparentalities of Western societies, we are in a very different world, but E. Goody's analysis invites us to clarify the nature of shared parental functions. The sharing of residency and the nurturing function between father and stepfather, mother, and stepmother, in blended families after divorce, have recently been analyzed from this perspective⁸. Not surprisingly, the most difficult questions concern the sharing of the process of conception and birth, given what we've said about our system of filiation. What is a father and what is a mother in medically assisted procreation and adoption?

Nowadays, parenthood is often the result of technological manipulation and an individual choice, and this raises various questions¹⁰⁰. The concept of parenthood can be defined through different lenses depending on the intended perspective. Exactly who are the parent of the child is a question that can be answered differently by a biologist, a lawyer, a psychologist or even the child himself. There are situations where paternity is legally recognized even if there is no genetic link between the adults and the children. This is the case not only when the conception occurred through assisted reproduction, but also when a child born in a biologically related family is later adopted by another¹⁰¹. According to N. Sušinskaitė, "in the Lithuanian legal system, the category "paternity" acquires biotechnological (biomedical) characteristics"¹⁰². In the Lithuanian dictionary, the term "parenthood" is defined as "being a father, the duties of a father (parents)"¹⁰³. In the English language, this concept is defined in three ways: "fatherhood" - fatherhood, "motherhood" motherhood and "parenthood" refers to the roles of both parents (both father and mother). The word "maternity" is defined in the same dictionary as "the state of a woman during pregnancy, childbirth, and nursing a baby; being a mother; mother's responsibilities; a mother's feeling for her children; mother's kinship with the child"¹⁰⁴, which is much more comprehensive

⁹⁹ Goody, E. (2013). A framework for the analysis of parent roles. In *Child fostering in West Africa* (pp. 21–59). Brill.

¹⁰⁰ Takes, F. (2022). The child's best interest in gamete donation. *Bioethics*, 36(1), 10–17. DOI: 10.1111/bioe.12962

¹⁰¹ Sušinskaitė, N. (2018). Biologiniai ir socialiniai tėvystės aspektai pagalbinio apvaisinimo atveju. *Jurisprudencija*, 25(1), 260–278.

¹⁰² *Ibid.*

¹⁰³ Lithuanian Dictionary, "Meaning of 'Fatherhood' - Lithuanian Language Dictionary," 2024, Retrieved 07.22.2024, From: <https://www.lietuviuzodynas.lt/zodynas/Tevyste>.

¹⁰⁴ *Ibid.*

than the concept of "paternity". According to S. Burvytė, the concept of "parenthood" can be more broadly defined as the roles and functions of parents of both sexes (mother and father), joint activities in the family" ¹⁰⁵. According to T. N. Liobikienė, "parenthood can be defined in various ways - as a biological, social or only social role, a purposeful activity, a dynamic process", and biological parenthood is defined as "a determined reproductive function of an individual - the ability to start, carry and give birth to a baby, take care of it and raise it" ¹⁰⁶.

According to S. Virasiri et al., parenting is the process of raising and raising a child from birth to adulthood, carried out by the mother and father or biological parents in the child's family. It is a biological and social process that involves much more than just a mother and father providing food, safety and support to an infant or child. It is a process of parent-child relationship, the purpose of which is to raise and socialize the child. D. Lang states that parenting is the process of growing, promoting and supporting a child's physical, emotional, social and cognitive development into adulthood and throughout life. Parenting is a complex process in which parents and children influence each other ¹⁰⁷.

According to Article 3.317 of the Civil Code of the Republic of Lithuania the origin of the child from the parents is confirmed from the day of the child's birth and from that day it creates the rights and obligations related to it, established by law ¹⁰⁸. Such a provision clearly defines that the basis for the emergence of legal relations between a child and his parents is the confirmation of the child's parentage. This means that in the case of biological parentage, the child's father is the person to whom the child is genetically related, i.e. i.e. by blood relation. The fact that children and biological parents must be genetically related is also confirmed by court practice. LAT has stated that "when confirming or denying paternity, priority should be given to scientific evidence", and "the conclusions of a DNA examination are reliable and objective scientific evidence, confirming or denying the origin of a child from specific individuals." As a result, it is recognized as having increased evidentiary power in paternity cases. Considering the reliability and objectivity of the examination findings, paternity can be established based on this evidence alone, even in the absence of any other data confirming the fact of paternity" ¹⁰⁹. Thus, the basis of biological paternity is the blood relationship that binds the father and mother, and in the event of

¹⁰⁵ Burvytė, S. (2015). Jaunų žmonių pasirengimas tėvystei ir motinystei [Preparation of young people for fatherhood and motherhood]. *Social Education/Socialinis Ugdymas*, 41(2).

¹⁰⁶ Liobikienė, N. T. (2009). Sisteminė pozityvios tėvystės raiškos ir ugdymo perspektyva [A systematic perspective on positive parenting expression and education]. *Socialinis Darbas. Patirtis Ir Metodai*, 4, 107–123.

¹⁰⁷ Lang, D. (2020). Parenting and family diversity issues. *Iowa State University*.

¹⁰⁸ Civil Code of the Republic of Lithuania, "VIII-1864 Civil Code of the Republic of Lithuania" (2000), Retrieved 07.9.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.245495>.

¹⁰⁹ Supreme Court of Lithuania, Case 3K-3-279/2011 - eTeismai (2011).

legal disputes regarding the establishment or disputing of paternity, the conclusion of a DNA examination is considered a significant and basic evidence ¹¹⁰.

According to the interpretation of the Supreme Court of Lithuania in case no. 2K-7-196-303/2022 legal basis for establishing paternity, vol. i.e. the legal emergence of the relationship between the child and the parents is the confirmation of the child's origin from the parents. Based on this established provision, the concept of biological parentage is understood as the child's father is a person to whom the child is related by blood (genetically). Biological parentage is based on the blood relationship between a father and his child. The only exception is adoption, when the same legal relations of motherhood and paternity arise between adoptive parents and adopted children as in the case of blood kinship, although they are not related by blood ¹¹¹.

The principle of the best interests of the child, which is now the main principle of child law, must be applied in all articles of the UNCRC ¹¹². One of the rights of the child is that the interests of the child should be considered first ¹¹³. The term "best interests of the child" was coined long before children were given explicit human rights, and its importance increased when it was included in the UNCRC ¹¹⁴. Article 3 of this Convention. 1 d. it is established that "when taking any actions affecting the child, whether it is done by public or private institutions engaged in social welfare, courts, administration or legislative bodies, the most important thing is the interests of the child" ¹¹⁵.

Unlike the ECHR, the ECtHR does not explicitly mention the "best interests of the child", but the ECtHR has developed a large body of case law related to children's rights and has dealt with the concept of best interests' numerous times in various contexts¹¹⁶. In cases where the interests of the child conflict with the interests of others, such as parents, the decision-maker must carefully balance the interests of all parties to find an acceptable compromise¹¹⁷. If reconciliation

¹¹⁰ Ponomareva, D. V., & Sorokina, E. M. (2021). Legal aspects of using genetic evidence on the example of US judicial practice. *RUDN Journal of Law*, 25(1), 87–106.

¹¹¹ Supreme Court of Lithuania, Extended Seven-Judge Panel of Mixed Criminal and Civil Cases, Divisions of the Supreme Court of Lithuania. Decision in the criminal case No. 2K-7-196-303/2022 dated November 29. (2022).

¹¹² Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99.

¹¹³ Melinder, A., Albrechtsen van der Hagen, M., & Sandberg, K. (2021). In the best interest of the child: The Norwegian approach to child protection. *International Journal on Child Maltreatment: Research, Policy and Practice*, 4(3), 209–230.

¹¹⁴ Council of Europe, "The Best Interests of the Child – A Dialogue between Theory and Practice – European Sources Online," 2016, Retrieved 07.20.2024, From: <https://www.europeansources.info/record/the-best-interests-of-the-child-a-dialogue-between-theory-and-practice/>.

¹¹⁵ United Nations General Assembly, "Convention on the Rights of the Child," November 20, 1989, Retrieved 07.24.2024, From: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

¹¹⁶ Sormunen, M. (2020). Understanding the best interests of the child as a procedural obligation: The example of the European Court of Human Rights. *Human Rights Law Review*, 20(4), 745–768. DOI: 10.1093/hrlr/ngaa029

¹¹⁷ Leloup, M. (2019). The principle of the best interests of the child in the expulsion case law of the European Court of Human Rights: Procedural rationality as a remedy for inconsistency. *Netherlands Quarterly of Human Rights*, 37(1), 50–68. DOI: 10.1177/0169344119827372

is not possible, the responsible institutions and individuals must analyze and weigh the rights of all interested parties, bearing in mind that the child's right to his own interests should be given priority, which means that the interests of the child must be prioritized over the interests of others¹¹⁸.

Determining what is in the best interests of the child and trying to find a balance are particularly problematic in cases where children were born through assisted reproduction, adopted, abandoned by anonymous birth mothers, or in other similar situations. These problems are very different from each other, most of them are new and some are extremely controversial, so it is necessary to try to find individual solutions for each of the scenarios. At the same time, whatever the regulation, the child has the right to receive information about his origin ¹¹⁹.

In conclusion, it can be said that biological parenthood is not considered the only type of parenthood. Parenthood does not only come from an individual characteristic, i.e. i.e. the genetic connection between the child and the father, but also from the mutual relationship between the child and the father himself. The basis of biological paternity is the blood relationship that binds the father and mother, and in the case of legal disputes regarding the establishment or disputing of paternity, the conclusion of the DNA examination is considered a significant and basic evidence. Parenthood is a complex and controversial concept in modern culture. In general, the father and mother whose DNA a child carries (the child shares genetic information with his biological parents, i.e. half of his genes from the father and half from the mother) are usually called biological parents, so it can be said that biological parentage comes from genetic connections. The principle of the best interests of the child is fundamental in solving all issues related to the child's right to know his biological parents and requires an individual assessment in each case.

1.3. Children need to know their biological origin and its influence on the formation of their personality and identity

Children need to know their biological origin can be seen by delving into the issues of ensuring the rights and legitimate interests of the child¹²⁰. It is the rights of the child and its related interests that are deeply analyzed issues in the national and international law of many countries. Both the rights of the child and the best interests of the child are interrelated and inseparable

¹¹⁸ Sormunen, M. A. (2016). *The best interests of the child: A dialogue between theory and practice*. Council of Europe Publishing.

¹¹⁹ Levy, M. (2022). Surrogacy and parenthood: A European saga of genetic essentialism and gender discrimination. *Michigan Journal of Gender & Law*, 29, 121.

¹²⁰ Garbarino, J. (2017). *Children and families in the social environment: Modern applications of social work*. Routledge.

concepts necessary for the proper implementation of the goals of parenting and ensuring the well-being of the child¹²¹.

When it comes to ensuring the rights and legitimate interests of the child, the term child becomes important¹²². The term child, in any sphere, is associated with childhood, the first stage of life, when a child develops. It is a young person, a boy or a girl, a person who has not reached the age of discretion, and for their parents, it is a son or daughter of any age¹²³. In the biological sciences, a child is generally defined as a person between birth and puberty or between infancy and puberty. Legally, the term child can refer to any person below the age of majority or other age limit¹²⁴.

Article 2 of the Child Rights Protection Law of the Republic of Lithuania. 11 p. stipulates that a child is considered a "person under the age of 18" ¹²⁵. Of course, exceptions to the law are also possible, for example, in the case of child emancipation. The same article emphasizes that "if a person's age is unknown and there are reasons to believe that he is a minor, such a person is considered a child until the contrary is established" ¹²⁶. Article 1 of the Convention on Human Rights it is indicated that a person who is not 18 years old is considered a child ¹²⁷. Children themselves cannot properly exercise their rights to the full extent, so their parents or guardians (caregivers) must ensure this for them. Children are at risk anytime, anywhere, unless parents and all adults work together to nurture, care for, and nurture children, at-risk children will not grow up physically and emotionally healthy¹²⁸. For this reason, a policy must be implemented in relation to children, as a country that is weaker and unable to take care of their rights and legitimate interests, the essence of which is that the child's rights and legitimate interests are ensured and helped to be implemented by biological, and in certain cases, social, parents¹²⁹.

In Lithuania, a big step in ensuring child welfare took place in 1992, when it joined the United Nations Convention on the Rights of the Child. The Convention consists of 54 articles that set out children's rights and how governments should work together to make them available to all

¹²¹ Langlaude, S. (2007). *The right of the child to religious freedom in international law* (Vol. 93). Martinus Nijhoff Publishers.

¹²² Kelly, L., & LeVezu, A. (2016). Until the client speaks: Reviving the legal-interest model for preverbal children. *Family Law Quarterly*, 50(3), 383–426.

¹²³ Eckert, P. (2017). Age as a sociolinguistic variable. In *The handbook of sociolinguistics* (pp. 151–167).

¹²⁴ Louw, D., & Louw, A. (2014). *Child and adolescent development*. UJ Press.

¹²⁵ Seimas of the Republic of Lithuania, "I-1234 Law on the Fundamentals of Child Rights Protection of the Republic of Lithuania" (1996), Retrieved 07.19.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.26397>.

¹²⁶ *Ibid.*

¹²⁷ United Nations General Assembly, "Convention on the Rights of the Child," November 20, 1989, Retrieved 07.24.2024, From: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

¹²⁸ Brown, B. S. (1992). The protection of human rights in disintegrating states: A new challenge. *Chicago-Kent Law Review*, 68, 203.

¹²⁹ Holman, M. A. (2022). Physicians, parents, and the transgender child: Does the state have a legitimate interest in prohibiting gender-affirming treatment in minors? *Family Law Quarterly*, 56(1), 95–115.

children. Under the terms of the Convention, governments must meet the basic needs of children and help them reach their full potential. The key is to recognize that every child has fundamental rights¹³⁰. These rights include the right to life, survival and development, protection from violence, abuse or neglect, the right to an education that enables children to fulfill their potential, the right to be raised by or in contact with their parents, and to express their views and be heard¹³¹.

According to M. Moschella, the relationship between parents and children is special. The role of parents is also very important in the education and upbringing of their children. These special responsibilities meet the specific needs of children and are parental authority and the right to use that authority according to the dictates of their conscience¹³².

The question of whether children should be told about their biological origins remains one of the most controversial issues in the practice of reproductive donation. While some argue that children need to know their biological parentage for both medical and psychological reasons, others believe that it is a private family matter that should be decided by the parents themselves¹³³. However, it is now widely accepted that children who do not know one or both of their biological parents have a "vital interest" in identifying them to learn about their parentage¹³⁴.

All this presupposes that knowing one's biological parents is one of the components of decisive importance for a person's self-perception and perception of his place in society¹³⁵. The inability to determine his origin can be a burden and a source of uncertainty for a person, therefore the right to know his origin is also part of the rights of personality. In a broader sense, it is the right to identity, which includes the right to a person's name, the right to citizenship, and the right to know the identity of one's parents¹³⁶.

Jumakova debates the child creates and transforms his own identity, independently choosing between different visions and values, and it can crystallize in the years of maturity. A child's identity is the result of his own experience, not the assumptions of adults about the child's

¹³⁰ Čižikienė, J. (2018). Institutional care system transformation: Trends and perspectives for the development of child care institutions. *Education Reform in Comprehensive School: Education Content Research and Implementation Problems*, 2, 22–35.

¹³¹ United Nations General Assembly, "Convention on the Rights of the Child," November 20, 1989, Retrieved 07.24.2024, From: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

¹³² Moschella, M. (2014). Natural law, parental rights and education policy. *The American Journal of Jurisprudence*, 59(2), 197–227. DOI: 10.1111/ajjur.12034

¹³³ Elena Ilioi, S., McCormick, J., & Schofield, P. (2017). The role of age of disclosure of biological origins in the psychological wellbeing of adolescents conceived by reproductive donation: A longitudinal study from age 1 to age 14. *Journal of Child Psychology and Psychiatry*, 58(3), 315–324. DOI: 10.1111/jcpp.12614

¹³⁴ Besson, S. (2007). Enforcing the child's right to know her origins: Contrasting approaches under the Convention on the Rights of the Child and the European Convention on Human Rights. *International Journal of Law, Policy and the Family*, 21(2), 137–159. DOI: 10.1093/lawfam/ebm007

¹³⁵ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.1163/25894610-00102005

¹³⁶ Republic of Slovenia Constitutional Court, "The Constitutional Court, in the Proceedings to Assess Constitutionality Initiated on the Motion of Mirko Verovšek, Medvode, Represented by Lucija Šikovec Ušaj, Attorney in Ljubljana.," 2007, Retrieved 07.20.2024, From: <https://pisrs.si/pregledPredpisa?id=ODLU1132>.

experiences, desires, and feelings. Influences on a child's identity can have an infinite number of situations, i.e., i.e. assisted conception, leaving the child in the "life box", and the identity problems that are most often faced by adopted children, as well as children who were conceived artificially (for example, through surrogacy or the use of donor sperm), are defined by the term "genealogical confusion"¹³⁷.

According to Asai and Ishimoto, the debate about the right of children born after assisted fertilization through sperm donation to know their origin highlighted three disadvantages for a child who does not know the origin. The lack of genetic information can violate the child's right to health; failure to rule out consanguineous marriage when children marry; the child will not have information about his biological parents and his birth, which is very important for the development of the child's identity¹³⁸. All these perspectives are important and without a doubt must be respected in order to protect children who find themselves in such vulnerable situations.

Article 8 th. of UNCRC (United Nations Convention on the Rights of the Child) complements Article 7, which enshrines the child's right to preserve his identity and although it is not clearly defined in the UNCRC¹³⁹, but Article 8 of the UNCRC provides three examples of 'self-identity', namely nationality, name, and family ties. Article 2 th. of this convention states, parties to the Convention, have a duty to ensure that in cases where some or all the elements of a child's identity are unlawfully taken away, they must be provided with assistance and protection in order to be able to restore or establish their identity as soon as possible¹⁴⁰. Scholars Casonato and Hebersaat agree with the opinion expressed by S. Kraljić and say that one of the important reasons why it is important for children to know about their biological origin is to create their own identity¹⁴¹. The right to identity can be assessed in terms of two aspects - the right to preserve one's identity and the opportunity to find out one's identity¹⁴². Children who have been adopted often want to know the identity of their biological parents, and empirical evidence about adopted children supports the statement that the love of biological parents for children is important and

¹³⁷ Jumakova, A. (2020). Content of the child's right to identity within the scope of the Convention on the Rights of the Child and the Latvian national framework. *Miscellanea Historico-Iuridica*, 19(1), 223–244. DOI: 10.2478/mhi-2020-0013

¹³⁸ Asai, A., & Ishimoto, H. (2013). Should we maintain baby hatches in our society? *BMC Medical Ethics*, 14, 1–7. DOI: 10.1186/1472-6939-14-1

¹³⁹ Mol, C. (2019). Children's representation in family law proceedings: A comparative evaluation in light of Article 12 of the United Nations Convention on the Rights of the Child. *The International Journal of Children's Rights*, 27(1), 66–98. DOI: 10.1163/15718182-02701003

¹⁴⁰ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.1163/25894610-00102005

¹⁴¹ Casonato, M., & Habersaat, S. (2015). Parenting without being genetically connected. *Enfance*, 3(3), 289–306. DOI: 10.3917/enf.153.0289

¹⁴² Jumakova, A. (2020). Content of the child's right to identity within the scope of the Convention on the Rights of the Child and the Latvian national framework. *Miscellanea Historico-Iuridica*, 19(1), 223–244. DOI: 10.2478/mhi-2020-0013

irreplaceable, and its absence has a negative impact on the general well-being of children ¹⁴³. Researchers have found that one of the biggest psychological difficulties faced by adopted children is feeling rejected or abandoned by their biological parents ¹⁴⁴. Adoption research shows that many adopted children benefit from discovering the identity of those who brought them into the world, and that this information should be provided at an early age ¹⁴⁵. Also, concealment and secrecy contribute to children's sense of loss if they are later told that they were raised to mistakenly believe that their current adoptive parents are their biological parents ¹⁴⁶, but a child who is informed as a child that they are adopted often does not set out to find their biological parents until reaching adulthood ¹⁴⁷.

The individual's interest in knowing his biological origin is related to the right to respect for private life and is also understood as the right to know his genetic, social, and cultural history. The right to know one's biological origin is seen as an aspect of the broader right to personal identity, as it can help define one's personality. Personal identity, in retrospect, is related to an interest in biological truth, as the confirmation of true kinship is part of the need to guarantee the child's right to his own identity ¹⁴⁸.

Identity is a very complex concept that encompasses many different aspects. Knowing your genetic parents is a part of your identity, so knowing them is essential to building a healthy identity ¹⁴⁹. During adolescence and young adulthood, a child may become interested in learning more about their biological mother and father and may even consider searching for them. This may be a function of curiosity, or she may want to gain a sense of completeness about her identity ¹⁵⁰. Therefore, when it comes to the age at which children learn about their biological parents, there is a growing body of research showing that the age at which children learn that they were born through assisted reproduction has an impact on how they feel, and that those who learn later are more likely to experience psychological distress ¹⁵¹. Performed by E. Ilioi et al. a study showed that the earlier children born through reproductive donation are told about their biological origins,

¹⁴³ Shuttleworth, P. D. (2023). Recognition of family life by children living in kinship care arrangements in England. *The British Journal of Social Work*, 53(1), 157–176. DOI: 10.1093/bjsw/bcac032

¹⁴⁴ Wrobel, G. M., & Grotevant, H. D. (2019). Minding the (information) gap: What do emerging adult adoptees want to know about their birth parents? *Adoption Quarterly*, 22(1), 29–52. DOI: 10.1080/10926755.2018.1539682

¹⁴⁵ Casonato, M., & Habersaat, S. (2015). Parenting without being genetically connected. *Enfance*, 3(3), 289–306. DOI: 10.3917/enf.153.0289

¹⁴⁶ Moschella, M. (2016). *To whom do children belong?: Parental rights, civic education, and children's autonomy*. Cambridge University Press.

¹⁴⁷ Fortin, J. (2009). Children's right to know their origins—Too far, too fast. *Child & Family Law Quarterly*, 21, 336.

¹⁴⁸ Hubbel, A., McAuliffe, M., & Yang, J. (2023). North American genetic counselors' approach to collecting and using ancestry in clinical practice. *Journal of Genetic Counseling*, 32(2), 462–474. DOI: 10.1002/jgc4.1617.

¹⁴⁹ Allen, B. J. (2023). *Difference matters: Communicating social identity*. Waveland Press.

¹⁵⁰ Golombok, S., et al. (2023). Relationships between mothers and children in families formed by shared biological motherhood. *Human Reproduction*, 38(5), 917–926. DOI: 10.1093/humrep/dead017

¹⁵¹ Grotevant, H. D., & Von Korff, L. (2011). Adoptive identity. In S. J. Schwartz, K. Luyckx, & V. L. Vignoles (Eds.), *Handbook of identity theory and research* (pp. 585–601). Springer. DOI: 10.1007/978-1-4419-7988-9_28

the more it positively affects the quality of their family relationships and psychological well-being in adolescence ¹⁵². According to S. Kraljić, a person usually begins to search for his origin and identity only after reaching adulthood ¹⁵³. Pennings states, that giving a child the opportunity to connect with his genetic father when he turns 18 is too late ¹⁵⁴. The identity of the donor is necessary for the construction of the child's identity, so such information should be provided much earlier in the child's life. Identity formation is a lifelong process that begins at an early age and is particularly associated with the adolescent period. The ECtHR case *Jäggi v. Switzerland* made it clear that a person's interest in knowing the identity of his parents does not disappear with age ¹⁵⁵.

In conclusion, it can be said that ignorance of the biological parents is often a part of children's lives, and the circumstances of the child's conception are very important for his right to know. Genetic links determine kinship, parental rights and responsibilities are based on the genetic link between parents and children, and knowledge of one's genetic origins, i.e. getting to know biological parents is necessary for the formation of personal identity and personality.

1.4. An overview of the links between children's rights to know their biological parents using bibliometric analysis

In order to better know and recognize the scientific production on the right of children to know their biological parents, this section explores and analyzes the thematic links between "children's rights" and "biological parents". It exploits a corpus of scientific literature between 1963 and 2023, based on Scopus data. Our methodological approach combines DBSCAN and K-means, two distinct clustering algorithms. We first use DBSCAN for targeted and relevant concept segmentation, followed by the application of K-means to optimize the final clustering, creating three distinct clusters which are then analyzed to identify thematic links using network analysis. Data analysis and graph visualization were performed using R studio.

1.4.1. Sustained scientific production on the theme of children's right to know their biological parents

All children have the natural right to live with their parents, communicate with them and maintain legal, social and emotional ties. The father and mother whose DNA the child carries are

¹⁵² Ilioi, E., et al. (2017). The role of age of disclosure of biological origins in the psychological wellbeing of adolescents conceived by reproductive donation: A longitudinal study from age 1 to age 14. *Journal of Child Psychology and Psychiatry*, 58(3), 315–324. DOI: 10.1111/jcpp.12667

¹⁵³ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

¹⁵⁴ Pennings, G. (2022). The forgotten group of donor-conceived persons. *Human Reproduction Open*, 2022(3), hoac028. DOI: 10.1093/hropen/hoac028

¹⁵⁵ European Court of Human Rights, *Jäggi v. Switzerland* (July 13, 2006).

usually called the child's biological parents¹⁵⁶. Family relations with the child according to the law bind legal parents, but nowadays biological parents are increasingly being replaced by other persons, i.e. careers, guardians or adoptive parents who are not necessarily related. When a child loses one or both parents, there is a need to transfer the responsibilities of biological parents to other persons or institutions. With the emergence of a family that wants to fulfill the rights and duties of parents and with whom there is no biological connection, the institute of social parents appears which successfully replaces biological parents¹⁵⁷.

Considering this, two types of parenting are distinguished, i.e., biological and social parenting¹⁵⁸. The relationship between a child and a parent is fundamental in human life. Parental rights and responsibilities regarding a child are related to legal parentage¹⁵⁹. For this reason, it is important that social parentage is established as early as possible in a child's life after changing biological parents, as this will provide the child with security and stability¹⁶⁰. The increased incidence of children living apart from their biological father or mother, or both, raises the question of the child's right to know his biological parents¹⁶¹.

The situations that raise this question are extremely varied, and the answers offered, whether in the form of existing laws, policies, or common practice, are inconsistent in each case due to different histories or contemporary sensibilities. According to UNICEF, about 15.1 million orphans worldwide have lost both of their parents. As children move from one stage of development to another, they acquire new cognitive skills and psychosocial¹⁶². They have different views on life and often have more worries or problems¹⁶³. The relationship between biological parents and their children is exceptionally close and comprehensive, at least from a child's perspective¹⁶⁴. A child's relationship with his or her biological parents is the closest of that child's human relationship. This determines the identity of the child. Children may be born to different parents, and assisted reproduction or surrogacy procedures mean that the child's right to know their

¹⁵⁶ Kirk, E. R. (2023). Parental rights: In search of coherence. *Texas Review of Law & Politics*, 27(3), 729–742.

¹⁵⁷ O'Sullivan-Hayes, S. R., Melia, Y., & Nazir, F. (2023). A heavy weight, yet empowering: Grandparent special guardians' lived experiences of the role and family dynamics - An interpretative phenomenological analysis (IPA). *Adoption & Fostering*, 47(4), 434–452. DOI: 10.1177/03085759231157983

¹⁵⁸ Melina, L. (2000). Talking to children about their adoption: When to start, what to say, what to expect. *Adopted Child*, 19, 1–4.

¹⁵⁹ Kirk, E. R. (2023). Parental rights: In search of coherence. *Texas Review of Law & Politics*, 27(3), 729–742.

¹⁶⁰ Kleinschlömer, P., & Krapf, S. (2023). Parental separation and children's well-being: Does the quality of parent-child relationships moderate the effect? *Journal of Social and Personal Relationships*, 40(12), 4197–4218. DOI: 10.1177/02654075221148748

¹⁶¹ Caksen, H. (2022). The effects of parental divorce on children. *Psychiatriki*, 33(1), 81–82. DOI: 10.22365/jpsych.2022.331.81

¹⁶² Melina, L. (2000). Talking to children about their adoption: When to start, what to say, what to expect. *Adopted Child*, 19, 1–4.

¹⁶³ Saracho, O. N. (2023). Theories of child development and their impact on early childhood education and care. *Early Childhood Education Journal*, 51(1), 15–30. DOI: 10.1007/s10643-022-01419-5

¹⁶⁴ Nadon, V. V. (2022). Protection of the rights of children born with surrogate mothers (contractual regulation). *Probs. Legality*, 156, 17. DOI: 10.21564/2414-990x.156.240156

biological parents must be properly regulated and enforced, so that the child's current and future well-being is important¹⁶⁵.

The relevance of the topic is determined by the fact that we currently have the recognition of biological paternity in the law, but in court practice, we see that biological paternity is no longer the main reason for legalizing and maintaining parental relations. Not so long ago, biological parenthood had priority over social parenthood, but today much attention is paid specifically to the legitimate interests of the child and attempts are made to find a balance between the interests of adults and the interests of children. Courts adhere to the principle of the primacy of the child's interests¹⁶⁶.

Given the information above, the purpose of this study is to investigate and examine the thematic connections between "children's rights" and "biological parents" in academic literature. To achieve this, it employs a hybrid clustering method driven by machine learning to enhance overall effectiveness on our datasets, while also examining the most pertinent and important thematic connections. Investigating the thematic connections seeks to emphasize the mutual interactions and impacts between these two domains. The idea of identifying thematic links opens new conceptual perspectives, while highlighting dimensions previously neglected and less explored by researchers, requiring more nuanced and multidimensional explorations.

After presenting the background and objectives of our research, we review the literature that has evolved in relation to our research topic over the last few decades, and then detail our methodological choices. We then present the results obtained from our cluster analysis and our exploration of thematic connections. In conclusion, a general discussion will be devoted to interpreting the main aspects of our results and outlining avenues for future research.

By exploring the literature of the last decade concerning the relationship between children's rights and biological parents, we have identified three main research directions. This systematic review highlights a significant shift in how the rights of children to be aware of and sustain connections with their biological parents are regarded, mirroring alterations in legal, social, and ethical viewpoints.

Family dynamics and parenting issues. This research orientations explores the experiences and challenges of modern parenthood. It includes studies of birth experiences¹⁶⁷, the challenges of

¹⁶⁵ Čović, A. V., & Stjepanović, B. M. (2022). In vitro fertilisation from an anonymous donor: Dilemmas from the aspect of bioethics and the child's right to know his/her biological origins. *Sociološki Pregled*, 56(4), 1433–1471. DOI: 10.5937/socpreg56-39640

¹⁶⁶ Jovic-Prlainovic, O. S. (2021). Judgments of the European Court of Human Rights v. the Republic of Serbia on the application of genetic testing in paternity litigation. *Strani Pravni Zivot*, 2021, 47. DOI: 10.5937/spz2021-10-36158

¹⁶⁷ Corner, G. W., et al. (2023). The birth of a story: Childbirth experiences, meaning-making, and postpartum adjustment. *Journal of Family Psychology*. DOI: 10.1037/fam0001031

LGBT co-parenting following the legalization of same-sex marriage¹⁶⁸, and the complex identity of a Jewish orphan¹⁶⁹. It also examines the legal and practical aspects of parenthood¹⁷⁰, including in specific contexts such as HIV-affected families¹⁷¹ and LGBT families¹⁷². The philosophical implications of same-sex marriage¹⁷³, children's right to be loved¹⁷⁴, legal and constitutional developments relating to the family¹⁷⁵, parents' work-life balance¹⁷⁶, changing patterns of motherhood in Japan¹⁷⁷, inheritance issues in non-traditional families¹⁷⁸, and the genetic causes of pigment mosaicism¹⁷⁹ are also discussed.

Children's rights, adoption and family welfare. These lines of research cover adoption and children's rights in a variety of contexts. It covers conceptual analysis of adoption¹⁸⁰, court cases concerning parents' and children's rights¹⁸¹ and life after out-of-home placement¹⁸². It explores parental leave reforms¹⁸³, non-parental childcare rights¹⁸⁴, and the role of minor parents¹⁸⁵. Studies also cover surrogacy¹⁸⁶, knowing the identity of biological parents¹⁸⁷, stress in adoptive and

¹⁶⁸ Friedman, S. L., & Chen, C.-j. (2023). Same-sex marriage legalization and the stigmas of LGBT co-parenting in Taiwan. *Law & Social Inquiry*, 48(2), 660–688. DOI: 10.1017/lsi.2022.32

¹⁶⁹ Králová, K. (2020). What is true and what is right? An infant Jewish orphan's identity. In *Beyond Camps and Forced Labour: Proceedings of the Sixth International Conference* (pp. 105–123). Springer.

¹⁷⁰ NeJaime, D. (2020). The constitution of parenthood. *Stan. L. Rev.*, 72, 261

¹⁷¹ Mason, S. (2017). Custody planning with HIV-affected families: Considerations for child welfare workers. In *Children and HIV/AIDS* (pp. 61–77).

¹⁷² Higdon, M. J. (2019). Biological citizenship and the children of same-sex marriage. *Geo. Wash. L. Rev.*, 87, 124.

¹⁷³ Puolimatka, T. (2017). How Wolterstorff's defense of same-sex marriage violates his theory of justice: Philosophical note on Wolterstorff's argument for same-sex marriage. *Philosophia Christi*, 19(2), 363–380. DOI: 10.5840/pc201719230

¹⁷⁴ Liao, S. M. (2016). The right of children to be loved. In *What Is Right for Children?* (pp. 347–363). Routledge.

¹⁷⁵ Stoner, J. R., Jr. (2016). Does the law and the constitution of the family have to change? *Perspectives on Political Science*, 45(2), 80–86. DOI: 10.1080/10457097.2016.1151463

¹⁷⁶ Hobson, B., & Fahlén, S. (2016). Parent's work–life balance: Beyond responsibilities and obligations to agency and capabilities. In *Regulating Family Responsibilities* (pp. 21–46). Routledge.

¹⁷⁷ Holloway, S. D., Yamamoto, Y., & Suzuki, S. (2016). What is a good mother? Historical shifts, divergent models in urban Japan. In *Parenting After the Century of the Child* (pp. 35–56). Routledge.

¹⁷⁸ Wright, D. C. (2015). Inheritance equity: Reforming the inheritance penalties facing children in nontraditional families. *Cornell JL & Pub. Pol'y*, 25, 1.

¹⁷⁹ Saida, K., et al. (2022). Monogenic causes of pigmentary mosaicism. *Human Genetics*, 141(11), 1771–1784. DOI: 10.1007/s00439-022-02437-w

¹⁸⁰ Majdabadi Kohne, Z. A., et al. (2023). Concept analysis of adoption: A hybrid model. *Journal of Child and Adolescent Psychiatric Nursing*. DOI: 10.1111/jcap.12382

¹⁸¹ Helland, T., & Hollekim, R. (2023). Care order cases in the European Court of Human Rights: Parents vs. children's rights. *The International Journal of Children's Rights*, 31(1), 190–224. DOI: 10.1163/15718182-31010004

¹⁸² Salem, R. S., & De Wilde, L. (2022). Life after an out-of-home placement: What biological parents in foster care tell us about parenthood. *Child & Family Social Work*, 27(2), 112–120. DOI: 10.1111/cfs.12853

¹⁸³ Moring, A., & Lammi-Taskula, J. (2021). Parental leave reforms in Finland 1977–2019 from a diversity perspective. *Social Inclusion*, 9(2), 338–349. DOI: 10.17645/si.v9i2.3864

¹⁸⁴ Randawar, D. K., Kamarudin, A., & Shukor, A. (2020). Non-parental child custody rights: A comparative perspective. *Intellectual Discourse*, 28(2), 529–553.

¹⁸⁵ Turnham, H. L., Binik, A., & Wilkinson, D. (2020). Minority report: Can minor parents refuse treatment for their child? *Journal of Medical Ethics*, 46(6), 355–359. DOI: 10.1136/medethics-2019-105878

¹⁸⁶ Kennedy, S. (2020). Willing mothers: Ectogenesis and the role of gestational motherhood. *Journal of Medical Ethics*, 46(5), 320–327. DOI: 10.1136/medethics-2019-105611

¹⁸⁷ Nacher, M., et al. (2020). Mapping French people's positions regarding the children's right to know their biological parents' identity. *Journal of Child and Family Studies*, 29, 1723–1731. DOI: 10.1007/s10826-019-01651-2

biological parents¹⁸⁸, professional foster care¹⁸⁹, the health of neglected children¹⁹⁰, and redefining parental responsibilities¹⁹¹. Other topics include listening to children's voices in decision-making¹⁹², parental guilt¹⁹³, biological parenthood as a human right¹⁹⁴, step-parent adoptions¹⁹⁵, recognizing parent-child relationships resulting from surrogate gestation¹⁹⁶, and anonymous birth¹⁹⁷.

Reproductive rights, technology and ethics. This research direction focuses on the intersections between technology, ethics and reproductive rights. It includes studies on reproductive autonomy¹⁹⁸, the path to parenthood for LGBT individuals¹⁹⁹, and the implications of medical technology²⁰⁰. The motivations behind anonymous gamete donation²⁰¹, neurobiological responses related to family history of alcohol abuse²⁰², and the use of technology to trace the origins of orphaned children²⁰³ are examined. This research orientations also discusses the role of films in

¹⁸⁸ Canzi, E., et al. (2019). 'Your stress is my stress': A dyadic study on adoptive and biological first-time parents. *Couple and Family Psychology: Research and Practice*, 8(4), 197. DOI: 10.1037/cfp0000121

¹⁸⁹ Basiaga, J. P., Róg, A., & Zięba-Kołodziej, B. (2018). Professional foster families in the reunification process—Polish experience. *Child & Family Social Work*, 23(4), 649–656. DOI: 10.1111/cfs.12461

¹⁹⁰ Regber, S., Dahlgren, J., & Janson, S. (2018). Neglected children with severe obesity have a right to health: Is foster home an alternative?—A qualitative study. *Child Abuse & Neglect*, 83, 106–119. DOI: 10.1016/j.chiabu.2018.07.008

¹⁹¹ Marcus, P. (2017). Parental responsibilities: Reformulating the paradigm for parent–child relationships Part 2: Who has responsibilities to children and what are these responsibilities? *Journal of Child Custody*, 14(2–3), 106–133. DOI: 10.1080/15379418.2017.1358744

¹⁹² Balsells, M. Á., Fuentes-Peláez, N., & Pastor, C. (2017). Listening to the voices of children in decision-making: A challenge for the child protection system in Spain. *Children and Youth Services Review*, 79, 418–425. DOI: 10.1016/j.childyouth.2017.06.055

¹⁹³ Ben-David, V. (2020). Does a parent's right to parenting matter in termination of parental rights? An analysis of court cases. *Family Court Review*, 58(4), 1061–1071. DOI: 10.1111/fcre.12511

¹⁹⁴ Liao, S. M. (2016). The right of children to be loved. In *What Is Right for Children?* (pp. 347–363). Routledge.

¹⁹⁵ Skosana, T., & Ferreira, S. (2016). Step-parent adoption gone wrong: *GT v CT* [2015] 3 ALL SA 631 (GJ). *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad*, 19(1). DOI: 10.4314/pej.v19i1.02

¹⁹⁶ Lescastereyres, I. R. (2015). Recognition of the parent-child relationship as a result of surrogacy and the best interest of the child: How will France adapt after the ECtHR rulings. *ERA Forum*, 16, 149–162. DOI: 10.1007/s12027-015-0387-0

¹⁹⁷ Margaria, A. (2014). Anonymous birth: Expanding the terms of debate. *The International Journal of Children's Rights*, 22(3), 552–580. DOI: 10.1163/15718182-55680018

¹⁹⁸ Chalmers, J., et al. (2023). The rights of man: Libertarian concern for men's, but not women's, reproductive autonomy. *Political Psychology*, 44(3), 603–625. DOI: 10.1111/pops.12867

¹⁹⁹ Ådnanes, M., et al. (2023). Lesbian and gay individuals' path into foster parenting in Norway—Barriers and facilitators at the person and system levels. *Child & Family Social Work*.

²⁰⁰ Hu, L., et al. (2022). Cochlear implantation in a Chinese patient with a novel frameshift variant in POU3F4 gene and incomplete partition type III: A case report. *Journal of International Medical Research*, 50(1), 03000605211066253. DOI: 10.1177/03000605211066253

²⁰¹ Bauer, T. (2022). A systematic review of qualitative studies investigating motives and experiences of recipients of anonymous gamete donation. *Frontiers in Sociology*, 7, 746847. DOI: 10.3389/fsoc.2022.746847

²⁰² Martz, M. E., et al. (2022). Nucleus accumbens response to reward among children with a family history of alcohol use problems: Convergent findings from the ABCD Study® and Michigan Longitudinal Study. *Brain Sciences*, 12(7), 913. DOI: 10.3390/brainsci12070913

²⁰³ Mishra, K. N., et al. (2022). A novel approach towards tracing the parents of orphaned children and dead bodies in cloud and IoT-based distributed environment by integrating DNA databank with Aadhar and FIR databases. *International Journal of Cloud Computing*, 11(5–6), 456–479. DOI: 10.1504/IJCC.2022.127885

depicting the destruction of families²⁰⁴, the neurobiology of rewards in children²⁰⁵, family support services²⁰⁶, and the legal implications of surrogacy²⁰⁷. Other topics include womb rental contracts²⁰⁸, the medico-legal problems of post-mortem reproduction²⁰⁹, the impact of family structure on child-rearing²¹⁰, the rights of children not to be conceived via reproductive technologies²¹¹, the recognition of parentage established abroad²¹², the ethical challenges posed by multiple parents²¹³, the intergenerational transmission of neurological dysfunctions²¹⁴, the reproductive rights of gay men²¹⁵, the right of children conceived by donation to know their origins²¹⁶, the ethical issues of assisted reproduction²¹⁷, the end of donor anonymity²¹⁸, bureaucratic negligence in child protection²¹⁹, the anonymity of gamete donation²²⁰, the ethical challenges of creating embryos for donation²²¹, the experience of blended families²²².

²⁰⁴ Marting, D. E. (2022). State terror and the destruction of families for reproductive ‘management’ in three Argentine films. In *The Palgrave Handbook of Reproductive Justice and Literature* (pp. 489–511). Springer.

²⁰⁵ Kwarteng, A. E., et al. (2021). Child reward neurocircuitry and parental substance use history: Findings from the Adolescent Brain Cognitive Development Study. *Addictive Behaviors*, 122, 107034. DOI: 10.1016/j.addbeh.2021.107034

²⁰⁶ Frimpong-Manso, K. (2021). Funding orphanages on donations and gifts: Implications for orphans in Ghana. *New Ideas in Psychology*, 60, 100835. DOI: 10.1016/j.newideapsych.2020.100835

²⁰⁷ AlAhmad, M. H. M. (2021). The crime of using a surrogate mother in the Jordanian Penal Code and Islamic Sharia: A comparative study. *Review of International Geographical Education Online*, 11(5).

²⁰⁸ Qutieshat, E., & Alawatli, A. (2019). Womb-lease contracts with particular reference to the Jordanian law: Comparative research. *An-Najah University Journal for Research-B (Humanities)*, 34(10), 1921–1952.

²⁰⁹ Avramova, O. Y., & Kukhariev, O. Y. (2020). Medical-legal problems of interference in the right to human autonomy in postmortem reproduction.

²¹⁰ Abuya, B. A., et al. (2019). Family structure and child educational attainment in the slums of Nairobi, Kenya. *Sage Open*, 9(2), 2158244019855849. DOI: 10.1177/2158244019855849

²¹¹ Schuman, O. (2018). Sexual citizenship and reproduction: Do children have a right not to be conceived via new reproductive technologies (NRTs)? In *Erotic Subjects and Outlaws* (pp. 61–82). Brill. DOI: 10.1163/9789004360035_005

²¹² Buonaiuti, F. M. (2019). Recognition in Italy of filiation established abroad by surrogate motherhood, between transnational continuity of personal status and public policy. *Cuadernos Derecho Transnacional*, 11, 294. DOI: 10.20318/cdt.2019.4967

²¹³ Aluas, M. (2018). Ethical issues raised by multiparents. In *Clinical Ethics at the Crossroads of Genetic and Reproductive Technologies* (pp. 81–97). Elsevier. DOI: 10.1016/B978-0-12-809642-0.00006-3

²¹⁴ Pawelczyk, A., et al. (2018). Higher-order language dysfunctions as a possible neurolinguistic endophenotype for schizophrenia: Evidence from patients and their unaffected first degree relatives. *Psychiatry Research*, 267, 63–72. DOI: 10.1016/j.psychres.2018.05.026

²¹⁵ Russell, C. (2018). Rights-holders or refugees? Do gay men need reproductive justice? *Reproductive Biomedicine & Society Online*, 7, 131–140. DOI: 10.1016/j.rbms.2018.03.001

²¹⁶ Zaami, S. (2018). Assisted heterologous fertilization and the right of donor-conceived children to know their biological origins. *La Clinica Terapeutica*, 169(1), e39–43. DOI: 10.7417/T.2018.2052

²¹⁷ Moschella, M. (2016). The wrongness of third-party assisted reproduction: A natural law account. *Christian Bioethics*, 22(2), 104–121. DOI: 10.1093/cb/cbw00

²¹⁸ Harper, J. C., Kennett, D., & Reisel, D. (2016). The end of donor anonymity: How genetic testing is likely to drive anonymous gamete donation out of business. *Human Reproduction*, 31(6), 1135–1140. DOI: 10.1093/humrep/dew065

²¹⁹ Yang, J. L., & Ortega, D. (2016). Bureaucratic neglect and oppression in child welfare: Historical precedent and implications for current practice. *Child and Adolescent Social Work Journal*, 33, 513–521. DOI: 10.1007/s10560-016-0432-4

²²⁰ Krastev, R., & Mitev, V. (2015). The donation of gametes and the anonymity of the donors. *Acta Medica Bulgarica*, 42(1), 5–11. DOI: 10.1515/amb-2015-0001

²²¹ Klitzman, R., & Sauer, M. V. (2015). Creating and selling embryos for ‘donation’: Ethical challenges. *American Journal of Obstetrics and Gynecology*, 212(2), 167–170. DOI: 10.1016/j.ajog.2014.07.041

²²² George, C. M., & Fernandez, M. S. (2014). A case study of a stepfamily’s relationship experiences before and after the death of a custodial biological parent. *The Family Journal*, 22(2), 258–264. DOI: 10.1177/1066480713514933

1.4.2. Materials and methods

Clustering is a fundamental tool in machine learning²²³. It is a method for detecting cluster structures in a dataset, with the aim of maximizing similarity within each cluster and maximizing dissimilarity between different clusters²²⁴. In this context, a cluster is a collection of data objects that exhibit similar characteristics within the same cluster and are clearly distinguishable from objects belonging to other clusters. In this way, a cluster of data objects can be treated collectively as a single group, allowing each cluster to be considered as a data entity in its own right²²⁵.

In this study, we used to examine our data using a hybrid strategy involving two advanced clustering techniques for accurate analysis. Note that clustering, an unsupervised learning method based on statistics and mathematics, is so defined by²²⁶. The first method, DBSCAN, is deployed to filter and highlight the most relevant author keywords we've named (main concepts) and to discard terms we have named (peripheral concepts) that are less interesting. The richness of the data obtained forms the basis of our research. In a second step, we use the k-means clustering method to segment this carefully sorted data into thematic groups. This bimodal process enables targeted exploration to deduce relevant thematic connections using thematic network analysis.

Data processing methodology

This section may be divided by subheadings. It should provide a concise and precise description of the experimental results, their interpretation, as well as the experimental conclusions that can be drawn.

Data of this research are scientific publications extracted from Scopus databases. This choice is because Scopus constitutes one of the largest and most comprehensive sources of publication metadata and impact indicators over the years²²⁷. Scopus is widely recognized as the most comprehensive bibliographic database for diverse applications²²⁸, both multidisciplinary and selective²²⁹, and continuously enriched and updated²³⁰.

²²³ Großwendt, A., Röglin, H., & Schmidt, M. (2019). Analysis of Ward's method. In Proceedings of the Thirtieth Annual ACM-SIAM Symposium on Discrete Algorithms (pp. 2939–2957). SIAM.

²²⁴ Kaufman, L., & Rousseeuw, P. J. (2009). Finding groups in data: An introduction to cluster analysis. John Wiley & Sons.

²²⁵ Han, J. K., & Kamber, M. (2001). Data mining: Concepts and techniques.

²²⁶ Hanafi, N., & Saadatfar, H. (2022). A fast DBSCAN algorithm for big data based on efficient density calculation. *Expert Systems with Applications*, 203, 117501. DOI: 10.1016/j.eswa.2022.117501

²²⁷ Prancutè, R. (2021). Web of Science (WoS) and Scopus: The titans of bibliographic information in today's academic world. *Publications*, 9(1), 12. DOI: 10.3390/publications9010012

²²⁸ Zhu, J., & Liu, W. (2020). A tale of two databases: The use of Web of Science and Scopus in academic papers. *Scientometrics*, 123(1), 321–335. DOI: 10.1007/s11192-020-03387-8

²²⁹ Baas, J., et al. (2020). Scopus as a curated, high-quality bibliometric data source for academic research in quantitative science studies. *Quantitative Science Studies*, 1(1), 377–386. DOI: 10.1162/qss_a_00019

²³⁰ Rew, D. (2010). SCOPUS: Another step towards seamless integration of the world's medical literature. *European Journal of Surgical Oncology*, 36(1), 2–3. DOI: 10.1016/j.ejso.2009.10.020

Data is downloaded on 11/08/2023, using the following search string: TITLE-ABS-KEY-AUTH (“children" AND "right" AND "biological parents”) AND (EXCLUDE (LANGUAGE, "French”) OR EXCLUDE (LANGUAGE, "Spanish”) OR EXCLUDE (LANGUAGE, "Italian”) OR EXCLUDE (LANGUAGE, "Russian”) OR EXCLUDE (LANGUAGE, "Portuguese”) OR EXCLUDE (LANGUAGE, "Polish”) OR EXCLUDE (LANGUAGE, "Lithuanian”) OR EXCLUDE (LANGUAGE, "Dutch”).

The second step is to review and clean the data. Initially, the downloaded database consisted of 284 publications entered in CSV format. To ensure the quality, consistency and reliability of the variety of bibliographic information it contained, we carried out a process of revision, correction and standardization of the data using Excel software. During this stage, we removed one duplicate. We also standardized author names and publication years. As a result, the cleaned database consists of 283 publications. Figure 3 shows the distribution of scientific publications in our database after the pre-processing process, from 1963 to 2023.

The third stage of our study revealed a key variable: the "*author's keywords*". These terms, chosen by the authors, represent the central themes and aspects of their research. In our assessment of the completeness of bibliographic metadata, we found that over 34% of these terms were missing. This could be the result of incomplete indexing by Scopus, which can vary according to the diversity of sources or the evolution of indexing protocols. In addition, the limitations of Scopus may affect keyword indexing, particularly for older articles or atypical publications such as notes and book chapters.

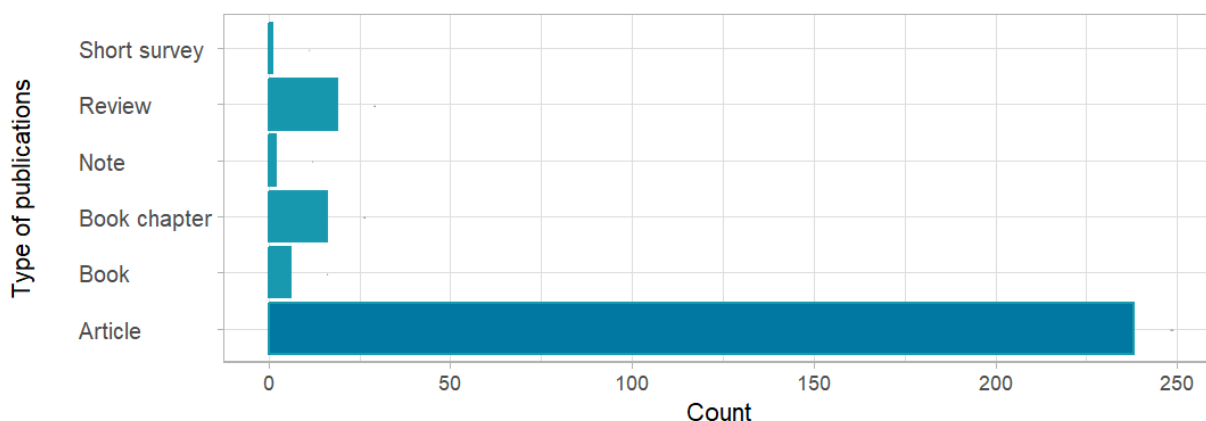
Once data had been pre-processed, we proceeded to vectorization. This procedure transforms qualitative data into digital form. It includes tokenization (breaking text into words or phrases) and data cleansing. At this phase, qualitative information, including authors' keywords, was converted into digital vectors for our machine learning algorithms to process and analyze effectively.

An analysis of author keywords was performed utilizing the R studio programming tool. This decision enabled us to analyze and visualize bibliographic information from the Scopus database. R is an open-source ecosystem encompassing statistical algorithms, mathematical features, and visualization capabilities for scientific computation. Furthermore, R is distributed and archived through the CRAN network (<https://cran.r-project.org/>)²³¹. In terms of usage, R is compatible with both Windows and Linux and offers a graphical user interface called RStudio²³².

²³¹ Derviş, H. (2019). Bibliometric analysis using Bibliometrix an R package. *Journal of Scientometric Research*, 8(3), 156–160. DOI: 10.5530/jscires.8.3.32

²³² Aria, M., & Cuccurullo, C. (2017). Bibliometrix: An R-tool for comprehensive science mapping analysis. *Journal of Informetrics*, 11(4), 959–975. DOI: 10.1016/j.joi.2017.08.007

Figure 3. Number of publications per type of document (compiled by the author based on research data)



This sub-section explains the methodological approaches we selected to conduct our research, including the specific techniques employed, our approach strategy, and the way in which we proceeded to process and analyze bibliographic data.

1.4.3. Consolidating literature

This findings section is divided into three subsections. The first is devoted to presenting the distribution of scientific output and citations by country. The second is devoted to cluster analysis. The third is concerned with the analysis of thematic links.

1.4.3.1. Distribution of scientific output and citations by country (1963-2023)

Figures 4 and 5 show that the USA leads the way in scientific production on children's rights and biological parenthood, with 337 publications and 1,764 citations. Sweden, despite publishing only 19 works, achieved 1,633 citations, an average of 86 per publication. Spain and the UK have a notable impact, with 238 and 233 citations for 9 and 48 publications respectively. Denmark and Norway follow with 210 citations for 15 publications and 83 citations for 14 publications. Japan and China, despite a higher output of 36 and 19 publications, have a lower impact with 42 and 37 citations. Belgium, Bulgaria, the Czech Republic, France, Iran and Jordan contributed but received no citations, indicating lower visibility or relevance.

Figure 6. The globe depicted in the bubble map highlights countries that have garnered the highest frequency of publications throughout the years (compiled by the author based on research data)

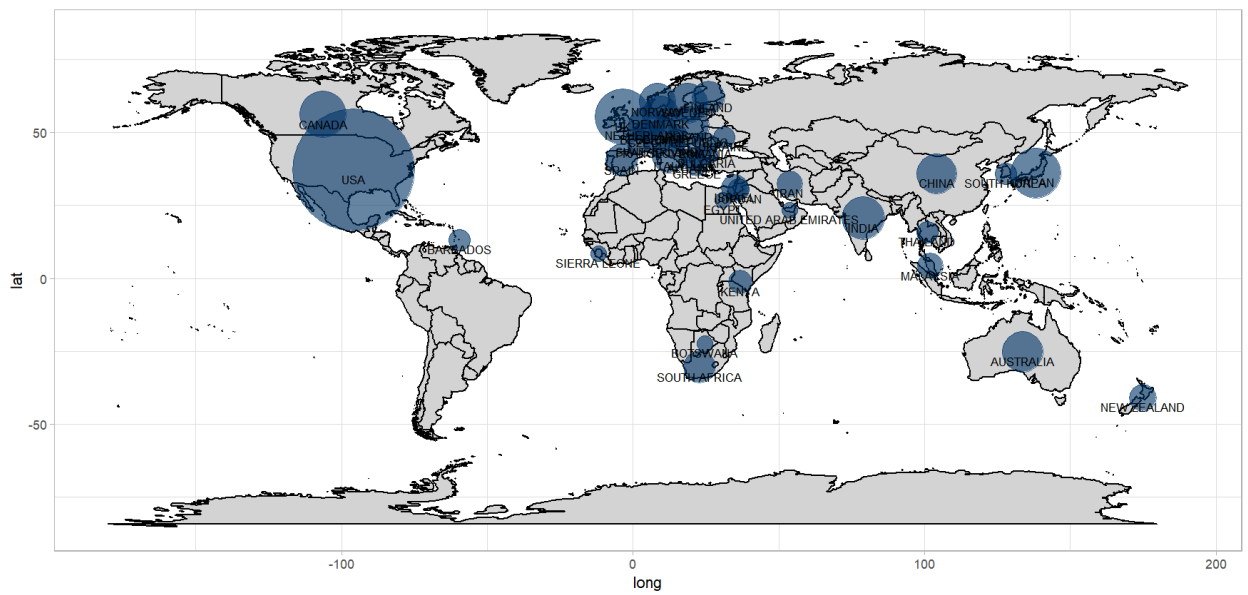
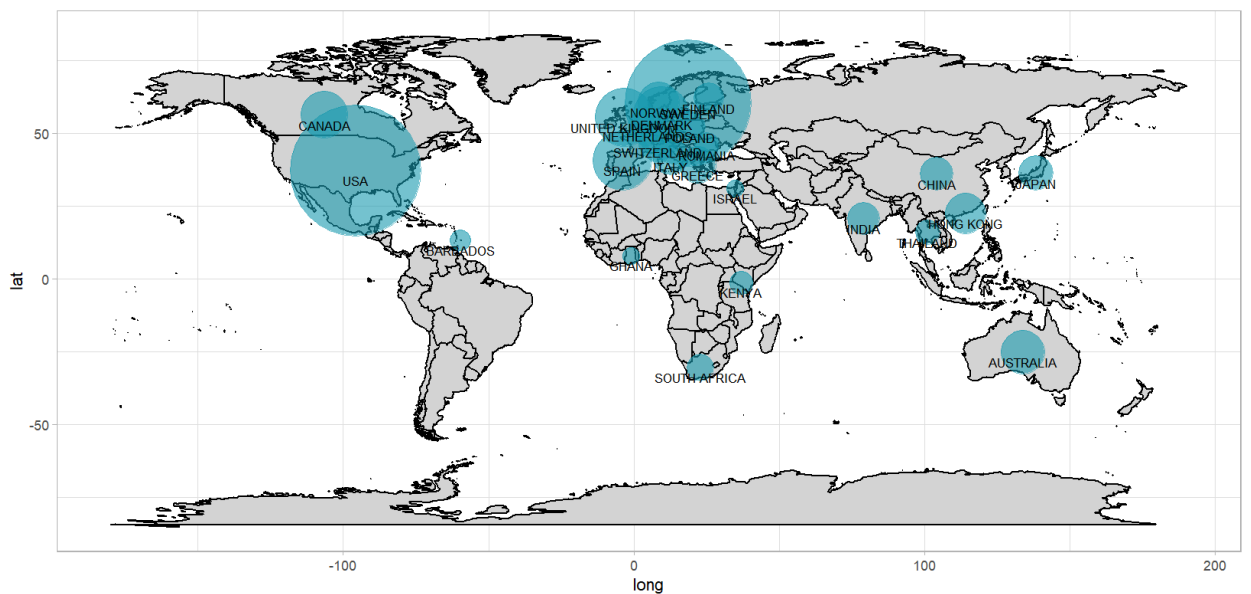


Figure 7. The globe depicted in the bubble map highlights countries that have garnered the highest frequency of citations throughout the years (compiled by the author based on research data)



In this subsection, we explored the various contexts of study that encompassed academic production and bibliographic citations, situated at the confluence of issues relating to children's rights and the rights of biological parents. This analysis revealed a dominance of American perspectives, despite the existence of a complex dynamic between these themes on an international level.

1.4.3.2. Cluster analysis

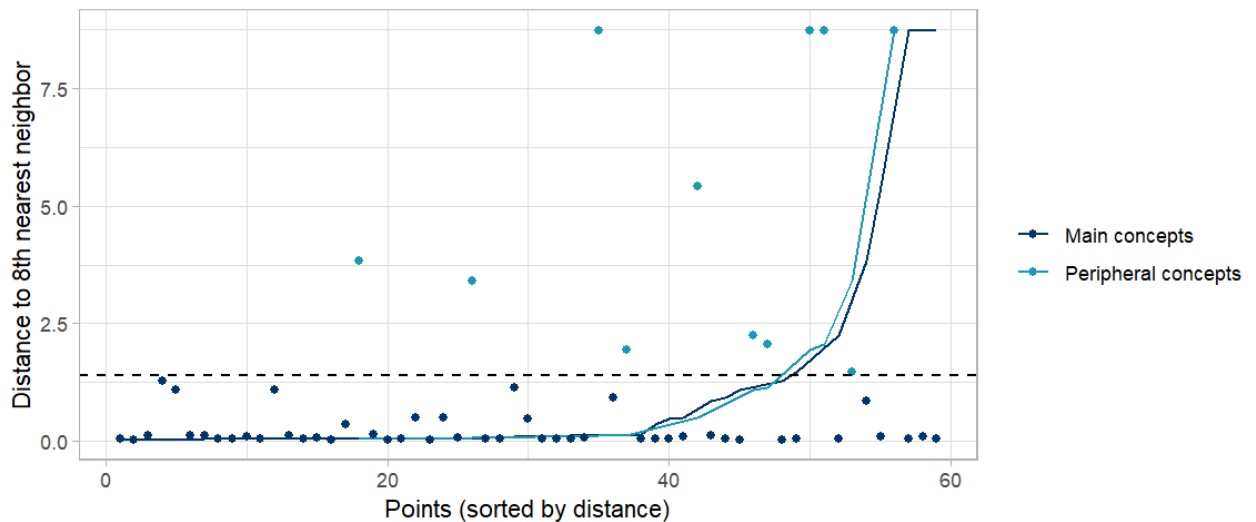
This subsection is dedicated to cluster analysis using the DBSCAN algorithm (based on

determining the optimal value of ϵ using the k-th nearest neighbor method) and the K-means clustering algorithm, based on the implementation of the elbow method algorithm (to identify the optimal value of K) and the silhouette coefficient algorithm (to evaluate cluster quality).

- **Determining the optimal value of ϵ using the k-th nearest neighbor method**

The distance to the kth neighbor is essential in cluster analysis, specifically for the DBSCAN algorithm, as it defines the ϵ (epsilon) threshold, set here at 1, for distinguishing between dense and less dense areas. The choice of k is determined by the "MinPts" parameter, here set to 9, which steers us towards k=8 (MinPts - 1). According to Figure 8, the line $y=1.4$ serves as a threshold for identifying dense areas (defined as 48 main concepts): points below meet the density requirements defined by ϵ and MinPts; while those above could be interpreted as noise (defined as 11 peripheral concepts).

Figure 8. Optimizing the ϵ parameter with the 8-th nearest neighbor technique (compiled by the



author based on research data)

- **Determining the optimal K value and evaluate the quality of the clustering**

For the K-means algorithm, the number of clusters depends on K, which is often difficult to define. The combination of average silhouette width and the kink method is used to determine the optimal number of clusters. The kink method identifies the point at which the addition of further clusters marginally reduces the sum of squared errors (WCSS), indicating a balance between intra-cluster and inter-cluster variance. Average silhouette width measures intra-cluster consistency and inter-cluster distinction, providing a detailed understanding of cluster quality²³³.

Elbow Method Algorithm. The elbow method calculates the distance between points within each cluster and the centroid, using the squared distance to generate K-values. Performance is

²³³ Han, J. K., & Kamber, M. (2001). Data mining: Concepts and techniques.

measured by the sum of squared errors (SSE). By iterating over K values, the method identifies the "elbow point," where adding more clusters offers only marginal improvement in variance explained²³⁴.

Figure 9. The elbow algorithm showing the optimum value of K (compiled by the author based on research data)

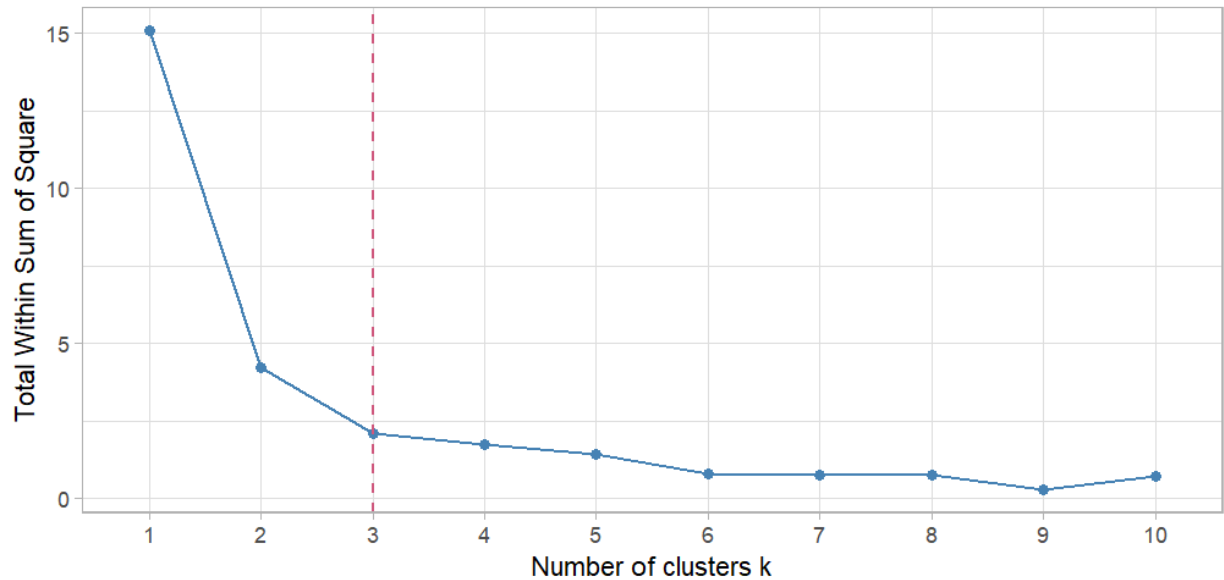


Figure 9 uses the elbow method to identify the optimum number of clusters, where the slope of the curve flattens out. The significant change in slope occurs around 3 clusters, marked by the dotted red line. This inflection point balances a low WCSS with a practical number of clusters. Beyond 3 clusters, additional clusters do not significantly reduce WCSS, making 3 the optimal choice.

The silhouette coefficient algorithm. Average silhouette width assesses cluster quality by measuring compactness within clusters and separation between clusters. It assesses the degree of similarity between points in one cluster and points in other clusters. The silhouette value ranges from -1 to 1, with values close to 1 indicating strong clustering. High silhouette values indicate that the model is appropriate and effective.

²³⁴ Yuan, C., & Yang, H. (2019). Research on K-value selection method of K-means clustering algorithm. *J*, 2(2), 226–235. DOI: 10.3390/j2020016

Figure 10. The silhouette coefficient algorithm demonstrates the consistency of objects within each cluster, as well as their distinction between clusters (compiled by the author based on research data)

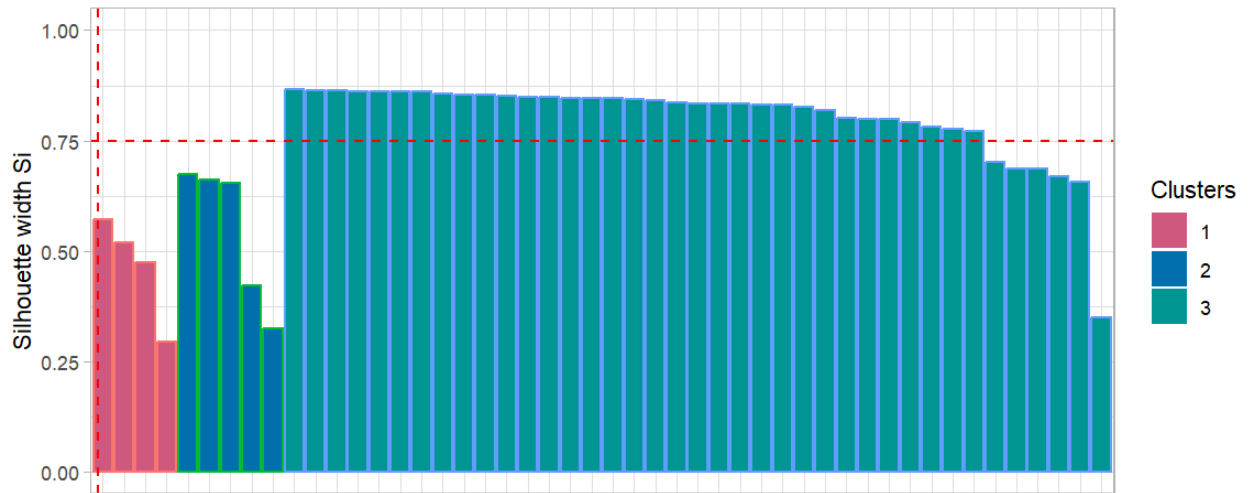
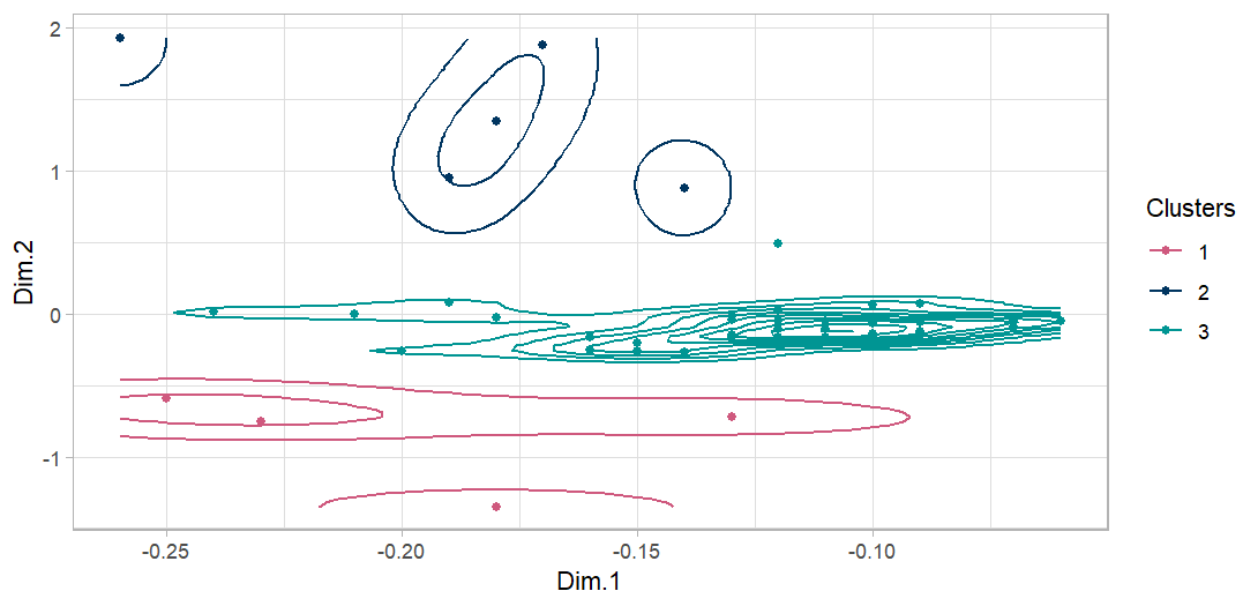


Figure 10 shows the average width of the silhouette. The horizontal axis (x) shows the indices of the grouped elements (keywords), while the vertical axis (y) shows the silhouette width values. Each bar, colored by group, represents a keyword. The average width of the silhouette is 0.75, indicated by a dotted red line, showing clear distinctions between groups and strong similarity within groups. Bars above this line indicate effective clustering, with elements well grouped and distinct from other groups.

Figure 11 shows the results of our thematic clustering analysis using the K-means algorithm, which resulted in the classification of three distinct clusters.

Figure 11. K-means clustering scatterplot of author keywords (compiled by the author based on research data)



This sub-section was devoted to cluster analyses, aimed at categorizing the underlying themes of our main research into coherent thematic sub-categories relevant to in-depth thematic analysis.

1.4.3.3. Thematic links analysis

In this section, the analysis will focus on examining the thematic links in each of the clusters identified in figure 12.

The links deduced in cluster 1 (in red) and cluster 2 (in blue) are shown in the table 1.

Table 1 Mapping of thematic links and co-occurrences in cluster 1 & cluster 2 (compiled by the author based on research data)

Clusters	Thematic links	Detected co-occurrences	Research conducted
Cluster 1	<i>reunification</i>	Reunification-parents	²³⁵ focus on the role of professional fosterfamilies in the family reintegration process, examining their attitudes to reintegration and how they support children separated from their biological families and parents
	<i>parents</i> (see Fig. 8)		
Cluster 2	<i>family</i>	Family-adolescent	²³⁶ examine the effects of caregiver changes in early childhood on bonds and interactions in adolescence.
	<i>adolescent</i>		²³⁷ compares behavioral problems in adopted and non-adopted children.
	(see Fig. 9)		²³⁸ analyze pro-violence attitudes among incarcerated adolescents.
			²³⁹ study the impact of family structure on adolescent well-bein.

Given the diversity and large number of concepts that cluster 3 (shown in green in Figure 11) hosts, we have summarized our reclustering results using a dendrogram, a tree diagram illustrating the arrangement of clusters generated by Ward's hierarchical agglomerative clustering method. This is an agglomerative hierarchical clustering approach that seeks to minimize the total variance within clusters at each stage of agglomeration²⁴⁰. Ward's method of cluster merging aims to minimize the increase in the sum of squared errors (SSE) at each stage of the process. It starts by treating each observation as an individual cluster and gradually merges the clusters, selecting those that result in the smallest possible increase in the total of the squared distances between each point

²³⁵ Basiaga, J. P., Róg, A., & Zięba-Kołodziej, B. (2018). Professional foster families in the reunification process—Polish experience. *Child & Family Social Work*, 23(4), 649–656. DOI: 10.1111/cfs.12461

²³⁶ Tizard, B., & Hodges, J. (1978). The effect of early institutional rearing on the development of eight year old children. *Journal of Child Psychology and Psychiatry*, 19(2), 99–118. DOI: 10.1111/j.1469-7610.1978.tb00453.x

²³⁷ Feigelman, W. (2001). Comparing adolescents in diverging family structures: Investigating whether adoptees are more prone to problems than their nonadopted peers. *Adoption Quarterly*, 5(2), 5–37. DOI: 10.1300/J145v05n02_02

²³⁸ Langton, C. E., & Berger, L. M. (2011). Family structure and adolescent physical health, behavior, and emotional well-being. *Social Service Review*, 85(3), 323–357. DOI: 10.1086/661922

²³⁹ *Ibid.*

²⁴⁰ Murtagh, F., & Legendre, P. (2014). Ward's hierarchical agglomerative clustering method: Which algorithms implement Ward's criterion? *Journal of Classification*, 31, 274–295. DOI: 10.1007/s00357-014-9161-z

and the cluster mean (i.e. the cluster center).

Examination of the dendrogram in Figure 12 reveals a conceptual similarity in the length of the branches within cluster 3, delimiting three sub-clusters at a fixed height of 2.5.

Figure 12. Dendrogrammatic representation of cluster 3 (compiled by the author based on research data)

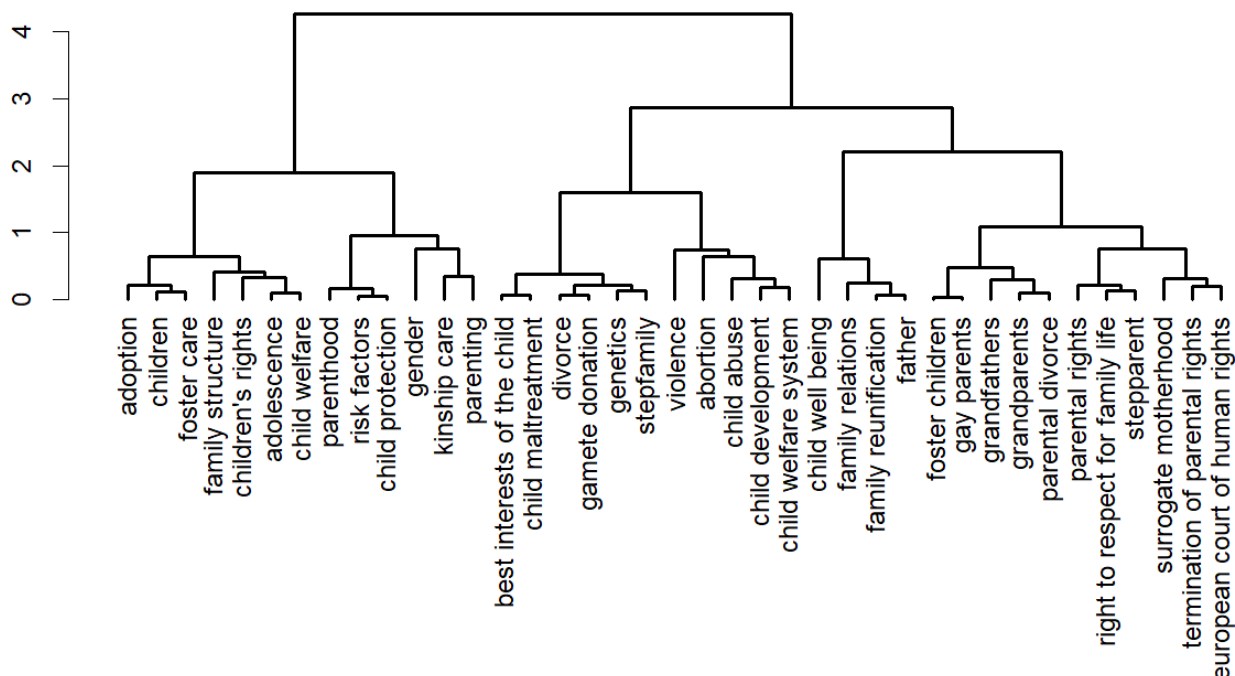


Table 2 Mapping of thematic links and co-occurrences in cluster 3 (compiled by the author based on research data)

Clustering results	Thematic links	Detected co-occurrences	Research conducted on co-occurrences
Sub-cluster A	<i>Adolescence</i>	Children Adoption	²⁴¹ discusses the challenges faced by a young, financially limited, pregnant woman, examining abortion, child custody, and adoption options, and highlights the role of medical professionals and attorneys in adoptions in the United States.
	<i>Adoption</i>		
	<i>Children</i>		
	<i>Gender</i>		
	<i>Parenthood</i>		
	<i>Parenting</i>		²⁴² analyze the reasons why older adopted children may have more problems than biological children, by comparing the behaviors and educational styles of adoptive and biological parents.
			²⁴³ examines how same-sex marriage, adoption and new reproductive technologies are changing the biological parent-child bond and their implications

²⁴¹ DuRocher, R. (1994). Balancing competing interests in post-placement adoption custody disputes: How do the scales of justice weigh the rights of biological parents, adoptive parents, and children? *Journal of Legal Medicine*, 15(2), 305–343.

²⁴² Solomon, C. R., & Poirier, M.-C. (2006). Parenting styles and attributions and the behavior of children in the ‘No’ stage in adoptive and biological families. *Adoption Quarterly*, 10(1), 63–83. DOI: 10.1300/J145v10n01_04

²⁴³ Somerville, M. (2007). Children’s human rights and unlinking child–parent biological bonds with adoption, same-sex marriage and new reproductive technologies. *Journal of Family Studies*, 13(2), 179–201.

			for children's human rights, highlighting the challenges posed to their fundamental rights linked to their biological origins and traditional family structure.
			²⁴⁴ examine the family circumstances justifying intervention in respect of family life under Article 8 of the ECHR, analyzing the courts' definitions of "family" and "interests of the child".
Cluster 3	Children Gender	–	²⁴⁵ examine developmental and psychological disorders in African-American children, using non-clinical data from 1,458 African-American parents on their children's academic, behavioral and social-emotional adjustment, focusing on differences by gender, age, and family structure.
	Children Parenting	–	²⁴⁶ study the adjustment of 136 young adults from stepfamilies, focusing on exposure to the warmth, control and parenting style (authoritarian, authoritative, supportive or disengaged) of their parents and stepparents, and the impact of these factors on their well-being
			<i>Violence</i>
	Sub-cluster B		<i>divorce</i>
	(see Fig. 12)		<i>stepfamily</i>
		<i>Not available</i>	
			<i>genetics</i>
			<i>abortion</i>
	Sub-cluster C		<i>Father</i>
	(see Fig. 13)	Grandfathers – grandparent	²⁴⁷ explores the increasing use of family care, particularly by grandparents, for children separated from their biological parents for a variety of reasons, and examines the specific experiences and challenges of grandfathers involved in such care.
			<i>Grandfathers</i>
			<i>Grandparents</i>
			<i>Stepparent</i>

The first cluster revealed a co-occurrence between "Reunification" and "Parents". The second group also revealed a co-occurrence between "Family" and "Adolescent". Cluster 3, which is both diverse and extensive, is divided into three sub-clusters using Ward's method. The first sub-cluster

²⁴⁴ Breen, C., et al. (2020). Family life for children in state care: An analysis of the European Court of Human Rights' reasoning on adoption without consent. *The International Journal of Children's Rights*, 28(4), 715–747. DOI: 10.1163/15718182-28040008

²⁴⁵ Barbarin, O. A., & Soler, R. E. (1993). Behavioral, emotional, and academic adjustment in a national probability sample of African American children: Effects of age, gender, and family structure. *Journal of Black Psychology*, 19(4), 423–446. DOI: 10.1177/00957984930194002

²⁴⁶ Nicholson, J. M., et al. (2002). Relationship between the parenting styles of biological parents and stepparents and the adjustment of young adult stepchildren. *Journal of Divorce & Remarriage*, 36(3–4), 57–76. DOI: 10.1300/J087v36n03_04

²⁴⁷ Okagbue-Reaves, J. (2006). Kinship care: Analysis of the health and well-being of grandfathers raising grandchildren using the grandparent assessment tool and the Medical Outcomes Trust SF-36 TM health survey. *Journal of Family Social Work*, 9(2), 47–66.

identifies links between "adolescence", "adoption", "Children", "Gender", "Parenting" and "Parenthood". In this context, the term "Children" co-occurs with "Adoption", "Gender" and "Parenting". The second sub-cluster links "Violence", "Divorce", "Stepfamily", "Genetics" and "Abortion". Finally, the third sub-cluster reveals links between "Father", "Grandfathers", "Grandparents" and "Stepparent", with a notable co-occurrence between "Grandfathers" and "Grandparents". Quite generally, all the thematic links identified highlight conceptual and theoretical interactions that have not yet been explored in the literature, and even the co-occurrences between them are under-explored, opening up new, more nuanced and multidimensional research perspectives.

This sub-section was specifically reserved for the development of an in-depth thematic analysis, which was conducted on the data resulting from the clustering analysis. This allowed us to deconstruct and interpret theme groupings, facilitating a more nuanced understanding of thematic subcategories directly related to the main focus of our study.

1.4.4. Discussion

Over the period 1963-2023, the predominance of articles in the research field is evident, with an impressive total of 238 publications. This trend underlines the vital importance of articles as a means of disseminating academic knowledge. In this research environment, the USA clearly stands out, occupying a leading position in terms of publication volume and citations. This pre-eminence is particularly noticeable in the field of studies exploring the relationship between children's rights and biological parents.

Combining DBSCAN and K-means, two distinct clustering algorithms, we first use DBSCAN for targeted and relevant concept segmentation, followed by the application of K-means. This method significantly improves the final clustering, leading to the creation of three distinct groups. The process involves determining the K-value using the elbow method algorithm and assessing the quality of the clustering using the silhouette coefficient algorithm. These three clusters are then carefully analyzed to identify thematic links, using network analysis with a high degree of precision.

The first cluster identified a notable thematic link between "reunification" and "parents"²⁴⁸. This specific association, though crucial, has only been observed in one existing study. This scarcity of data indicates that the field of study relating to the dynamics of family reunification and its impact on parental relationships remains largely underexplored and would merit greater attention in future research. On the other hand, the second cluster revealed an interesting link

²⁴⁸ Basiaga, J. P., Róg, A., & Zięba-Kołodziej, B. (2018). Professional foster families in the reunification process—Polish experience. *Child & Family Social Work*, 23(4), 649–656. DOI: 10.1111/cfs.12461

between the concepts of "family" and "adolescent"²⁴⁹. This link was found in only two studies, raising questions about current understanding of family interactions involving adolescents. This suggests that, although slightly more explored than the first theme, the area concerning adolescents within family structures also requires further exploration to better grasp the nuances and complex dynamics of these relationships.

Given the diversity and large number of concepts that Cluster 3 contains, we classified it in the form of 3 sub-clusters generated by Ward's agglomerative hierarchical clustering method.

The first sub-cluster identified a notable thematic link between "Adolescence", "Adoption", "Children", "Gender", "Parenthood" and "Parenting"²⁵⁰. This specific association, although crucial, was respected in a limited way: "Children" co-occurred with "Adoption" in four studies, with "Gender" in only one study, and with "Parenting" also in only one study. This lack of data suggests that the area of study related to children's adoption, gender, and parenting dynamics remains largely underexplored and warrants increased attention in future research. On the other hand, other terms without co-occurrence offer the possibility of better understanding these interactions. This indicates that, although slightly more explored, areas concerning children in relation to these themes also need to be explored further to better capture the complex nuances and dynamics of these relationships.

The second sub-cluster identified a particular thematic link between "violence", "divorce", "stepfamily", "genetics" and "abortion". However, no co-occurrences were found in the literature for these terms, suggesting that these thematic links have not yet been explored, paving the way for new studies. Consequently, this lack of interconnections in existing research indicates fertile ground for future investigations. Similarly, the third sub-cluster identified a notable thematic link between "father", "grandfathers", "grandparents" and "Stepparent"²⁵¹. An interesting co-

²⁴⁹ Feigelman, W. (2001). Comparing adolescents in diverging family structures: Investigating whether adoptees are more prone to problems than their nonadopted peers. *Adoption Quarterly*, 5(2), 5–37. DOI: 10.1300/J145v05n02_02; Hodges, J., & Tizard, B. (1989). Social and family relationships of ex-institutional adolescents. *Journal of Child Psychology and Psychiatry*, 30(1), 77–97. DOI: 10.1111/j.1469-7610.1989.tb00770.x

²⁵⁰ DuRocher, R. (1994). Balancing competing interests in post-placement adoption custody disputes: How do the scales of justice weigh the rights of biological parents, adoptive parents, and children? *Journal of Legal Medicine*, 15(2), 305–343.; Solomon, C. R., & Poirier, M.-C. (2006). Parenting styles and attributions and the behavior of children in the 'No' stage in adoptive and biological families. *Adoption Quarterly*, 10(1), 63–83. DOI: 10.1300/J145v10n01_04; Somerville, M. (2007). Children's human rights and unlinking child–parent biological bonds with adoption, same-sex marriage and new reproductive technologies. *Journal of Family Studies*, 13(2), 179–201; Breen, C., et al. (2020). Family life for children in state care: An analysis of the European Court of Human Rights' reasoning on adoption without consent. *The International Journal of Children's Rights*, 28(4), 715–747. DOI: 10.1163/15718182-28040008; Barbarin, O. A., & Soler, R. E. (1993). Behavioral, emotional, and academic adjustment in a national probability sample of African American children: Effects of age, gender, and family structure. *Journal of Black Psychology*, 19(4), 423–446. DOI: 10.1177/00957984930194002; Nicholson, J. M., et al. (2002). Relationship between the parenting styles of biological parents and stepparents and the adjustment of young adult stepchildren. *Journal of Divorce & Remarriage*, 36(3–4), 57–76. DOI: 10.1300/J087v36n03_04.

²⁵¹ Okagbue-Reaves, J. (2006). Kinship care: Analysis of the health and well-being of grandfathers raising grandchildren using the grandparent assessment tool and the Medical Outcomes Trust SF-36 TM health survey. *Journal of Family Social Work*, 9(2), 47–66. DOI: 10.1300/J039v09n0203

occurrence between the concepts of "grandfathers" and "grandparents" was detected in a single study. This distinct observation underscores the particularity of the bond between grandfathers and grandparents overall, indicating that this particular aspect of family relationships might be insufficiently studied and warrants more focus in upcoming research.

This research notably enhances the comprehension of children's entitlement to be aware of their biological parents by integrating theoretical insights with sophisticated data science techniques. From a theoretical standpoint, it offers a summary of the key thematic trends in the literature regarding this intricate and evolving topic. From a methodological standpoint, it utilizes clustering methods like DBSCAN and K-means to categorize keywords from academic papers, thereby enabling systematic thematic analysis. This method uncovers intricate thematic patterns, opening avenues for new research paths.

Our results indicate various avenues for future investigation: examining the dynamics of family reunification; understanding interactions among families with adolescents; analyzing the relationship between adoption, gender, and parenthood; assessing the effects of domestic violence; and investigating the roles of grandparents and stepparents. These aspects are crucial for comprehending and safeguarding children's rights across various family situations.

The research is organized into four parts: the initial section addresses the natural and legal development of children's entitlement to be aware of their biological parents, emphasizing significant international legal texts. The second analyzes the intricacies of biological parentage and the legal frameworks that govern this right, emphasizing the child's best interests. The third emphasizes the importance of understanding one's biological roots for personal identity and overall well-being. The fourth section employs sophisticated bibliometric techniques to examine the scientific literature, pinpoint key themes, and propose future research directions. This comprehensive method emphasizes the critical significance of understanding biological origins for shaping children's identity and points out the areas that require attention.

2. THE IMPLEMENTATION OF THE CHILDREN'S RIGHT TO KNOW THEIR BIOLOGICAL PARENTS IN THE CONTEXT OF NATIONAL AND INTERNATIONAL LAW AND IDENTIFICATION OF THE MAIN PROBLEMS

2.1. National legal acts review in the context of ensuring children's rights to know their biological parents

The right to parentage is a fundamental human right, regardless of whether it is primary or secondary, and regardless of the way in which children appear in the family - through natural conception, assisted reproduction or adoption²⁵². In modern society, the recognition of paternity is quite relevant and often arises. Recognition of paternity is directly controlled by the state, as it is one of the foundations of the child's rights. Establishing paternity in the absence of a dispute is possible through recognition of paternity. A person's voluntary decision to become a father is enshrined in the Law on Paternity Recognition Institute²⁵³.

In Lithuania, the legal regulation of biological paternity (maternity) institutes is based on the provisions of the CC of the Republic of Lithuania and the CPC of the Republic of Lithuania. Recognition of paternity is regulated by Articles 3.141-3.145 of the Civil Code of the Republic of Lithuania, determination of paternity by Articles 3.146-3.148 of the Civil Code of the Republic of Lithuania, disputing paternity (maternity) by Articles 3.149-3.153 of the Civil Code of the Republic of Lithuania, which establish the procedure, conditions and foundations of these institutes. Articles 3.141-3.145 of the CC of the Republic of Lithuania. - established procedure, grounds and conditions for recognition of paternity. It should be noted that paternity established by an application for the recognition of paternity, once it is contested, re-acknowledgment of paternity by application is not possible. In addition, paternity can be recognized by declaration only after disputing the paternity of the current or former spouse of the child's mother, when the mother is married, or the child was born less than three hundred days after the end of the marriage. The age of the child also affects the recognition of paternity by declaration, i.e. i.e. if the child is over 10 years old or he is an adult, but such recognition of paternity can only be with the written consent of the child. Paternity can also be recognized before the birth of the child²⁵⁴. The current legal regulations provide an opportunity to recognize paternity under the conditions set by the law, even for a man who considers himself the father of a child, but who does not have a biological (genetic) connection with the child, i.e. i.e. being unsure of the genetic link or even knowing that he is not the child's biological father. In this way, the law allows us to assume the role and duties

²⁵² NeJaime, D. (2020). The constitution of parenthood. *Stan. L. Rev.*, 72, 261.

²⁵³ Scott, R. (2024). New reproductive technologies and genetic relatedness. *The Modern Law Review*, 87(2), 280–316. DOI: 10.1111/1468-2230.12714

²⁵⁴ Lietuvos Respublikos. (2000). Civilinio kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo įstatymas [Law on Approval, Entry into Force and Implementation of the Civil Code]. *Valstybės Žinios*, (74–2262).

of a father, essentially establishing social parenthood²⁵⁵. It should be emphasized that a person who recognizes paternity knowing that he is not the child's biological father loses the opportunity to challenge it later, and modern family law recognizes that the biological relationship between the child and the father is no longer the only basis for paternity²⁵⁶.

Children's right to know their parentage can also be discussed in the context of the scientific revolution of the 1980s in DNA analysis for paternity, which led to a significant increase in paternity cases in Western courts, leading to the need to review international and national paternity legislation²⁵⁷. Scientific evidence (expert expert's conclusions) is of the greatest importance for determining paternity, and only in their absence can paternity be proven, etc. by means of evidence provided by the Criminal Code of the Republic of Lithuania (Article 3.148 of the Civil Procedure Code of the Republic of Lithuania)²⁵⁸.

The determination of paternity is regulated by Articles 3.146-3.148 of the CC of the Republic of Lithuania. The law provides for the conditions under which paternity can be established, i.e. i.e. when the child was born to an unmarried mother and paternity is not recognized. In this case, paternity can only be determined by a court. Paternity can be established when a child was born to a married mother or his origin from the father is confirmed by a declaration of recognition of paternity only after the data on the father is disputed in the birth record²⁵⁹.

The conditions and grounds for disputing paternity (maternity) are established in Articles 3.149-3.153 of the Civil Code of the Republic of Lithuania. The presumption of the correctness of the data in the birth record can be denied only after disputing such data about the child's father or mother in a court of law, therefore, the data in the child's birth record about the child's parents are considered correct until they are challenged in accordance with the law.

The Court of Cassation has stated that once paternity has been recognized by declaration, it can only be contested in exceptional circumstances. For example, in a case where the recognition of paternity was influenced by fraud, coercion, a mistake due to a fact that was not known at the time of the recognition of paternity. However, in each case it is necessary to determine the appropriate balance of the interests of the legal father, the possible biological father, the mother

²⁵⁵ Supreme Court of Lithuania, Case e3K-3-387-916/2020 - eTeismai (2020).

²⁵⁶ Lamçe, J., & Kau, R. (2023). Contesting marital presumption of paternity—biological father's legal position. Comparative overview in Albania and the Western Balkan countries. *Studia Iuridica Lublinensia*, 32(2), 173–188. DOI: 10.17951/sil.2023.32.2.173-188

²⁵⁷ Jumakova, A. (2020). Content of the child's right to identity within the scope of the Convention on the Rights of the Child and the Latvian national framework. *Miscellanea Historico-Iuridica*, 19(1), 223–244.

²⁵⁸ Seimas of the Republic of Lithuania., "Code of Civil Procedure of the Republic of Lithuania" (2002), Retrieved 07.22.2024, From: https://www.newyorkconvention.org/media/uploads/pdf/5/9/595_code-of-civil-procedure-of-the-republic-of-lithuania.pdf.

²⁵⁹ *Ibid.*

and the child, but in such cases greater importance is given to the child's interests²⁶⁰. In the practice of the ECtHR, it is precisely the child's interests that prevail over the interests of the applicants seeking to challenge paternity, when the applicants do not initiate such processes in time, and there are also questionable opportunities to determine the real biological father²⁶¹.

The institute for disputing paternity (maternity) is not only intended for determining the blood relationship between the child and the father, but when deciding on disputing paternity, it must be ensured that the child is not deprived of the right to have a father²⁶², therefore, when disputing paternity (maternity) Art. 3.150 of the CC of the Republic of Lithuania establishes strictly defined grounds for rebuttal. In 1 part of this article, it is stated that "paternity can be disputed when a child was born to married parents or before three hundred days have passed after the end of the marriage, it is only possible to prove that the person cannot be the child's father", and d. 2 of the same article. provides that "contesting the motherhood or paternity recognized by the application for the recognition of paternity is possible only after proving that the child's mother or father is not the biological parent" ²⁶³.

The ways of motherhood, fatherhood and family formation have clearly changed over the past decades. These changes have been driven by international adoption, births after assisted reproduction with gamete donation and surrogacy²⁶⁴, so today when determining a child's parentage, the probabilities of whether the biological father is recognized as the legal father or not are examined. According to G. Mamoraimova, the birth entry in the birth registration book is proof that the child was born to the parents indicated in it; therefore, paternity and motherhood are usually determined during birth registration²⁶⁵.

In Lithuania, the determination of a child's origin is enshrined in Articles 3.137-3.153 of the first section of Chapter X of the Civil Code of the Republic of Lithuania "General grounds for determining the origin of a child". Paternity can be recognized in different ways, i.e. i.e. by law, by declaration or determined by a court. The origin of a child is the birth of a child from specific parents, so determining the origin of a child is related to the legalization of kinship ties. Article 3.173 of the CC of the Republic of Lithuania. it was established that the rights and obligations between the child and the parents are based on the child's origin. Confirmation of the child's origin

²⁶⁰ Supreme Court of Lithuania, Byla e3K-3-387-916/2020 - eTeismai (2020).

²⁶¹ European Court of Human Rights, A.I. v. Poland (February 18, 2014).

²⁶² Supreme Court of Lithuania, "Infoplex.Praktika – Search," 2021, Retrieved 07.21.2024, From: <https://www.infoplex.lt/tp/1985584>.

²⁶³ Seimas of the Republic of Lithuania, "Law No. VIII-1864 on the Approval, Entry into Force, and Implementation of the Civil Code of the Republic of Lithuania." (2000), Retrieved 07.19.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.107687>.

²⁶⁴ Riaño-Galán, I., Martínez González, C., & Gallego Riestra, S. (2021). Ethical and legal questions of anonymity and confidentiality in gamete donation. *Anales de Pediatría* (English Edition), 94(5), 337-e1. DOI: 10.1016/j.anpede.2020.06.008

²⁶⁵ Makhmudovna, M. G. (2022). International heritage right.

from the parents is associated with the child's date of birth and the making of the birth record, because of which, between the child and the parents, their mutual rights and obligations related to the origin arise. For example, from birth, a child has the right to know his parents and live with them, and it is the parents' duty to ensure that the child's rights are fulfilled. The exception to this rule is only in cases of adoption, when the persons who adopted the child are considered legal parents not from the birth of the child, but from the day, the court decision to adopt the child becomes effective. Article 3.139 of the CC of the Republic of Lithuania determination of the child's origin from the mother is established. The mother in the child's birth record is the woman who is indicated in the child's birth certificate drawn up in accordance with the procedure established by the Government of the health care institution. The mother is indicated in the certificate only if there is no doubt that it was, she who gave birth to the child²⁶⁶, which means that the origin of the child from the mother in the Lithuanian legal system is understood exclusively in a biological sense.

When the child's mother has not been identified, for e.g. the child has been found or the health condition of the possibly the child's mother has not been confirmed after giving birth. Also, in the cases when the advisory committee of doctors does not confirm that the woman is the child's mother, data about the child's mother are not indicated in the birth certificate. In cases where there is no information about the mother or the paternity is contested, the paternity can be established by submitting a lawsuit to the court. A woman who considers herself the mother of a child, an adult child, a child's father, a guardian (carer) or a child rights protection institution can file a claim²⁶⁷. For a child born abroad, in addition²⁶⁷ to a document from a health care institution, a document from another competent institution about the birth of the child and its mother can be submitted²⁶⁸.

It should be noted that legal paternity proceedings after surrogacy are complicated by the typical legal presumption that the woman who gave birth to the child is the child's legal mother, so the surrogate must formally relinquish parental authority and the intended father(s) adopt the child at birth²⁶⁹.

Determining the origin of the child from the father is enshrined in Article 3.140 of the Civil Code of the Republic of Lithuania. Whether the woman is married is of great importance in

²⁶⁶ Civil Code of the Republic of Lithuania, "VIII-1864 Civil Code of the Republic of Lithuania" (2000), Retrieved 07.9.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.245495>.

²⁶⁷ *Ibid.*

²⁶⁸ Government of the Republic of Lithuania, "Regarding the Amendment of the Resolution No. 1400 of the Government of the Republic of Lithuania Dated November 26, 2001, 'On the Approval of the Procedure for Issuing Birth Certificates.'" (2001), Retrieved 07.19.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/f6d63461bd5211e6a3e9de0fc8d85cd8>.

²⁶⁹ Hodgson, H. S., Nye, A., & Finlay, F. (2021). Consent for babies born following surrogate pregnancies. *Archives of Disease in Childhood*, 106(2), 186–188. DOI: 10.1136/archdischild-2020-319563

determining the child's origin from the father, because the general principle is that when a married woman gives birth to a child, the woman's spouse is considered the child's father. Even in those cases, if the child was conceived before marriage, or if the child is born no more than three hundred days after the beginning of the separation or the end of the marriage (recognition of marriage as invalid, divorce or death of the spouse), the mother's spouse is recognized as the child's father. In cases where more than three hundred days have passed since the previous marriage or the mother was unmarried, a statement or a court decision recognizes the man's paternity on the recognition of paternity. When a child is born to a divorced mother and three hundred days have not passed since the end of the marriage, the child's mother, her ex-spouse or a man who recognizes himself as the father of the child may submit a joint statement to the court requesting. That the man who recognizes himself as such be registered as the child's father²⁷⁰.

Article 12 of the Assisted Fertilization Law of the Republic of Lithuania. "Origin of a Child Conceived by Assisted Fertilization" is established that "persons who have signed the informed consent of the patient to perform assisted fertilization are considered to be the parents of the child born after assisted fertilization according to the law" ²⁷¹.

In conclusion, as technology continues to improve, biological origins become more and more important. The mutual rights and obligations of the child and his parents are related to the origin of the child from specific persons, i.e. i.e. of his parents, which presupposes that the child's parents are his biological parents. In general, legislation treats a woman who has given birth as the legal mother, and her husband or partner as the legal father. However, the surrogacy institute complicates the establishment of the child's origin from the mother, because the woman who gave birth to the child may not be his biological (genetic) mother, so problems may arise due to unequal legal regulation in this matter. Mere knowledge of paternity, without legal recognition of the fact of paternity, is not a sufficient basis to establish the rights and duties of the father and the child protected by means provided by law. It is important for a person not only to know his origin, but also to have it legally recognized. When regulating the determination of the child's origin from the mother and father, the state essentially distinguishes the following ways of recognizing paternity: recognition according to the law - based on marriage, medical data, the fact of assisted insemination. Voluntary recognition of paternity as a matter of free will, based on a statement and through a judicial process, both in determining and disputing paternity (maternity), and in pursuit of the implementation of the best interests of the child, creates opportunities for the recognition of

²⁷⁰ Civil Code of the Republic of Lithuania. VIII-1864 Civil Code of the Republic of Lithuania (2000). Retrieved 07.9.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.245495>.

²⁷¹ Assisted Reproduction of the Republic of Lithuania, "Law on Assisted Reproduction of the Republic of Lithuania, No. XII-2608, September 14, 2016, Vilnius" (2016), Retrieved 07.11.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/f31c44c27bd711e6a0f68fd135e6f40c>.

not only biological, but also social paternity. This situation partially limits the child's right to know his biological parents.

2. 2. International legal acts in the context of ensuring children's rights to know their biological parents in this chapter to find suitable references

Article 7.1 of the Convention on the Rights of the Child stipulates that "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents"²⁷².

The first difficulty with this article is that the term "parents" is not defined. Now, more than ever, this term is likely to cover different realities: are they the birth parents, the adoptive parents, the authors of the parental project who have had recourse to medically assisted procreation, the person who has provided his or her gametes, the genitor, the person whose name is written on the birth certificate, the person who is educating the child?

Rachel Hodgkin and Peter Newell, in the Manual for the Implementation of the Convention on the Rights of the Child, adopt a plural definition of the term parents. They consider it to include genetic parents (who are important to the child, if only for medical reasons), birth parents (i.e., the woman who bore the child and the man who claims paternity by virtue of his relationship with the mother at the time of birth), but also possible foster parents, who have cared for the child for extended periods and are therefore also intimately linked to the child's identity ²⁷³.

A second difficulty is that Article 7.1 of the Convention only guarantees the child the right to know his or her parents "*as far as possible*". This restriction, too, is subject to differing interpretations. It was added because of the opposition of certain States to the idea of making the child's right to know his or her parents absolute. The expression is obviously ambiguous, since "as far as possible" can be taken to mean both the absence of material or psychological obstacles and the absence of legal obstacles, and the difference is considerable ²⁷⁴.

Three situations can be distinguished:

1. The first situation is where it is impossible, for material reasons, to identify one of the parents (for example, when the mother does not know who the father is, or when the child is abandoned in the street). In such cases, and even though the Convention requires legislation not to

²⁷² United Nations General Assembly, "Convention on the Rights of the Child," November 20, 1989, Retrieved 07.24.2024, From: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

²⁷³ Hodgkin, R., & Newell, P. (2007). Implementation handbook for the Convention on the Rights of the Child. Unicef.

²⁷⁴ Saunders, B. J., Lansdell, G., & Frederick, J. (2020). Understanding children's court processes and decisions: Perceptions of children and their families. *Youth Justice*, 20(3), 272–292. DOI: 10.1177/1473225420947940

discriminate against such children, there is little that States Parties can do. This is a case where identification is technically impossible.

2. The second situation is where the mother refuses to reveal the father's identity, for reasons of personal convenience or for more serious reasons (extreme cases such as incest or rape). Legally obliging mothers to give the father's name seems exaggerated and, in any case, difficult to put into practice.

3. The third situation is where the state decides that the parent should not be identified. For example, when the legislator limits the adopted child's access to information about his or her genetic parents, when he or she prescribes the anonymity of egg or sperm donations in the field of in vitro fertilization, when he or she imposes a falsification of identity on the birth certificate, for example for a child whose father is not the mother's husband, or when he or she hinders the establishment of a filiation that is nevertheless known, such as an incestuous filiation.

This third category is obviously controversial in terms of the interpretation of the words "*as far as possible*", since it may in some cases appear to be a deliberate denial by the legislator of the child's right to know his or her parents.

For some, the expression "*as far as possible*" should be understood as meaning "*where the law does not prevent this*", so that it is not out of the question for children to be conceived in circumstances where both parents are unknown (heterologous medically-assisted procreation, anonymous childbirth), or for them to be conceived and born in the context of surrogate motherhood. Such an interpretation effectively voids the scope of the rule of all substance, since it allows States to limit the right recognized in Article 7 according to the choices they alone deem appropriate. It then suffices to invoke this "measure" in order to take measures likely to undermine the child's right to know his or her origins²⁷⁵.

On the contrary, the expression "as far as possible" should be seen as referring to the absence of material, rather than legal, limits. Indeed, this is the position adopted by the Committee on the Rights of the Child, which considers that the right of a child to know his or her parents, guaranteed by article 7.1 of the Convention, is denied by States parties that authorize anonymous childbirth (or "sous X"), the secrecy of adoption or the anonymity of gamete or embryo donation²⁷⁶.

Alongside article 7.1 of the Convention, article 8 is also worth mentioning. It obliges States parties to "*respect the right of the child to preserve his or her identity, including nationality, name*

²⁷⁵ Kneebone, E., Beilby, K., & Hammarberg, K. (2022). Surrogates' and intended parents' experiences of surrogacy: A systematic review. *Fertility & Reproduction*, 4(03n04), 191–191.

²⁷⁶ Baumgärtel, M., & Ganty, S. (2024). On the basis of migratory vulnerability: Augmenting Article 14 of the European Convention on Human Rights in the context of migration. *International Journal of Law in Context*, 20(1), 92–112. DOI: 10.1017/S1744552323000064

and family relations as recognized by law without unlawful interference. If a child is unlawfully deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing his or her identity as soon as possible"²⁷⁷.

A child's origins are part of his or her identity. Ideally, therefore, they should be protected by the State. The problem is that Article 8 obliges states to respect the child's right to have his or her identity preserved "without unlawful interference", whereas it is only when the child is "unlawfully" deprived of his or her identity, or part of it, that he or she is entitled to appropriate assistance and protection from the state. This means that if the law of the State allows the child to be deprived of part of his or her identity, the protection of Article 8 will not apply, since the interference will in this case be legal!²⁷⁸.

To know or not to know, that is the question. In family law, this dilemma plays an important, even vital role, because man has always wanted to know everything about himself, his history and his origins. At a time of international adoption, changes in the family in general and the move towards an increasingly transparent society, the question of the secrecy of origins is resurfacing with force²⁷⁹.

Knowing where one comes from, one's roots and one's place in the genealogy of a family is an element that contributes to the construction of an individual's personality and identity. Furthermore, a person's desire to learn about their heritage does not diminish over time – rather, it tends to grow. Consequently, a lack of awareness about one's origins is frequently felt as both psychological and moral pain²⁸⁰.

The search for biological truth is influenced by the wish of abandoned, adopted, or medically-assisted children to discover the identity of their biological or genetic parents. While human beings naturally aspire to know their origins, the right to anonymity or the right to secrecy can put a brake on this quest for biological truth. However, the secrecy of origins is not necessarily incompatible with the search for natural truth²⁸¹. The reversibility of secrecy is possible in the name of protecting everyone's right to know their origins. This right is linked to the idea of dispelling the secrecy of birth. It's about asserting every person's right to know the biological or

²⁷⁷ Romero Moreno, F. (2024). Generative AI and deepfakes: A human rights approach to tackling harmful content. *International Review of Law, Computers & Technology*, 1–30. DOI: 10.1080/13600869.2023.1986141

²⁷⁸ Mladenovic, T. (2021). Anonymous birth versus child's right to identity. *Union UL Sch. Rev.*, 12, 443.

²⁷⁹ Elminouni, H., Baumer, E. P. S., & Forte, A. (2024). On being an expert: Habitus as a lens for understanding privacy expertise. *Proceedings of the ACM on Human-Computer Interaction*, 8(CSCW1), 1–25. DOI: 10.1145/3544560

²⁸⁰ Saunders, R. A. (2024). Genealogical journeys, geographical imagination, and (popular) geopolitics in *Who Do You Think You Are?* *Social & Cultural Geography*, 25(5), 698–717. DOI: 10.1080/14649365.2023.2162167

²⁸¹ Rocha, D. O., et al. (2023). The child's right to know versus the parents' right not to tell: The attitudes of couples undergoing fertility treatments towards identity-release gamete donation. *Journal of Reproduction & Infertility*, 24(3), 198.

genetic truth, but also their history. In other words, this right gives every person either the possibility of accessing information about the identity of the biological mother or father, or non-identifiable information about their genetic origins²⁸².

International texts have given their opinion on the right to know one's origins, adopting highly nuanced provisions. In general, international law enshrines the right to know one's origins as a fundamental right of the child, and more restrictively as a right for children adopted under the intercountry adoption procedure ²⁸³.

The first international text to indirectly enshrine the right to know one's origins is the New York International Convention on the Rights of the Child of November 20 1989 (ICRC). Article 7, paragraph 1 states that the child has "as far as possible the right to know and be cared for by his or her parents". This right was affirmed more forcefully a few years later in the Hague Convention of May 29, 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption⁸. Article 30 of the Convention stipulates that "State authorities shall preserve⁹ the information in their possession concerning the child's origins, in particular information concerning the identity of the mother and father. These same State authorities must ensure that the child has access to this information to the extent permitted by the law of their State "¹⁰. The Convention imposes an obligation of result on States parties, but leaves it to national legislation to organize the modalities of access to this information ²⁸⁴.

The new European Convention on the Adoption of Children signed in Strasbourg on November 27, 2008 recognizes the right to know one's origins, and stipulates that "The adopted child shall have access to information held by the competent authorities concerning his or her origins²⁸⁵. Where his or her parents of origin have the right not to disclose their identity, a competent authority shall have the possibility, to the extent permitted by law , of determining whether to override this right and to communicate information on identity, having regard to the circumstances and the respective rights of the child and his or her parents of origin ²⁸⁶.

Rights of the child and his or her original parents. An adopted child who has not yet reached the age of majority may receive appropriate advice. However, the right to know one's origins may

²⁸² Preložnjak, B. (2020). Modern challenges in the implementation of the child's right to know his origin. *EU and Comparative Law Issues and Challenges Series (ECLIC)*, 4, 1175–1203. DOI: 10.25234/eclic/11923

²⁸³ Kamińska, K. (2020). Intercountry adoption in Polish family law. *Acta Iuris Stetinensis*, 31(3), 41–61. DOI: 10.18276/ais.2020.31-03

²⁸⁴ Belea, S. (2023). Rights of the minors in international and European legislation after the application of the New York Convention of 1989. *Logos Universality Mentality Education Novelty: Social Sciences*, 12(1), 24–36. DOI: 10.18662/lumenss/12.1/55

²⁸⁵ O'Callaghan, E. (2024). Surrogate born children's access to information about their origins. *International Journal of Law, Policy and The Family*, 38(1), ebab009. DOI: 10.1093/lawfam/ebab009

²⁸⁶ Besson, S. (2007). Enforcing the child's right to know her origins: Contrasting approaches under the Convention on the Rights of the Child and the European Convention on Human Rights. *International Journal of Law, Policy and The Family*, 21(2), 137–159. DOI: 10.1093/lawfam/ebm004

be subject to limitations, as the Convention allows States parties to make reservations to this rule²⁸⁷.

In the European system for the protection of fundamental rights and freedoms, the text of the ECHR makes no reference to the right to know one's origins. It was the Strasbourg court that established the right to know one's origins on the basis of article 8 of the ECHR concerning respect for private and family life information necessary to discover the truth about an important aspect of their personal identity, such as the identity of their parents¹⁶. In its landmark *Odièvre v France* judgment of February 13, 2003, the ECtHR clarified the scope and implementation of the right to know one's origins. It affirmed that the vital interest in "establishing the details of one's identity as a human being" is part of the right to personal fulfillment protected by Article 8 of the ECHR. As such, it recognizes a "*right to know one's origins*", which is based on the extensive interpretation of the scope of the ECHR²⁸⁸.

Interpretation of the scope of the concept of private life. In another judgment of July 13, 2006, the Strasbourg Court was called upon to rule on a child's right to request a DNA sample to be taken from the remains of his alleged father in order to establish the biological truth, given that the deceased's family was opposed to post-mortem expertise. The ECtHR ruled that the right to know one's origins must take precedence over the right to rest in peace. Consequently, the child's vital interest in knowing his or her origins must take precedence over the respect due to the human body²⁸⁹.

However, it is clear from European case law that States parties to the ECHR have a margin of appreciation when it comes to implementing the right to know one's origins. This margin of appreciation is justified by the complex and delicate nature of the issue of secrecy of origins "*with regard to the right of each individual to his or her own history, the choice of biological parents, the existing family bond and adoptive parents*". It follows that as long as national legislation attempts to strike a sufficient balance between the interests at stake, namely the right to know one's origins and the protection of the mother's secrecy, there is no violation of Article 8 of the ECHR²⁹⁰.

Nevertheless, one question remains: can we speak of the existence of a genuine fundamental right to know one's origins in domestic law at European level? Assuming the answer

²⁸⁷ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

²⁸⁸ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

²⁸⁹ Tuazon, O. M. (2021). Universal forensic DNA databases: Acceptable or illegal under the European Court of Human Rights regime? *Journal of Law and the Biosciences*, 8(1), Isab022. DOI: 10.1093/jlb/Isab022

²⁹⁰ Todorović, A. (2023). Whose margin of appreciation? Analyzing its significance in European human rights jurisprudence. *Kultura Polisa*, 20(2), 130–154. DOI: 10.51738/Kpolisa2023.20.2.5

is yes, another problem is how to reconcile the right to know one's origins with the right to keep one's birth secret. In other words, how to reconcile the irreconcilable?

A study of the constitutional law of European countries provides some answers to these questions, and shows that there is no real consensus on the matter. Thus, in Europe, the position of constitutional judges oscillates between two relatively opposing legal positions, namely between the hostility of enshrining the right to know one's origins and the constitutional consecration of the right of all persons to know their origins. In addition, the ECtHR emphasizes "the vital interest of individuals in obtaining their recognition of a fundamental right to know one's origins is gaining ground around the world. International human rights instruments, which are applicable in domestic law or can be used to interpret it, are promoting it"²⁹¹. The European Court of Human Rights (ECtHR) has progressively established a right of access to one's origins, considering that the right to respect for private life guaranteed by Article 8 of the European Convention on Human Rights (ECHR) contains the "right of access to one's origins". EDH) included "the right of every person to establish the details of his or her identity as a human being". The Court even specified that "the interest which an individual may have in knowing his or her [biological] ancestry in no way ceases with age, quite the contrary"²⁹². The cases considered by the European Court of Human Rights almost always concerned the establishment or contestation of a parent-child relationship, in the context of private disputes between individuals. On one occasion, however, the Court did rule on access to one's origins in a context of secrecy organized and guaranteed by the State: in a case pitting French social services against an adopted person seeking the identity of her parent, it held that "birth, and particularly the circumstances surrounding it, fall within the private life of the child, and then of the adult, as guaranteed by Article 8"²⁹³. In this decision, the European Court of Human Rights sought to reconcile the conflicting interests of the biological mother, who wished to remain anonymous, and the child, who wished to have access to his or her identity²⁹⁴.

The UN Convention on the Rights of the Child (CRC) also calls for such recognition, establishing in Articles 7 and 8 the right of the child to know his or her parents as far as possible, and the right of the child to preserve his or her identity. Despite divergent interpretations of the ICERD that have sometimes limited its scope, a contemporary analysis of the ICERD shows that

²⁹¹ Milligan, T. (2023). Is there a right to knowledge about our origins? *Frontiers in Space Technologies*, 4, 1182276. DOI: 10.3389/frspt.2023.1182276

²⁹² Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

²⁹³ Callus, T. (2004). Tempered hope - A qualified right to know one's genetic origin: *Odievre v France*. *Mod. L. Rev.*, 67, 658. DOI: 10.1111/j.1468-2230.2004.066480.x

²⁹⁴ Jovic-Prlainovic, O. S. (2021). Judgments of the European Court of Human Rights v. the Republic of Serbia on the application of genetic testing in paternity litigation. *Strani Pravni Zivot*, 47. DOI: 10.5937/spz2021-10-36158.

the right to know one's biological or genetic origins is making progress²⁹⁵. Article 7 of the ICERD has been invoked many times in support of a fundamental right to know one's origins²⁹⁶. In today's medical and social context, it is reasonable to assert that biological or genetic identity is now part of the right to preservation of identity, as set out in Article 8 of the ICERD. Moreover, several countries, including Canada, have been criticized by the Committee on the Rights of the Child, which has ruled that their national laws on adoption or assisted reproduction do not sufficiently comply with the ICERD²⁹⁷. Thus, the right to know one's origins can be understood as the right for an individual to know the identity of the people who contributed to his or her conception or birth, and potentially to contact them²⁹⁸.

Regarding the legal regulation of transparency of origins *ab initio*, it should be noted that France has narrowed the scope of the secrecy authorized at the time the child is handed over to the child welfare services for adoption, whereas Quebec has maintained the principle of secrecy linked to the adoption procedure, while imposing significant exceptions²⁹⁹.

In France, adoption, which can take two forms - simple or plenary - is not synonymous with the secrecy of origins. The principle is well known for simple adoption, where the original filiation does not replace that established at birth, but is added to it. The adopted child remains in his or her original family, retaining all hereditary rights. The child's original birth certificate is updated by adding a marginal note with the adopters' names and a reference to the simple adoption judgment. Even in the case of full adoption of a child, the previous history is not completely hidden³⁰⁰.

2.3. Cases of limitation and restriction of children's right to know their biological parents

In recent years, the justification of the child's right to know his or her origin and the fundamental interests underlying it have received a lot of attention. The implementation of this right in practice is accompanied by conflicts of rights, which are, on the one hand, the implementation of the child's right to know his biological parents, and on the other hand, the

²⁹⁵ Giroux, M., & De Lorenzi, M. (2011). Putting the child first: A necessary step in the recognition of the right to identity. *Can. J. Fam. L.*, 27, 53.

²⁹⁶ Asgharian, T. (2020). The meaning and scope of 'national origin' in the International Convention on the Elimination of All Forms of Racial Discrimination. Available at SSRN 3691607. DOI: 10.2139/ssrn.3691607

²⁹⁷ United Nations, "General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child," Refworld, 2003, Retrieved 07.19.2024, From: <https://www.refworld.org/legal/general/crc/2003/en/36435>.

²⁹⁸ Milligan, T. (2023). Is there a right to knowledge about our origins? *Frontiers in Space Technologies*, 4, 1182276. DOI: 10.3389/frspt.2023.1182276

²⁹⁹ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

³⁰⁰ Čović, A. V., & Stjepanović, B. M. (2022). In vitro fertilisation from an anonymous donor: Dilemmas from the aspect of bioethics and the child's right to know his/her biological origins. *Sociološki Pregled*, 56(4), 1433–1471. DOI: 10.5937/socpreg56-39640

restrictions that complicate the implementation of this right³⁰¹. To analyze and evaluate the existing restrictions and competing interests of the child's right to know his biological parents, it will be possible to propose solutions on how they can be reconciled with each other³⁰². It can be said that the recent practice development of the European Court of Human Rights (ECtHR) does not ensure the goals set by the Convention on the Rights of the Child (CRC), and at the same time contradicts the principle that the interests of the child are the most important. European national legal systems also present different approaches to this issue³⁰³.

The birth of a child in the 21st century, defined by biological and social factors. Such a break has created many ethical, medical, psychological and legal consequences and juxtaposed various rights and interests³⁰⁴. That may be in a conflict with each other, and all involved in the birth process: those belonging to the parents, i.e. children, as well as gamete donors and family members³⁰⁵. The inability of children initiated through reproductive technology to receive any information identifying their biological parents has become increasingly controversial given our more open society and the increasing number of children born this way³⁰⁶. According to the WHO, infertility is a disease whose cases are increasing worldwide due to environmental and lifestyle factors³⁰⁷. Therefore, modern medical developments in the field of reproductive technologies have led to the emergence of new social relations, legal constructions and assumptions, which in turn have led to legal developments in this area³⁰⁸. Today's social world is characterized by great diversity. Children are raised in difficult circumstances, such as our partner's children, children from her or his previous relationships, children we adopt, children we conceive with donated sperm or eggs, and children carried by a surrogate. We can also raise them ourselves in a single family with a partner of any gender³⁰⁹.

The UN Committee on the Rights of the Child in 2002 appealed to the states that are parties to this Convention, asking them to ensure that all necessary measures are taken so that all

³⁰¹ *Ibid.*

³⁰² O'Callaghan, E. (2021). Surrogacy reform and its impact on the child's right to birth registration. *Reproductive Biomedicine & Society Online*, 13, 46–50. DOI: 10.1016/j.rbms.2021.01.003

³⁰³ Helland, T., & Hollekim, R. (2023). The Convention on the Rights of the Child's imprint on judgments from the European Court of Human Rights: A negligible footprint? *Nordic Journal of Human Rights*, 41(2), 213–233. DOI: 10.1080/18918131.2023.2202538

³⁰⁴ Zaami, S. (2018). Assisted heterologous fertilization and the right of donor-conceived children to know their biological origins. *La Clinica Terapeutica*, 169(1), e39–43. DOI: 10.7417/T.2018.2052

³⁰⁵ Deomampo, D. (2015). Defining parents, making citizens: Nationality and citizenship in transnational surrogacy. *Medical Anthropology*, 34(3), 210–225. DOI: 10.1080/01459740.2014.960565

³⁰⁶ Sylkina, S. M., et al. (2020). Surrogacy: An international comparative analysis of the fundamental legislative principles of Ukraine. *Medicine, Science and the Law*, 60(1), 37–44. DOI: 10.1177/0025802419887254

³⁰⁷ World Health Organization, "Infertility," 2024, Retrieved 07.27.2024, From: <https://www.who.int/news-room/fact-sheets/detail/infertility>.

³⁰⁸ Woźniak, S., et al. (2016). Infertility in the light of new scientific reports - Focus on male factor. *Annals of Agricultural and Environmental Medicine*, 23(2). DOI: 10.5604/12321966.1203882

³⁰⁹ Leighton, K. (2012). Addressing the harms of not knowing one's heredity: Lessons from genealogical bewilderment. *Adoption & Culture*, 3(1), 63–107.

children, regardless of the circumstances of their birth, can receive information about the identity of their parents³¹⁰. As a result, some countries have recently begun to require the donor to allow the identity of the donor to be disclosed if requested by a child born through assisted reproduction, and those who do not wish to disclose their identity are unlikely to become donors. Similarly, parents who wish to remain anonymous and women who wish to conceal their pregnancy may choose to have an abortion or leave their child, if anonymous leave is not allowed. Merely respecting the child's right to know his parents, regardless of the circumstances, will lead to a violation of the right to life, and if the child cannot survive, the right to know his parentage cannot be claimed or defended³¹¹.

According to Preložnjak, the child's right to know his biological parents "raises the most complex legal and ethical issues in the cases of adopted children, as well as abandoned or artificially conceived children"³¹². J. Lamçe and E. Çuni support B. Preložnjak by stating that this issue is of particular interest to adopted children and those born through assisted reproduction, surrogacy, depending on the laws of individual countries³¹³.

In conclusion, the past five decades have seen tremendous changes in the field of childbirth. With medical insemination, the birth of a child as an event was characterized by the intertwining of biological and social elements as scientific research progressed. All such innovations are associated with many ethical and medical problems, since different parties are involved in the process of creating a new life: children, parents, adoptive parents, gamete donors or surrogate mothers.

2.3.1. The adoption institute and the principle of confidentiality established in it, which limits the children's right to know their biological parents

The main challenges facing any family is to give priority to the individualization of each of its members, while at the same time fulfilling its role of integration and relay to the social and symbolic space of kinship. This challenge takes very different forms in different contexts. The adoptive parents of a child adopted abroad must welcome him or her as a full-fledged member of their family and kinship network, as if he or she were their biological child. To do this, they draw on the vast repertoire of rules, practices and social representations that reinforce the sense of

³¹⁰ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

³¹¹ Asai, A., & Ishimoto, H. (2013). Should we maintain baby hatches in our society? *BMC Medical Ethics*, 14, 1–7. DOI: 10.1186/1472-6939-14-9

³¹² Preložnjak, B. (2020). Modern challenges in the implementation of the child's right to know his origin. *EU and Comparative Law Issues and Challenges Series (ECLIC)*, 4, 1175–1203. DOI: 10.25234/ecllc/11923

³¹³ Lamçe, J., & Çuni, E. (2013). The right of the children to know their origin in adopting and medically assisted reproduction. *Mediterranean Journal of Social Sciences*, 4(6), 605. DOI: 10.5901/mjss.2013.v4n6p605

belonging within a family, while distributing status, roles and resources in such a way that everyone finds his or her own place within it³¹⁴. However, these adoptive parents must also recognize their child's national and ethno-cultural origin as an important part of his or her individuality, while this differential mark could weaken the image of family cohesion to which they aspire³¹⁵.

Parent-child relationships are a central part of family law. Generally, legal relationships between children and parents have a consistent biological starting point³¹⁶, but legal relationships between parents and children can also arise through adoption where the legal and biological relationships are different³¹⁷. Recently, adoption and mental health professionals have begun to prioritize adoption disclosure, providing information about biological parents, ie. i.e. in the past, the anonymity of the biological parents was preferred, but now the most important thing is the child's right to know his biological parents³¹⁸.

Adoption - a process during which the mutual personal and property rights and obligations with the parents and relatives by origin are canceled for the child left without parental care and mutual personal and property rights and obligations are created with the adoptive parents and their relatives as relatives by origin³¹⁹. It is also an opportunity to provide a new family for a child who cannot grow up in a biological family. Although the purpose of adoption is like the form of guardianship (care), it differs primarily in the consequences for the child³²⁰. The adoption relationship is continuous, and the adopted child is equated to a child born into the family³²¹, which means that the adoption terminates any ties the child has with the biological parents and creates a new legal relationship with the adoptive parents³²².

Adoption allows a child's relationship with his or her family of origin to be loosened (simple adoption) or completely severed (full adoption), and entrusted, in principle in the child's

³¹⁴ Costa, P. A., Gubello, A., & Tasker, F. (2021). Intentional kinship through caring relationships, heritage, and identity: Adoptive parents' inclusion of non-biological and non-affinal relationships on family maps. *Genealogy*, 5(4), 85. DOI: 10.3390/genealogy5040085

³¹⁵ Duraković, A. (2023). Challenges of international adoption in Bosnia and Herzegovina. *Medicine, Law & Society*, 16(2).

³¹⁶ Huntington, C. (2015). Postmarital family law: A legal structure for nonmarital families. *Stanford Law Review*, 167–240.

³¹⁷ NeJaime, D. (2020). The constitution of parenthood. *Stan. L. Rev.*, 72, 261.

³¹⁸ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

³¹⁹ Trenka, J. J., Oparah, J. C., & Shin, S. Y. (2021). *Outsiders within: Writing on transracial adoption*. University of Minnesota Press.

³²⁰ Pitula, C. E., et al. (2019). Peer problems among postinstitutionalized, internationally adopted children: Relations to hypocortisolism, parenting quality, and ADHD symptoms. *Child Development*, 90(3), e339–e355. DOI: 10.1111/cdev.13054

³²¹ Trivedi, S. (2023). The Adoption and Safe Families Act is not worth saving: The case for repeal. *Family Court Review*, 61(2), 315–340. DOI: 10.1111/fcre.12616

³²² Clapton, G. (2019). Against all odds? Birth fathers and enduring thoughts of the child lost to adoption. *Genealogy*, 3(2), 13. DOI: 10.3390/genealogy3020013

best interests, to one or more adoptive parents. Such a break can, of course, give rise to a multitude of secrets surrounding the child's origins³²³.

From the full adoptee's point of view, the secrecy of origins can be situated at two levels. The first concerns the secrecy of the adoption itself. The second, once the adoptee is aware of his or her adoption, concerns the secrecy of information about his or her family of origin³²⁴. Obviously, it's only when the child is aware of his or her adopted status that the question of tracing his or her origins can be addressed.

Although access to one's origins is nowhere explicitly enshrined as an absolute right, the fact remains that States are called upon to move towards the recognition and implementation of this right³²⁵.

Traditionally, Belgian law has always favored the adopted child's right to know his or her origins. On the one hand, the child's birth certificate, which must necessarily mention the mother's name and, if paternal filiation or co-parentage is established, that of the father or co-parent, is not replaced in the event of adoption, but a marginal mention of the decision pronouncing the adoption is added³²⁶. In addition, a certified copy of the birth certificate mentioning filiation can be issued to the adopted adult and to the legal representatives of the adopted minor³²⁷.

Consequently, an adoptee who requests a certified copy of his or her birth certificate is necessarily informed both of the fact of his or her adoption, and of the identity of his or her original mother if he or she was born in Belgium, and of his or her original father if paternity has been established³²⁸. In practice, and for many years now, adoption agency staff play an important role in gathering, storing and communicating information, as well as in supporting and accompanying adoptees in their search for their origins³²⁹. In 2003, the law confirmed and strengthened the tradition of transparency that has always surrounded adoption under Belgian law, while accentuating the legal dimension of adoptees' access to information about their origins³³⁰. The law

³²³ Skandrani, S., et al. (2020). The reverse search for origins in internal adoptions. *Adolescence*, 38(1), 245–255. DOI: 10.1016/j.adolescence.2020.07.005

³²⁴ Penasa, S., & Busatta, L. (2020). Biotechnologies, birth and the right to know one's genetic origins.

³²⁵ Weller, M. R., & Hosek, A. M. (2020). Birth mothers' experiences of privacy turbulence in relation to closed adoption information. *Journal of Family Communication*, 20(3), 250–264. DOI: 10.1080/15267431.2020.1790834

³²⁶ Heirbaut, D., Kotlyar, I., & Lysenko, O. (2021). 'Lightning-fast' codification of civil law in Belgium: Civil Code 2020. *Gosudarstvo I Pravo (Moskva)*, (11), 145–163.

³²⁷ O'Halloran, K. (2024). *Children, the law and the welfare principle: Civil law perspectives from France and Germany*. Taylor & Francis.

³²⁸ Vanfraussen, K., Ponjaert-Kristoffersen, I., & Brewaeyts, A. (2002). What does it mean for youngsters to grow up in a lesbian family created by means of donor insemination? *Journal of Reproductive and Infant Psychology*, 20(4), 237–252. DOI: 10.1080/0264683021000033145

³²⁹ Brodzinsky, D., Gunnar, M., & Palacios, J. (2022). Adoption and trauma: Risks, recovery, and the lived experience of adoption. *Child Abuse & Neglect*, 130, 105309. DOI: 10.1016/j.chiabu.2022.105309

³³⁰ Birch, P., & Sicard, L. (2021). *Prisons and community corrections*. Routledge.

stipulates that the competent authorities must keep the information they hold on the adoptee's origins and ensure that the adoptee or his/her representative has access to this information³³¹.

According to Swedish law, adult children who have been adopted have an absolute right to reveal the identity of their biological parents³³². This is because a child's right to know their parentage always takes precedence over a parent's right to anonymity. Some countries require adoptive parents to inform the adopted child of their adoption. In Bosnia and Herzegovina, adoptive parents are even required by law to inform the adopted child about the adoption no later than the child's seventh birthday or immediately after the adoption if the adopted child is older. Croatia has a similar law³³³.

In the United Kingdom legal system in 1991 the Children's Act came into force at the same time as introducing an adoption contact register so that an adopted person could contact their biological parents³³⁴. This law allows an adopted adult to receive all relevant information about their history prior to adoption in the Netherlands in 1994 April 15. The Supreme Court in its decision recognized the fundamental right of the child to fully and freely develop his personality. Including the right to know the identity of his biological parents, but this right is not yet absolute³³⁵.

The first and most important condition for adopting a child is that the adoption must be based on the child's interests. Only after proving that the child's biological parents are unfit, that they are not adequately protecting the child's interests, the adoption procedure can be started³³⁶. It is allowed to adopt only those children who are recorded in the register (list) of children to be adopted, except for the cases when a spouse's child is adopted or when a child living in the adopter's family is adopted³³⁷. The first exception, which allows the adoption of a spouse's child, means that the child is already growing up in a family with one of his biological parents and in the existence of a legally unestablished relationship with the adoptive parent (adoptive)³³⁸. In this case, the child is brought up and supported by the spouses. To adopt a spouse's child, the child

³³¹ Université de Montréal. Faculté de droit. (1974). *Revue juridique Thémis*, vol. 9. *Revue juridique Thémis*, Incorporated.

³³² Cocco, A. (2018). Do adopted children have a right to know their biological siblings. *Italian LJ*, 4, 531.

³³³ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

³³⁴ El-Enany, N. (2020). (B) Ordering Britain: Law, race and empire. In (B) Ordering Britain. *Manchester University Press*.

³³⁵ Wardle, L. D. (2008). The Hague Convention on Intercountry Adoption and American implementing law: Implications for international adoptions by gay and lesbian couples or partners. *Ind. Int'l & Comp. L. Rev.*, 18, 113.

³³⁶ Helland, H. S. (2021). In the best interest of the child? Justifying decisions on adoption from care in the Norwegian Supreme Court. *The International Journal of Children's Rights*, 29(3), 609–639. DOI: 10.1163/15718182-29030006

³³⁷ Cashmore, J., Conley Wright, A., & Hoff, S. (2021). Children's views, best interests and evolving capacities in consenting to their own adoption: A study of NSW Supreme Court judgements for adoptions from care. In *Parental Guidance, State Responsibility and Evolving Capacities* (pp. 232–256). Brill Nijhoff. DOI: 10.1163/9789004448030_012

³³⁸ Mikolajczak, M., et al. (2018). Exhausted parents: Sociodemographic, child-related, parent-related, parenting and family-functioning correlates of parental burnout. *Journal of Child and Family Studies*, 27, 602–614. DOI: 10.1007/s10826-017-0892-4

must be available for adoption, which means that the child's biological father (mother) has approved the court's consent to adopt the child, the father (mother) is unknown, dead or declared dead, or the father (mother) has unlimited authority over the child³³⁹. It is very important that the spouse understands the legal consequences arising after the adoption, that the resulting rights and obligations will be established as in the case of biological parentage, which means that even after the divorce, the legal basis for taking care of the spouse's adopted child remains³⁴⁰.

Secrecy about the fact of adoption consists in hiding the adopted status from the child. Adoption itself is never secret, since it is in principle the result of a judgment pronounced in open court. But in ignorance of this judgment, does the child have the possibility of discovering his or her status unless the adoptive parents voluntarily disclose it? If secrecy is maintained at this level, other questions relating to the secrecy of adoption magically disappear. Maintaining the secrecy of the fact of adoption obviously presupposes that the child's opinion or consent was not required, that he or she was welcomed young enough into his or her adoptive family to have retained no conscious memory of his or her adoption, that there is no flagrant difference, in terms of physical appearance, with his or her adoptive family, and that the adoption was not made by a homosexual couple. Moreover, preserving the secrecy of the adoption requires that the original birth certificate be eliminated or made inaccessible, by replacing it with a new certificate that identifies the adoptive parents as the original parents. For a long time, it was advisable to keep the adopted child's filiation secret, so that he or she would not feel different from the other members of the family, and would not suffer from the knowledge that he or she had been rejected, nor from the resulting feeling of being different, nor finally from ignorance of his or her origins. The secrecy of adoption was seen as the ultimate guarantee of this family life created by human will alone. Today, however, opinion is almost unanimous: the fact of adoption must be revealed to the child as soon as possible, and repeated as a matter of course.

In Lithuania, the legal regulation of adoption is based on the established norms of the CC of the Republic of Lithuania and the Code of Civil Procedure of the Republic of Lithuania³⁴¹. Based on Article 3.209 of the CC of the Republic of Lithuania "adoption is possible only in the interests of the child"³⁴². Under Art. 3.221 it is stipulated that "without the consent of the adoptive

³³⁹ Ball, C. (2017). The changed nature of adoption: A challenge for the legislators. *In Frontiers of Family Law* (pp. 6–22). Routledge. DOI: 10.4324/9781315190354-2

³⁴⁰ Cashmore, J., Conley Wright, A., & Hoff, S. (2021). Children's views, best interests and evolving capacities in consenting to their own adoption: A study of NSW Supreme Court judgements for adoptions from care. In *Parental Guidance, State Responsibility and Evolving Capacities* (pp. 232–256). Brill Nijhoff. DOI: 10.1163/9789004448030_012

³⁴¹ The Constitutional Court of The Republic of Lithuania, On the compliance of Paragraph 2 of Article 153, Paragraph 3 of Article 319, and Paragraph 3 of Article 352 of the Code of Civil Procedure of the Republic of Lithuania (wording of February 28, 2002) with the Constitution of the Republic of Lithuania (2002).

³⁴² *Ibid.*

parents, until the child reaches the age of majority, the adoption data cannot be disclosed" ³⁴³. Except in cases where "this information is necessary for the health of the child, his close relative or other persons or other important reasons" ³⁴⁴. Adoption in Lithuania is also regulated by the Basic Law on the Protection of Child Rights of the Republic of Lithuania ³⁴⁵, the description of the adoption accounting procedure of the Republic of Lithuania ³⁴⁶, and the description of the procedure for checking the readiness of adopters to adopt a child ³⁴⁷. In addition of national legal acts regulating adoption procedures, the Institute of Legal Regulation of Adoption also includes international treaties ratified in Lithuania, for example, 1993 The Hague Convention on the Protection of Children and Cooperation in the Matter of Intercountry Adoption³⁴⁸, which is the main international treaty governing intercountry adoption. The norms of this Convention are directly applied together with national laws, when the requests of foreign countries to adopt Lithuanian children are examined. The document was specifically designed to establish comprehensive and legally binding international standards defining an agreed system of care, channels of communication and effective relationships between the authorities of the country of origin and the state receiving information about the adopted child. The purpose of this Convention is stated in Article 1, which states that it is mandatory to establish protective measures to ensure that international adoption takes place in the best interests of the child and respecting his fundamental rights, which are recognized by international law ³⁴⁹.

According to Slovenian law, once the adoption decision has entered into force, the adopted person has no right to find out the personal data of his biological parents, which are stored in the civil registry. And other personal data registers, and the biological parents, who gave the child up for adoption have no right to access the child's personal data³⁵⁰. Information about adoption can be obtained from the civil registry only after obtaining the written consent of the person to whom it relates. A child who has reached the age of 15 can give consent if he can

³⁴³ *Ibid.*

³⁴⁴ *Ibid.*

³⁴⁵ Seimas of the Republic of Lithuania, "I-1234 Law on the Fundamentals of Child Rights Protection of the Republic of Lithuania" (1996), Retrieved 07.19.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.26397>.

³⁴⁶ The Constitutional Court of The Republic of Lithuania, On the compliance of Paragraph 2 of Article 153, Paragraph 3 of Article 319, and Paragraph 3 of Article 352 of the Code of Civil Procedure of the Republic of Lithuania (wording of February 28, 2002) with the Constitution of the Republic of Lithuania (2002).

³⁴⁷ The Minister of Social Security and Labor of The Republic of Lithuania, "Amendments to the Order of the Minister of Social Security and Labour of the Republic of Lithuania No. A1-162 'Re: Approval of the Description of Procedure for Authorizing the Institutions of Foreign States to Act in Pursuance of Intercountry Adoption in the Republic of Lithuania' of 3 June 2005" (2012).

³⁴⁸ Seimas of the Republic of Lithuania, "Convention "On Protection of Children and Co-Operation in Respect of Intercountry Adoption" (1993), Retrieved 07.11.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.42261>.

³⁴⁹ *Ibid.*

³⁵⁰ Guštin, M. (2022). Comparative review of adoption in Croatia and Slovenia: Similarities, differences and efficiency. *Medicine, Law & Society*, 15(2).

understand its meaning and consequences³⁵¹. In Slovenia, the provision of information that would allow a child to exercise the right to know his origin or knowledge of his biological parents is very strict. Slovenia is one of the most restrictive countries in this case, as this right depends on the consent of the child's biological parents. In order to realize the child's right to information and knowledge about origin, three conditions must be met: the child must be at least 15 years old. (objective condition), the child must understand the meaning and consequences of the given consent, the biological parent must have given consent³⁵².

Regarding adoption and the relationship between the adopter and the family of origin, in some countries (Austria, Principality of Monaco, Bulgaria, Russia, Macedonia) the adoptee cannot obtain information about his biological identity³⁵³. Many European countries regulate a child's right to know the identity of his biological parents, but there are differences in the age at which a child acquires this right. In Belgium, Finland and the Czech Republic, a child can receive information about adoption from the age of 12 age³⁵⁴. In Austria and Hungary, such information is provided from the age of 14. In Bulgaria, Germany and the Netherlands from the age of 16. In the Netherlands, in the case of international adoption, children can receive adoption data from the age of 12³⁵⁵. In Cyprus, Croatia, Denmark, Estonia, Greece, Lithuania, Latvia, Malta, Poland, Portugal, Romania, Spain and Sweden from the age of 18, and in Italy - from the age of 25. In France and Slovakia, access to adoption information depends on the child's maturity, and in Ireland, a child's right to know his or her biological parents is not guaranteed³⁵⁶.

Italian law recognizes the mother's right to remain anonymous on the birth certificate, while French law, whose regulation is more articulated than Italy's, on the contrary, provides for the adoptee's right to know his parents³⁵⁷. The mother's choice to remain anonymous is not irreversible, as in Italy, that is. The child through the National Service of Access can obtain the mother's consent upon request to Personal Origin³⁵⁸.

³⁵¹ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

³⁵² Guštin, M. (2022). Comparative review of adoption in Croatia and Slovenia: Similarities, differences and efficiency. *Medicine, Law & Society*, 15(2).

³⁵³ Jakešević, R., & Luša, Đ. (2021). Breaking the glass ceiling: The role of the UN and the EU in promoting women in politics. *Politička Misao: Časopis Za Politologiju*, 58(2), 33–63. DOI: 10.20901/pm.58.2.02

³⁵⁴ Fenton-Glynn, C. (2017). International surrogacy before the European Court of Human Rights. *Journal of Private International Law*, 13(3), 546–567. DOI: 10.1080/17441048.2017.1388783

³⁵⁵ Ayllón, S., Holmarsdóttir, H., & Lado, S. (2023). Digitally deprived children in Europe. *Child Indicators Research*, 16(3), 1315–1339. DOI: 10.1007/s12187-022-09912-1

³⁵⁶ Kraljic, S. (2021). The right to know one's origins in light of the legal regulations of adoption in Slovenia. *Law, Identity & Values*, 1, 99. DOI: 10.55073/2021.1.99

³⁵⁷ Agosta, S. (2021). Coming without coming from: The adoptee's right of access to origins within the constraints of maternal anonymity. *BioLaw Journal-Rivista Di BioDiritto*, 1S, 171–185.

³⁵⁸ *Ibid.*

In the French Community, adoption agencies now attach great importance to tracing the origins of adopted children³⁵⁹. The new decree also brings substantial improvements, as it introduces a system for transmitting to adopters information relating to the adopted child and non-identifying data concerning the birth parents³⁶⁰. Adopters will thus be able to pass on this data themselves to the child upon request. Otherwise, from the age of twelve, the child has the right to obtain this information from the adoption agency or the Community's central authority, subject to compulsory professional support if he or she is a minor. Admittedly, full adoption in France entails a complete break in the previous parent-child relationship; the original birth certificate is considered null and void and a new birth certificate is drawn up (art. 354 c. civ), but this does not mean that the adopted person's status is secret. Since 1966, the birth certificate of a child adopted in the plenary form is formally presented as a transcription of the adoption judgment, whose references are necessarily mentioned (art. 354 c. civ). If a person requests a full copy of his or her birth certificate - which is very rarely required - he or she may discover that he or she has been adopted, if his or her parents have concealed this from him or her, and may consult the adoption decree and possibly learn the names of his or her original parents³⁶¹.

It is not adoption, whether simple or plenary, that creates a barrier to access to one's origins, nor even admission as a ward of the State, which is often a prerequisite for the child's adoption (art. 347 c. civ). Unless there is a relationship of kinship or alliance with the adopter, any child under two years of age must be handed over to the social welfare service - and admitted as a ward of the State - or to an organization authorized for adoption before he or she can be adopted (art. 348-5 c. civ). The consent of the parents or "persons who have the capacity to consent to the adoption" is obtained at the same time as the child (art. L. 224-5 Code de l'action sociale et des familles [CASF]). It is intrinsically linked to the anonymity that the "birth mother" may have chosen at the time of delivery.

Today, birth under X is the only situation in France where secrecy of origins is authorized. Law no. 2002-93 of January 22, 2002 on access to the origins of adopted persons and wards of the State abolished the possibility for both birth parents to request secrecy of their identity when handing over their child to the Children's Social Welfare Agency (ASE) if the child was less than a year old, even though filiation had been established³⁶². The initial civil status record was consequently annulled to make the parents' identity secret, and a provisional civil status record

³⁵⁹ Beyers, J., & Bursens, P. (2013). The European rescue of the federal state: How Europeanisation shapes the Belgian state. In *The Politics of Belgium* (pp. 195–216). Routledge. DOI: 10.4324/9780203067970-12

³⁶⁰ Linehan, D. (2021). Exploring adult adoptees' use of DNA testing as a method of adoption tracing.

³⁶¹ Julia Feast and David Howe, "Open Adoption Records, the Human Rights of Adopted People, and Discrimination: The Case of *Odièvre v France* 2003," *European Journal of Social Work* 7, no. 1 (2004): 25–42.

³⁶² Emmanuel Terrier, "Chapitre 15. L'accès Aux Origines Personnelles," *Journal International de Bioéthique et d'éthique Des Sciences* 34, no. 2 (2023): 201–10.

was drawn up. This procedure was rarely used, as it was largely ignored, but its disappearance has been criticized by some authors³⁶³.

Thus in France, apart from children born under X - or those who have been found³⁶⁴, all children admitted as wards of the State, potentially adoptable, know their family of origin, even if from a very young age some have been taken into care by the ASE³⁶⁵. Whether they lived with a foster family or in an institution, alternately or full-time, before being admitted as wards of the State following a court decision³⁶⁶, or whether they have been voluntarily handed over by their parents to the ASE with a view to adoption³⁶⁷, all these minors have known and established filiation with legal parents. The child's life project, as defined by the guardianship authorities, will only lead to adoption if the child's best interests so require which is not necessarily the case given the child's age, history, the existence of siblings or the time already spent with a foster family. Few children whose parentage is known are actually adopted, and this adoption, whatever form it takes, will not be able to conceal the knowledge that children may have of their original parentage³⁶⁸.

In Quebec, transparency does not exist except for certain forms of adoption, there is no such thing as a secret birth procedure³⁶⁹. Therefore, no distinction must be made between the mother and the father of birth; both parents of origin must be considered together. While in Quebec the secrecy of adoption data is confirmed by the 2017 reform, greater access to information on origins is nevertheless made possible³⁷⁰. Adoptions in Quebec are handled by the Director of Youth Protection (DPJ) working within Centres intégrés de santé et de services sociaux (CISSS) or Centres intégrés universitaires de santé et de services sociaux (CIUSSS). Among other things, these organizations hold and manage information relating to the identity of people involved in adoption. Adoption requires the consent of the parents, or failing that, a judicial declaration of eligibility for adoption, which may be issued if the child is orphaned, abandoned or whose parents have lost parental authority, and is placed under the care of the DJP. Consent to adoption may be

³⁶³ Mathilde Nacher et al., "Mapping French People's Positions Regarding the Children's Right to Know Their Biological Parents' Identity," *Journal of Child and Family Studies* 29 (2020): 1723–31.

³⁶⁴ ONPE, "Observatoire National de la Protection de l'Enfance," ONPE, 2022, Retrieved 07.19.2024, From: <https://onpe.france-enfance-protgee.fr/>

³⁶⁵ *Ibid.*

³⁶⁶ Chapon, N., Neyrand, G., & Siffrein-Blanc, C. (2018). Les liens affectifs en famille d'accueil. Erès..

³⁶⁷ Légifrance, "Article L224-5 - Code of Social Action and Families - Légifrance" (2023), Retrieved 07.13.2024, From: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000046372149/2024-01-31.

³⁶⁸ Dumaret, A.-C., & Rosset, D.-J. (2005). Adoption and child welfare protection in France. *Early Child Development and Care*, 175(7–8), 661–670. DOI: 10.1080/03004430500131382

³⁶⁹ Ricard, L. (2024). Fostering recognition: A philosophical critique of Anglo-American child protection law.

³⁷⁰ Government of Quebec, "Search for Information on the Family of Origin or on the Child in Adoption," Government of Quebec, 2024, Retrieved 07.17.2024, From: <https://www.quebec.ca/en/family-and-support-for-individuals/pregnancy-parenthood/adoption/search-information-family-origin-or-child-adoption>.

special or general ³⁷¹. When adoption takes place by general consent, the DYP will place the child in a foster family for regular adoption or as part of the Mixed Bank program ³⁷².

In terms of civil status, following an adoption judgment, a new birth certificate is drawn up to replace the original one³⁷³. The birth certificate of a child adopted in Quebec does not mention the adoption, but it does mention the new filiation and the new names chosen by the adoptive parents ³⁷⁴. While there is no adoption secrecy in France when issuing full copies of birth certificates, the situation is more restrictive in Quebec, which in principle does not allow such copies to be issued ³⁷⁵.

Article 582 of the C.C.Q. affirms the confidentiality of judicial and administrative adoption files. As early as 1960, given Quebec's social context, it was self-evident that full adoption should be accompanied by this confidentiality, as secrecy was intended to protect mother and child from the opprobrium of illegitimacy experienced at the time³⁷⁶. Comparable effects can be noted here with the situation prevailing in France in the specific context of childbirth under X. However, it must be emphasized that secrecy is established automatically in France, at the initiative of the public authorities, without any explicit request from the birth parents and for all children who are the subject of an adoption³⁷⁷.

It should be noted that since 1988, adoption practice in Quebec has moved away from the principle of secrecy in adoptions carried out under the Mixed Bank program. In this context, the family takes charge of the child, even though he or she is not adoptable, first as a foster family, as part of a DPJ intervention. By taking in the child in this way, they hope to become an adoptive family, given the unlikelihood of the child's original parents regaining custody³⁷⁸. The child's adoption will be possible if his or her interests so dictate, and depending on the case, because the parents have consented to the adoption or the court has declared it admissible³⁷⁹. The children are

³⁷¹ Government of Quebec, “CCQ-1991, Article 555 - Civil Code of Quebec” (2022), Retrieved 07.19.2024, From: <https://www.legisquebec.gouv.qc.ca/fr/version/lc/CCQ-1991?code=se:555&historique=20191218>.

³⁷² Government of Quebec, “CCQ-1991, Article 559 - Civil Code of Quebec” (2022), Retrieved 07.21.2024, From: <https://www.legisquebec.gouv.qc.ca/fr/version/lc/CCQ-1991?code=se:559&historique=20221107>.

³⁷³ Government of Quebec, “CCQ-1991 - Civil Code of Quebec” (1991), Retrieved 07.19.2024, From: <https://www.legisquebec.gouv.qc.ca/en/document/cs/ccq-1991>.

³⁷⁴ Government of Quebec, “CCQ-1991, Article 576 - Civil Code of Quebec” (2022), Retrieved 07.22.2024, From: <https://www.legisquebec.gouv.qc.ca/fr/version/lc/ccq-1991?code=se:576&historique=20240716>.

³⁷⁵ Government of Quebec, “CCQ-1991 - Civil Code of Quebec” (1994), Retrieved 07.16.2024, From: <https://www.legisquebec.gouv.qc.ca/fr/version/lc/CCQ-1991?code=se:149&historique=20200513>.

³⁷⁶ Speirs, C. C. (1995). The destruction of foster care files in Quebec: The co-opting of a profession. *Child Welfare*, 763–778.

³⁷⁷ Cram, S. J., & Dobson, K. S. (1993). Confidentiality: Ethical and legal aspects for Canadian psychologists. *Canadian Psychology/Psychologie Canadienne*, 34(3), 347. DOI: 10.1037/h0078854

³⁷⁸ Pagé, G., Poirier, M.-A., & Châteauneuf, D. (2019). Being a foster-to-adopt parent: Experiences of (un)certainty and their influence on the sense of being the parent. *Adoption Quarterly*, 22(2), 95–115. DOI: 10.1080/10926755.2019.1587466

³⁷⁹ Government of Quebec, “CCQ-1991, Article 543 - Civil Code of Quebec” (1991), Retrieved 07.27.2024, From: <https://www.legisquebec.gouv.qc.ca/fr/version/lc/CCQ-1991?code=se:543&historique=20240304>.

therefore older (two years or more) and know their original parents, who may wish to maintain relations with them. In this context, it was difficult to respect the secrecy of the adoption, and an open adoption practice developed³⁸⁰. Thus, non-legally binding agreements could be made between the original parents and the adoptive parents to maintain contact with the child's family of origin³⁸¹. With the aim of facilitating knowledge of origins and maintaining ties with the parents of origin, the 2017 law codifies this practice of open adoption if the child's interests require the implementation of such an agreement³⁸². In France, this arrangement is similar to the adoption by the foster family of a child admitted as a ward of the State following a judicial declaration of parental abandonment³⁸³.

Other provisions in the 2017 reform bear further witness to the Quebec legislator's desire to restrict the area of secrecy that traditionally surrounds adoption.

In the Flemish Community, the adoptee has a right of consultation (*inzagerecht*). Unless the adoption official gives a reasoned refusal, the adopted person has the right to consult his or her file from the age of twelve, and even before this age if the official authorizes this on grounds of maturity. The adopted minor has the right to access data concerning him or her, as well as the right to obtain explanations on the data obtained. In the event that certain data also concern a third party, and that full consultation of this data by the minor would prejudice the third party's right to privacy, access to this data is granted by means of an interview, a partial consultation or a "rapportage" (*gesprek, gedeeltelijke inzage of rapportage*). The adoptee can also ask the Flemish adoption officer to obtain additional information about him or her³⁸⁴.

Then, once the fact of adoption has been revealed, the child's pre-adoptive history must be kept secret. In this pre-adoptive history, secrecy can also be found at different levels³⁸⁵. We need to distinguish between secrecy on all elements relating to the child's past, before he or she joins his or her adoptive family, and secrecy on the identity of the birth parent(s), with access to non-identifying information (socio-cultural background, medical information, physical appearance and social status of the birth parents, letters, photos, reasons for abandonment, etc.)³⁸⁶.

³⁸⁰ MacDonald, M., & McSherry, D. (2011). Open adoption: Adoptive parents' experiences of birth family contact and talking to their child about adoption. *Adoption & Fostering*, 35(3), 4–16. DOI: 10.1177/030857591103500302

³⁸¹ Tucker, L. A. (2020). From contract rights to contact rights: Rethinking the paradigm for post-adoption contact agreements. *BUL Rev.*, 100, 2317.

³⁸² Sykes, M. R. (2001). Adoption with contact: A study of adoptive parents and the impact of continuing contact with families of origin. *Journal of Family Therapy*, 23(3), 296–316. DOI: 10.1111/1467-6427.00182

³⁸³ Fuchs, R. G. (1984). *Abandoned children: Foundlings and child welfare in nineteenth-century France*. Suny Press.

³⁸⁴ Flemish Government, "Vlaanderen.be," Flandre.be, 2012, Retrieved 07.21.2024, From: <https://www.vlaanderen.be/publicaties/flemish-parliament-act-of-6-july-2012-on-local-cultural-policy-public-libraries-in-the-flemish-community>.

³⁸⁵ Carp, E. W. (1998). *Family matters: Secrecy and disclosure in the history of adoption*. Harvard University Press.

³⁸⁶ Hill, C. M., & Edwards, M. (2009). Birth family health history: Adopters' perspectives on learning about their child's health inheritance. *Adoption & Fostering*, 33(2), 45–53. DOI: 10.1177/030857590903300205

Most international texts refer to the adopted child's right to know his or her origins, but this right is never absolute. It competes with the right of the parent of origin to remain anonymous. It's up to each state to decide which side of the balance to tip³⁸⁷. Council of Europe member states must, however, respect the requirements of the European Convention on Human Rights, as interpreted by the Strasbourg Court. As we have seen, the Court attaches great importance to the right to know one's origins³⁸⁸.

Finally, in the German-speaking Community, the information contained in the adoption file concerning the adoptee may, on request, be passed on to the adoptee during an interview with the central authority's social service. If the adopted child is a minor, the adoptive parents are informed of this request by the central authority. For the information interview, the adopted person may be accompanied by an adult of his or her choice³⁸⁹.

In adopted families, the absence of pregnancy prevents parents from hiding the child's origin from relatives and family³⁹⁰. In addition, in the case of international adoption, racial or ethnic physical differences between the parents and the child provide visual evidence of a lack of genetic connection³⁹¹, so it is very common for the child to reveal his parentage, and sometimes law requires it, even if this can be a difficult task for some adoptive parents³⁹².

In summary, adoption is a legal procedure in which an adopted child is permanently separated from his biological parents and becomes the legal child of his adoptive parents with all the rights, privileges and responsibilities that are attributed to a biological child. The provision of confidentiality in adoption proceedings creates legal confusion, as the child's right to know his or her origin is incompatible with the biological parents' right to confidentiality. A woman who chooses to give her child up for adoption may not want her identity to be known, and in general, prospective adoptive parents also do not want the biological parents to know who adopted their child, so there may be a conflict between the child's right to know his origin and the parents' right to remain anonymous. All this follows from the fact that adoption is often intertwined with strong emotions.

³⁸⁷ Lamçe, J., & Çuni, E. (2013). The right of the children to know their origin in adopting and medically assisted reproduction. *Mediterranean Journal of Social Sciences*, 4(6), 605. DOI: 10.5901/mjss.2013.v4n6p605

³⁸⁸ Preložnjak, B. (2020). Modern challenges in the implementation of the child's right to know his origin. *EU and Comparative Law Issues and Challenges Series (ECLIC)*, 4, 1175–1203. DOI: 10.25234/eclic/11923

³⁸⁹ Hill, C. M., & Edwards, M. (2009). Birth family health history: Adopters' perspectives on learning about their child's health inheritance. *Adoption & Fostering*, 33(2), 45–53. DOI: 10.1177/030857590903300205

³⁹⁰ Qizi, K. G. S. (2023). Tasks of family sociology and its role in the development of society. *Novateur Publications*, (3), 1–91. [DOI non disponible]

³⁹¹ Grodin, M. A., & Lane, H. L. (1997). Ethical issues in cochlear implant surgery: An exploration into disease, disability, and the best interests of the child. *Kennedy Institute of Ethics Journal*, 7(3), 231–251. DOI: 10.1353/ken.1997.0020

³⁹² Casonato, M., & Habersaat, S. (2015). Parenting without being genetically connected. *Enfance*, 3(3), 289–306. DOI: 10.3917/enf1.153.0289

2.3.2. Assisted fertilization and donor anonymity pose obstacles for the children's to know their biological parents

Since more than 40 years ago the first girl was born through assisted reproduction, assisted reproduction has become a more common phenomenon, but in many countries of the world, there is a lack of legal regulation related to this topic³⁹³. The right of children to know their biological parents is related to the procedure of disclosure of private data³⁹⁴. In order to implement this right of the child, a mechanism should be created to help the child know about the circumstances of the mother's pregnancy and obtain information about the donor³⁹⁵.

Technological advances in biomedicine have been remarkable in recent decades, particularly in early-life problems, i.e. i.e. the most revolutionary advances occurred in the field of assisted reproduction, which was an important treatment for infertility³⁹⁶. The practice of gamete donation ('gametes are all tissues and cells intended for use in assisted reproduction'³⁹⁷ has received increasing attention, i.e. i.e. more and more individuals and couples applied for assisted reproduction and the number of donor children born as a result grew³⁹⁸. Assisted reproductive technologies have resulted in more than 8 million births to date (e.g., Mexico is the third country with the highest number of assisted reproductive cycles in the region, but Mexico has no national regulation of assisted reproduction³⁹⁹, heralding a remarkable advance in reproductive medicine that has transformed both medicine and right. The impact of assisted reproduction is being felt on the modern family, as well as on many areas of legal practice, including family law, and many lawyers and scholars are grappling with the question of how to deal with the dilemmas that arise⁴⁰⁰. As A. López et al. argue, the problems related to assisted human reproduction need to be examined from a transnational perspective because they arise from technological and cultural advances and from the need for the laws governing them to adapt to these advances⁴⁰¹. Kuhnt and Passet-Wittig agree with López and debate that the increased use of assisted reproductive

³⁹³ Franklin, S. (2022). *Embodied progress: A cultural account of assisted conception*. Routledge.

³⁹⁴ Baden, A. L. (2016). 'Do you know your real parents?' And other adoption microaggressions. *Adoption Quarterly*, 19(1), 1–25. DOI: 10.1080/10926755.2015.1026012

³⁹⁵ Sabatello, M. (2015). Regulating gamete donation in the US: Ethical, legal and social implications. *Laws*, 4(3), 352. DOI: 10.3390/laws4030352

³⁹⁶ Zaami, S. (2018). Assisted heterologous fertilization and the right of donor-conceived children to know their biological origins. *La Clinica Terapeutica*, 169(1), e39–43. DOI: 10.7417/T.2018.2052

³⁹⁷ Salazar, A., Diaz-García, C., & García-Velasco, J. A. (2023). Third-party reproduction: A treatment that grows with societal changes. *Fertility and Sterility*, 120(3), 494–505. DOI: 10.1016/j.fertnstert.2023.07.021

³⁹⁸ *Ibid.*

³⁹⁹ López, A., et al. (2021). The need for regulation in the practice of human assisted reproduction in Mexico. An overview of the regulations in the rest of the world. *Reproductive Health*, 18, 1–14. DOI: 10.1186/s12978-021-01075-5

⁴⁰⁰ Gan-Or, N. Y. (2023). *Regulating assisted reproduction: Between progress and stagnation*. Columbia University.

⁴⁰¹ Alma López et al., "The Need for Regulation in the Practice of Human Assisted Reproduction in Mexico. An Overview of the Regulations in the Rest of the World," *Reproductive Health* 18 (2021): 1–14.

technologies also has implications for countries, which must adapt legislation to constantly evolving technologies and changing consumer needs and expectations⁴⁰².

Unlike an adopted child, a child born through medically assisted procreation has not been abandoned, only desired. He has no life experience, not even intra-uterine, prior to his integration into his family. He or she has no complex personal history to confront, no need to reconcile with his or her own birth or to heal the wound of initial abandonment⁴⁰³.

Although the quest for identity of children born of anonymous gamete donation is of a radically different nature to that of adopted children, and may seem "lighter" at first sight, it is nonetheless just as lively and legitimate, as attested by the many testimonials on the Donorkinderen website, or from the French association Procréation médicalement anonyme⁴⁰⁴.

According to Zaami, there are several options when it comes to giving birth: secrecy, partial anonymity and thorough knowledge of all donor-related information⁴⁰⁵. In most cases, gamete donors provide non-identifying information about themselves, such as education level, medical information, ethnicity, descriptions of physical characteristics, and sometimes information about hobbies. Depending on the country, those using donated gametes have access to more or less of this information, but in many states the circumstances of conception remain the prerogative of the parents⁴⁰⁶. Moreover, even if the parents choose to disclose information, access to information about the gamete provider may not be possible because anonymous donation is still common in many countries and donor records are often not kept for long⁴⁰⁷.

In Belgium, the law authorizes the donation of sperm, oocytes and embryos free of charge. The parents, in the legal sense of the term, are the authors of the parental project. It is therefore impossible to establish a filiation link between a child born through donation and the gamete or embryo donor(s)⁴⁰⁸. As for donor anonymity, the law makes a distinction between gamete donation and embryo donation. It imposes anonymity for the latter, but authorizes non-anonymous gamete donation when it results from an agreement between the donor and the recipient(s). However, in

⁴⁰² Kuhnt, A.-K., & Passet-Wittig, J. (2022). Families formed through assisted reproductive technology: Causes, experiences, and consequences in an international context. *Reproductive Biomedicine & Society Online*, 14, 289–296. DOI: 10.1016/j.rbms.2022.07.001

⁴⁰³ Rocha, D. O., et al. (2023). The child's right to know versus the parents' right not to tell: The attitudes of couples undergoing fertility treatments towards identity-release gamete donation. *Journal of Reproduction & Infertility*, 24(3), 198.

⁴⁰⁴ *Ibid.*

⁴⁰⁵ Zaami, S. (2018). Assisted heterologous fertilization and the right of donor-conceived children to know their biological origins. *La Clinica Terapeutica*, 169(1), e39–43. DOI: 10.7417/T.2018.2052

⁴⁰⁶ de Melo-Martín, I. (2022). Reprogenetic technologies and the valuing of the biogenetic family. *The Muslim World*, 112(3), 353–366. DOI: 10.1111/muwo.12401

⁴⁰⁷ Nune Calonge, R., et al. (2021). P-488 Patients' attitudes towards the anonymity of gamete donation in Spain. *Human Reproduction*, 36(Supplement_1), deab130-487. DOI: 10.1093/humrep/deab130.487

⁴⁰⁸ Heirbaut, D., Kotlyar, I., & Lysenko, O. (2021). 'Lightning-fast' codification of civil law in Belgium: Civil Code 2020. *Gosudarstvo I Pravo (Moskva)*, (11), 145–163.

this case, anonymity is only lifted between the donor and the recipient or recipient couple. Consequently, no identifying information may be communicated by the fertilization center⁴⁰⁹. With regard to non-identifying information about the donor (height, age, weight, occupation, interests, state of health, etc.), the fertilization center is obliged to keep this information confidential.), the fertilization center may only communicate information of a medical nature likely to be of importance for the healthy development of the child and, above all, it may only communicate this information to the recipient or recipient couple who request it when making a choice, or to the child's, recipient's or recipient couple's attending physician, insofar as the child's health so requires⁴¹⁰.

By organizing the "disappearance" of the donor in this way, Belgian law deliberately confiscates part of the child's origins⁴¹¹. The law should therefore be amended to lift anonymity. If the law can abolish anonymity, does it have the power to compel parents to reveal the circumstances of conception to the child? No legislation requires parents to reveal to their child that he or she is the product of a medically assisted reproduction technique. In some countries, however, the state is required to make up for any silence on the part of the parents⁴¹². In the United Kingdom, for example, any child from the age of sixteen can apply to a central authority to find out whether his or her birth was the result of medically assisted procreation. This authority can also inform the child of the identity of other children born from the same donor, if they consent, and enable the child to ensure that he or she is not related to the person with whom he or she wishes to form an intimate relationship⁴¹³. This suppletive intervention by the State, through recognition of the child's right to know in the event of his or her parents' silence, obviously encourages the parents to lift the veil of secrecy regarding the mode of conception⁴¹⁴.

Anonymous gamete donation has been popular for a long time, a new focus on the rights and interests of donor children has led many countries to move to an open identity system, and the acceptability of donor anonymity has become a hotly debated topic in the last two decades⁴¹⁵. The

⁴⁰⁹ Nune Calonge, R., et al. (2021). P-488 Patients' attitudes towards the anonymity of gamete donation in Spain. *Human Reproduction*, 36(Supplement_1), deab130-487. DOI: 10.1093/humrep/deab130.487

⁴¹⁰ Riaño-Galán, I., Martínez González, C., & Gallego Riestra, S. (2021). Ethical and legal questions of anonymity and confidentiality in gamete donation. *Anales de Pediatría (English Edition)*, 94(5), 337-e1. DOI: 10.1016/j.anpede.2020.06.008

⁴¹¹ Pennings, G. (2015). Debating donor anonymity in Belgium. *Facts, Views, and Vision in Obstetrics and Gynaecology*, 7(2), 79–80.

⁴¹² Pennings, G., et al. (2007). ESHRE Task Force on Ethics and Law 13: The welfare of the child in medically assisted reproduction. *Human Reproduction*, 22(10), 2585–2588. DOI: 10.1093/humrep/dem256

⁴¹³ Turkmendag, I. (2012). The donor-conceived child's 'right to personal identity': The public debate on donor anonymity in the United Kingdom. *Journal of Law and Society*, 39(1), 58–75. DOI: 10.1111/j.1467-6478.2012.00570.x

⁴¹⁴ Chestney, E. S. (2001). The right to know one's genetic origin: Can, should, or must a state that extends this right to adoptees extend an analogous right to children conceived with donor gametes. *Tex. L. Rev.*, 80, 365.

⁴¹⁵ Raes, I., Ravelingien, A., & Pennings, G. (2013). The right of the donor to information about children conceived from his or her gametes. *Human Reproduction*, 28(3), 560–565. DOI: 10.1093/humrep/des418

UN Committee on the Rights of the Child constantly criticizes nations that do not grant the right to know their parents or allow mothers to give birth anonymously and has made recommendations to the parties to this Convention regarding the incomplete implementation of the national child's right to know his parentage⁴¹⁶. All this presupposed that most legislators of the Western world took steps to regulate this area, i.e. a growing number of countries have lifted long-standing policies on the anonymity of gamete donors, collecting data on the gamete donor's identifying information and requiring future contact with any child conceived from the donor⁴¹⁷.

The main reason why some countries seek to ensure the anonymity of donors is family protection ("so that a born child does not destroy his family by looking for "real parents" and "real parents" for children"). However, the belief that assisted fertilization children born through artificial insemination have a basic moral right to know their genetic origin encourages growing legislative support for anonymous gamete donation⁴¹⁸. Currently, law in many countries in Europe (e.g., Estonia, Denmark, Austria, Germany, France, Greece, Latvia, Lithuania, etc) regulates assisted reproduction. Moreover, assisted reproduction is legal in countries such as Ireland, Serbia, Malta, Poland and Slovakia governed by supplementary acts of law, clinical practice, professional guidelines, administrative decrees and general constitutional principles⁴¹⁹. Although Art. 3.154 of the CC of the Republic of Lithuania it is established that "the conditions, methods and procedure of artificial insemination, as well as the issues of motherhood and paternity of a child born by artificial insemination are regulated by other laws" ⁴²⁰. But the Law on Assisted Fertilization, which defines the conditions, methods and procedure of a woman's assisted insemination, was adopted by the Seimas of the Republic of Lithuania only in 2016 m. September 14. According to the legal regulations currently in force in Lithuania, assisted fertilization is possible "only using the germ cells of the woman to be fertilized and the germ cell donor, the spouse or partner who lives with her according to the procedure established by law [...]" ⁴²¹.

The debate about anonymity in assisted reproduction is handled differently in different countries. Although most countries still adhere to the norm of protecting the anonymity of donors, the trend towards openness is gaining momentum and more and more countries are passing laws

⁴¹⁶ O'Halloran, K. (2009). *The politics of adoption: International perspectives on law, policy & practice*. Springer.

⁴¹⁷Lampic, C., et al. (2022). National survey of donor-conceived individuals who requested information about their sperm donor—Experiences from 17 years of identity releases in Sweden. *Human Reproduction*, 37(3), 510–521. DOI: 10.1093/humrep/deac002

⁴¹⁸ de Melo-Martín, I. (2022). Reproductive technologies and the valuing of the biogenetic family. *The Muslim World*, 112(3), 353–366. DOI: 10.1111/muwo.12401

⁴¹⁹ Sušinskaitė, N. (2015). Pagalbinio apvaisinimo teisinio reglamentavimo įstatymu Lietuvoje būtinybė. *Teisė*, 96, 225–237.

⁴²⁰ Civil Code of the Republic of Lithuania, "VIII-1864 Civil Code of the Republic of Lithuania" (2000), Retrieved 07.9.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.245495>.

⁴²¹ Mikelėnas, V., & Mikelėnait, R. (2018). Is the battle over? The new Lithuanian law on assisted reproduction. *Russian Law Journal*, 6(1), 119–132. DOI: 10.17589/2309-8678-2018-6-1-119-132

and regulations prohibiting anonymous donation⁴²². Some countries like Sweden, Austria, Australia, Switzerland, Netherlands, United Kingdom, Norway, England, New Zealand, Finland, Germany, Ireland, etc. adopted legislation prohibiting the anonymity of gamete donation and allowing children born this way to have access to information identifying the gamete donors⁴²³. New Zealand and Australia have taken the lead in passing laws requiring gamete donors to provide both medical and identifying information and consent to be contacted by any future child conceived by the donor⁴²⁴. Australia also requires an addendum to the birth certificate of donor-conceived children informing them of the donation and the availability of information about the donor⁴²⁵. Some countries, such as the Netherlands (legislation provides for the registration of gamete donors), and the United Kingdom introduced their own legislation in response to complaints from some donor-conceived individuals who claimed they had been harmed by not having information about their genetic background⁴²⁶. The parties to this abolished the anonymity of the donor and introduced rules that allow the donor or the offspring to receive non-identifying and identifying information about the donor from a certain age⁴²⁷. Germany is among the first countries to guarantee children born through assisted reproduction techniques the right to know their parentage. It states that anonymity is against the Constitution, and not only do children have the right to learn about their biological origin, but they also have the right to the corresponding legal status if they want it⁴²⁸. In contrast, Portuguese law prevents those conceived through sperm donation from knowing their origin and considers anonymity unconstitutional. The current law on assisted reproduction in Italy takes a restrictive stance, clearly prohibiting heterologous fertilization, even punishing its acceptance⁴²⁹. Assisted reproductive technology treatment has been available in Ireland since 1987⁴³⁰ and assisted reproduction is still not regulated in Italy. In

⁴²² Cosson, B., Dempsey, D., & Kelly, F. (2022). Secret shame—Male infertility and donor conception in the wake of retrospective legislative change. *Men and Masculinities*, 25(3), 497–515. DOI: 10.1177/1097184X211054954

⁴²³ Mulligan, A. (2022). Anonymous gamete donation and Article 8 of the European Convention on Human Rights: The case for incompatibility. *Medical Law International*, 22(2), 119–146. DOI: 10.1177/09685332221108435

⁴²⁴ Indekeu, A., et al. (2021). Factors associated with searching for people related through donor conception among donor-conceived people, parents, and donors: A systematic review. *F&S Reviews*, 2(2), 93–119. DOI: 10.1016/j.xfnr.2021.03.001

⁴²⁵ Blyth, E., et al. (2020). Donor-conceived people's views and experiences of their genetic origins: A critical analysis of the research evidence. In *Assistierte Reproduktion mit Hilfe Dritter: Medizin-Ethik-Psychologie-Recht* (pp. 361–388). DOI: 10.1007/978-3-658-29387-2_19

⁴²⁶ Pennings, G. (2022). The forgotten group of donor-conceived persons. *Human Reproduction Open*, 2022(3), hoac028. DOI: 10.1093/hropen/hoac028

⁴²⁷ Canzi, E., Accordini, M., & Facchin, F. (2019). 'Is blood thicker than water?' Donor conceived offspring's subjective experiences of the donor: A systematic narrative review. *Reproductive Biomedicine Online*, 38(5), 797–807. DOI: 10.1016/j.rbmo.2019.01.005

⁴²⁸ Rosani, D. (2016). The right to know one's origins in heterologous fertilization: The Italian case and scenarios abroad. *Rivista di Biodiritto*, 3(1), 211–239.

⁴²⁹ Lamçe, J., & Çuni, E. (2013). The right of the children to know their origin in adopting and medically assisted reproduction. *Mediterranean Journal of Social Sciences*, 4(6), 605. DOI: 10.5901/mjss.2013.v4n6p605

⁴³⁰ McDermott, O., Ronan, L., & Butler, M. (2022). A comparison of assisted human reproduction (AHR) regulation in Ireland with other developed countries. *Reproductive Health*, 19(1), 62. DOI: 10.1186/s12978-022-01350-6

Spain, France and Denmark, law, except in cases of clinical and therapeutic necessity, expressly protects the anonymity of donors when it is necessary to know the identity of the donor to avoid harm to health ⁴³¹. France is one of the few European countries where any woman is allowed to give birth in a public or private hospital without revealing her identity ⁴³², without mentioning her name on the child's birth certificate, thus depriving the child of the right to know its biological mother. Such "secret birth" is called "accouchement sous X", the letter „X“replaces i.e. the woman's name in the child's birth file. This is a legal provision that allows women to give birth without revealing their identity or ensuring that it will never be revealed to the child without her consent. Mothers have the legal right to get their child back within two months after giving birth ⁴³³. The Italian legal system also gives the right to withhold the mother's name from the birth certificate. The child's right to know his origin conflicts with the mother's right to remain anonymous on the birth certificate, and at the same time, the mother's legitimate choice to remain anonymous may harm the biological father's position, as he may be left without the opportunity to learn of his child's existence through birth registration. As V. Colcelli points out, none of the interests and rights, i.e. i.e. the child's right to know his origin and the mother's right to remain anonymous should not be seen as absolute ⁴³⁴. In addition, ways should be found to find a balance between them, and E.F. Amorós argues that in this conflict of rights, despite the fact that medical information is confidential, the child's rights must prevail the right to know, because things change when a person is born ⁴³⁵. In the US, recognizing such a right to know poses legal and ethical difficulties. Unlike other Western countries that clearly distinguish children's rights in their highest legal system, the United States has neither ratified the UNHRC nor included a mention of children as subjects of rights in its Constitution ⁴³⁶. The US has opposed the formal recognition of children as subjects with rights and prioritized the rights and interests of adults ⁴³⁷, particularly parents, but non-anonymous gamete donation is also gaining popularity in some North American jurisdictions

⁴³¹ Mulligan, A. (2022). Anonymous gamete donation and Article 8 of the European Convention on Human Rights: The case for incompatibility. *Medical Law International*, 22(2), 119–146. DOI: 10.1177/09685332221108435

⁴³² Maginot, E., & Roux, S. (2021). Écrire l'absence: Les liens secrets de l'accouchement sous X. *Terrains & Travaux*, (2), 267–287. DOI: 10.3917/tt.039.0267

⁴³³ Villeneuve-Gokalp, C., & Jacobs-Colas, A. (2011). Women who give birth 'secretly' in France, 2007-2009. *Population*, 66(1), 131–168. DOI: 10.3917/popu.1101.0131

⁴³⁴ Colcelli, V. (2012). Anonymous birth, birth registration and the child's right to know their origins in the Italian legal system: A short comment. *J Civil Legal Sci*, 1(2), 101. DOI: 10.4172/JCLS.1000101

⁴³⁵ Farnós Amorós, E. (2015). Donor anonymity, or the right to know one's origins? *Catalan Social Sciences Review*, (5), 1–10. DOI: 10.5565/rev/catssr.112

⁴³⁶ Bartholet, E. (2011). Ratification by the United States of the Convention on the Rights of the Child: Pros and cons from a child's rights perspective. *The ANNALS of the American Academy of Political and Social Science*, 633(1), 80–101. DOI: 10.1177/0002716210382389

⁴³⁷ Jacobs, A. J. (2021). *Assigning responsibility for children's health when parents and authorities disagree: Whose child?* Springer Nature. DOI: 10.1007/978-3-030-52311-0

⁴³⁸. US law allows a donor to choose whether or not to remain anonymous. Washington state law requires sperm and egg donors to provide medical history and identifying information to fertility clinics, and allows donor-conceived individuals to contact the clinics and request this information once they turn 18 ⁴³⁹. The fact that many states do not have supporting legislation and/or local registries to maintain long-term storage of gamete provider information creates barriers to future access to this information. While such barriers exist at the national level, cross-border assisted reproduction compounds these challenges. For example, a child conceived in one jurisdiction and born in another may face additional barriers to obtaining information about their gamete provider. The two jurisdictions may have different regulatory frameworks, so even if a child is born in a country that recognizes the right to access gamete donor information upon reaching adulthood, such as the United Kingdom, the information may be held in a country that does not, such as Israel ⁴⁴⁰.

In conclusion, it should be noted that although the technological and scientific progress in the field of human assisted fertilization has made it possible to treat most cases of infertility, it has strongly affected the child's right to know his biological parents. In the context of assisted reproductive technology, gamete donation laws and policies reflect many moral, legal and cultural dimensions, with countries balancing different donor and parental privacy interests and reproductive freedom, rights and interests of the child. In many countries of the world, there is no legal regulation regulating the practice of assisted reproduction. The features of most of these legal acts differ from country to country; each country regulates and sets specific conditions for the use of assisted reproduction technologies. Therefore, there is an urgent need to create assisted reproduction laws that are non-discriminatory and at the same time meet scientific progress, as it would allow to significantly reduce violations of the child's right to know his biological parents.

2.3.3. Restriction of the children's right to know their biological parents in the case of leaving the child in the "life box"

A specially equipped place where a mother or father can anonymously and safely leave their newborn is called "life windows" in Lithuania, "baby hatches" in other countries. The system of "baby hatches" is common all over the world. Mothers or fathers who are unable to raise a child themselves leave the baby in a safe space, which causes disputes in many countries around the

⁴³⁸ Bauer, T. (2022). A systematic review of qualitative studies investigating motives and experiences of recipients of anonymous gamete donation. *Frontiers in Sociology*, 7, 746847. DOI: 10.3389/fsoc.2022.746847

⁴³⁹ Glennon, T. (2016). Legal regulation of family creation through gamete donation. In *Regulating Reproductive Donation* (p. 60). DOI: 10.1017/CBO9781139814739.006

⁴⁴⁰ Ravitsky, V. (2017). The right to know one's genetic origins and cross-border medically assisted reproduction. *Israel Journal of Health Policy Research*, 6, 1–6. DOI: 10.1186/s13584-017-0152-5

world. This system is radically criticized because it endangers the life of both the baby and the mother who tolerates private birth and does not guarantee the child's right to know his origin⁴⁴¹. The concept of "baby hatches" is based on the 12th century "found wheels" - in the walls of many European churches and monasteries; a wooden cylinder was built into which a baby could be placed. The parents would turn the circle, move the child inside the building, and call the nuns to warn them. One hospital in Vancouver has revived the concept of the "foundation wheel" which it calls "angel's cradle". It is a cot in the emergency room with an angel sign above it. There are no surveillance cameras in this area, so anonymity is guaranteed ⁴⁴².The original idea of the "baby hatch" arose from the deep social inequality between women and men. So, in the Middle Ages "baby hatches" were established to help women who gave birth to a child out of wedlock or from a forbidden relationship, to give him a chance for a better future without revealing the origin of the baby ⁴⁴³, because that knowledge could cause prejudice or even lead to the killing of the mother or child. Mothers who used the "baby hatch" wanted their baby to live, but they could not ensure their future and that of their offspring. In addition, a woman's life depended very much on her spouse and her family ⁴⁴⁴, so in the situation of an unwanted pregnancy, the father of the biological baby had a higher position because he had the power to recognize the baby as a member of his family or to reject it. As a result, there were cases when the mother had no other choice and the family was forced to leave the baby in the "baby hatch" ⁴⁴⁵.

"Baby hatches" ("life boxes") have been legalized in 11 of the 27 EU member states. They can be found in Belgium, Czech Republic, Austria, Germany, Italy, Hungary, Portugal, Slovakia, Latvia, Poland and Lithuania. There are devices with similar functions in the Vatican, the United States, India, and South Africa ⁴⁴⁶.

In Lithuania, the first "life boxes" were established in 2009. And to implement the child's inalienable right to live and ensure other rights and legitimate interests of the child established by the UNRC, in 2011 June 17 In Lithuania, the order "Approval of recommendations on inter-institutional cooperation after finding a child in a health care institution or an institution where the "Life Box" was established" was adopted. Although in 2014 The UN Committee on the Rights of the Child has called on countries that have established "cells of life" to close them because "it

⁴⁴¹ Naka, M. (2021). Reinterpreting motherhood: Separating being a 'mother' from giving birth. In *Risks and Regulation of New Technologies* (pp. 153–170). DOI: 10.1007/978-3-030-73070-9-8

⁴⁴² Cochrane, J., & Ming, G. L. (2013). Abandoned babies: The Malaysian 'baby hatch'. *Infant*, 9(4), 142–144.

⁴⁴³ Naka, M. (2021). Reinterpreting motherhood: Separating being a 'mother' from giving birth. In *Risks and Regulation of New Technologies* (pp. 153–170). DOI: 10.1007/978-3-030-73070-9_8

⁴⁴⁴ Olejarz, S. M. (2017). Ethical concerns relating to child abandonment and baby hatches: The case of Poland. *J. Philos. Ethics Health Care Med*, 11, 41–61.

⁴⁴⁵ Olejarz, S. M. (2018). An analysis of the socio-cultural context of child abandonment and baby hatches in Japan and Poland. *Journal of Philosophy and Ethics in Health Care and Medicine*, 12, 59–70.

⁴⁴⁶ Asai, A., & Ishimoto, H. (2013). Should we maintain baby hatches in our society? *BMC Medical Ethics*, 14, 1–7. DOI: 10.1186/1472-6939-14-9

violates the child's right to know about the origin, his biological parents, deprives him of the right to the care of relatives, violates the rights of parents⁴⁴⁷. It was emphasized that it is very important for a child to know his origin, and the right of a child left in the window of life to know his parents is restricted", but Lithuania did not even consider such a proposal.

According to Lithuanian Minister of Health R. Šalaševičiūtė, "lives are more important than the right of abandoned children to find out who their parents are when they grow up"⁴⁴⁸. The Minister of Health of Lithuania agrees with Asa and Ishimoto's opinion⁴⁴⁹, that "baby hatches" give children the right to life, and for newborns, survival is more important than the right to know their parents and be under their care. However, Lithuanian child and adolescent psychiatrist Pūras disagrees with the expressed positions and asserts, that Lithuania should look for other ways to strengthen the family policy, because life cells, according to the specialist, not only allow parents to hand over their children to the state, but also prevent children from getting to know their real parents"⁴⁵⁰.

Naka debates that establishing some level of anonymity in the birthing system may be better valued than the approach of using "baby hatches"⁴⁵¹. However, when it comes to a child's right to know their parentage, confidential is a better way than giving birth completely anonymously. It was this recognition that prompted Germany in 2014 to include confidential childbirth in the law, while fully anonymous childbirth is retained for mothers who strongly desire their anonymity for reasons such as rape or adultery⁴⁵². The exact difference between the two is that in anonymous birth, a pregnant woman can give birth in a hospital and leave the born baby completely anonymous⁴⁵³. On the other hand, during a confidential birth, the mother leaves her and the baby's information only at the pregnancy-counseling center, which stores it until the child reaches a certain age (16 in Germany) and only if the child requests it, the information is disclosed,

⁴⁴⁷ The Minister of Social Security and Labor of The Republic of Lithuania, "Amendments to the Order of the Minister of Social Security and Labour of the Republic of Lithuania No. A1-162 'Re: Approval of the Description of Procedure for Authorizing the Institutions of Foreign States to Act in Pursuance of Intercountry Adoption in the Republic of Lithuania' of 3 June 2005" (2012).

⁴⁴⁸ Institute of Free Society, "'Human Rights and Freedoms Are Natural' (Constitution of the Republic of Lithuania, Article 18)." (2024), Retrieved 07.21.2024, From: https://laisvavisuomene.lt/nesvarsto_uzdar%C4%B1t%C4%B1_gyvybes_langelius/.

⁴⁴⁹ Asai, A., & Ishimoto, H. (2013). Should we maintain baby hatches in our society? *BMC Medical Ethics*, 14, 1–7. DOI: 10.1186/1472-6939-14-9

⁴⁵⁰ Gytis Pankūnas, "10th Anniversary of Baby Boxes: The State Celebrates 67 'Foundlings,' but Psychiatrist Urges Not to Deceive Oneself," *lrt.lt*, May 22, 2019, Retrieved 07.11.2024, From: <https://www.lrt.lt/naujienos/lietuvoje/2/1060714/gyvybes-langeliu-10-metis-valstybe-dziaugiasi-67-rastinukais-bet-psichiatras-ragina-neapgaudineti-saves>.

⁴⁵¹ Naka, M. (2021). Reinterpreting motherhood: Separating being a 'mother' from giving birth. In *Risks and Regulation of New Technologies* (pp. 153–170). DOI: 10.1007/978-3-030-73070-9_8

⁴⁵² Lemrová, A., et al. (2021). Anonymous births: A conflict of three rights--Which prevails? *Social Pathology & Prevention*, 7(2). DOI: 10.24908/spp.v7i2.13887

⁴⁵³ Naka, M. (2021). Reinterpreting motherhood: Separating being a 'mother' from giving birth. In *Risks and Regulation of New Technologies* (pp. 153–170). DOI: 10.1007/978-3-030-73070-9-8

that is, the person ensures the right to know one's origin. This is why confidential birth is preferred over anonymous birth, and authorities in some countries such as Switzerland and South Korea are considering moving from anonymous to confidential birth. In Japan, the approach starts with the same principle as in Germany - the child's right to know his origin. As can be seen, therefore, the 'baby hatch' system is closely related to anonymous or confidential birthing, both of which are part of helping mothers or fathers and babies in need⁴⁵⁴.

If a woman in Poland wants to remain anonymous, she has two options: to leave the baby in the "baby hatch" or use a telephone consultation. If the mother wants to reveal her identity, she has the following options: give up parental rights and leave the baby in the hospital after birth, leave the baby in an adoption center, or seek help from various associations and foundations that offer counseling and material assistance to pregnant women in difficult situations⁴⁵⁵. In Poland, an abandoned baby is taken from the "baby hatch" to the hospital for a medical examination, and then to a public care institution. The biological mother has six weeks to change her mind and return to pick up the baby and in Lithuania the time limit during which the mother can take the baby is three months (a DNA test is required in both countries). After this period, the case of abandonment of the baby is examined in the Family Court and formal adoption documents are prepared⁴⁵⁶.

In the US, 47 states have "safe haven" laws that allow mothers or guardians to leave their babies in certain facilities (eg, hospitals, fire stations) while maintaining anonymity⁴⁵⁷. In the US, it has been suggested that abandoned children cannot be adopted due to lack of necessary birth and medical history data. English adoption laws indicate that adopted children are not eligible for adoption and that the court will make an adoption decision if it is satisfied that efforts have been made to locate the parent(s). Regarding abandoned babies, it should be recognized that the adoption report is difficult to provide a complete picture of the baby's background due to the lack of social and medical history, so any adoptive parents should accept that little is known about the child's background and medical history⁴⁵⁸.

As Asai and Ishimoto argue, there are various objections to "life boxes". It violates a child's right to know the identity of their biological parents because it allows for anonymous births.

⁴⁵⁴ Naka, M. (2021). Reinterpreting motherhood: Separating being a 'mother' from giving birth. In *Risks and Regulation of New Technologies* (pp. 153–170). DOI: 10.1007/978-3-030-73070-9-8

⁴⁵⁵ Olejarz, S. M. (2018). An analysis of the socio-cultural context of child abandonment and baby hatches in Japan and Poland. *Journal of Philosophy and Ethics in Health Care and Medicine*, 12, 59–70.

⁴⁵⁶ *Ibid.*

⁴⁵⁷ Brock, K. (2023). A study of safe haven baby laws in the United States: One life saved or too many unknowns to evaluate?

⁴⁵⁸ Cochrane, J., & Ming, G. L. (2013). Abandoned babies: The Malaysian 'baby hatch'. *Infant*, 9(4), 142–144.

The fulfillment of the basic duty of biological parents to raise their child is neglected, and its very availability encourages the abandonment of babies⁴⁵⁹.

According to Olejarz, "baby hatches" offer the highest level of anonymity for the mother compared to other methods. It leaves no traces, unlike other solutions. Baby Hatch, or the people who created it, do not address identity issues related to child abandonment, i.e. i.e. their priority is not to deprive babies of their origins, and they actively discourage such anonymity. The problem of the baby's identity arises from the personal decision and will of the mother or other family member who left the baby. The "baby hatch" protects the identity of the mother and other family members from social stigma at the cost of the baby's right to know its origin⁴⁶⁰.

In conclusion, it can be stated "baby hatches" have existed in one form or another for many centuries and are re-emerging in many countries. Moreover, to the calls of the UN Committee on the Rights of the Child to close the "life windows" ("baby hatches"), countries that have ratified the UNCRC do not respond, so the left the phenomenon of the child, historically seen in many cultures, still exists today. A critical assessment of the main objections to the establishment of "life boxes" - "life boxes" violate the child's right to know the identity of his biological parents. As they allow the birth of a child to remain anonymous, but the existence of "life boxes" reveals much deeper problems: a crisis of trust and relationships in societies and the failure and inefficiency of the current aid system.

2.3.4. Restriction of the children's right to receive information about their biological parents in the case of a surrogacy institute

The gestational bond between a child and the woman who carried it for nine months and brought it into the world is fundamental. Today, no one can deny the interaction that develops during pregnancy between the surrogate mother and the foetus, regardless of the shared genetic heritage⁴⁶¹. To deny the intervention of the surrogate mother is tantamount to denying the hormonal environment in which the foetus is immersed, and to ignoring scientific developments that have demonstrated the sensory skills acquired during foetal life⁴⁶². What the child will have experienced in utero and the attitudes of the biological mother, on the one hand, and the irruption of the legal mother, with other attitudes and another rhythm, on the other, will undoubtedly induce

⁴⁵⁹ Asai, A., & Ishimoto, H. (2013). Should we maintain baby hatches in our society? *BMC Medical Ethics*, 14, 1–7. DOI: 10.1186/1472-6939-14-9

⁴⁶⁰ Olejarz, S. M. (2017). Ethical concerns relating to child abandonment and baby hatches: The case of Poland. *J. Philos. Ethics Health Care Med*, 11, 41–61.

⁴⁶¹ Sulaieva, O. (2021). Medical aspects of surrogate motherhood. *Proceedings of the Shevchenko Scientific Society. Medical Sciences*, 64(1), 72–83. DOI: 10.25040/ntsh2021.01.072

⁴⁶² Costa, P., et al. (2021). Educational workshops about bonding with the fetus during pregnancy: A clinical trial. *Revista Gaúcha de Enfermagem*, 42, e20200330. DOI: 10.1590/1983-1447.2021.20200330

a rupture, the impact of which is difficult to assess⁴⁶³. In any case, it is important to build a narrative with the child on the fact that he has been "commissioned" and that the woman who carried him will have no real place in his life, even though he lived in her womb for months and she gave birth to him⁴⁶⁴.

R. Hernandez, examining the issues of determining a child's origin, distinguishes two main methods of determining a child's origin: 1) "realistic method" - based on the child's biological origin; 2) "formalistic method" - not considering the child's biological origin, but "other elements and values"⁴⁶⁵. The first method is based on the presumption of maternity, while the second does not consider it. The word "surrogacy" is translated from Latin and means "substitute", which is why surrogacy is often referred to as surrogate motherhood in various publications⁴⁶⁶. Surrogacy is one of the alternative methods of artificial insemination for couples who want but cannot have children for various reasons⁴⁶⁷. According to K. S. Rotabi et al., surrogacy has the greatest impact on the child's right to citizenship, the right to know his parents/origin and the right to preserve his identity⁴⁶⁸. According to R. Chisholm, surrogacy refers to an agreement where one person or a couple seeks to become the parents of a child by concluding an agreement in which the child is conceived artificially, and another woman (the surrogate mother) gives birth to the child⁴⁶⁹.

Surrogacy is understood as an agreement between parties, when one party (surrogate mother, otherwise known as a surrogate) agrees to be fertilized by artificial insemination, carry the fetus in her womb, and after giving birth, give the baby to another party (intended parents or one person)⁴⁷⁰. "A surrogate mother is a woman who agrees to conceive, carry and give birth to a baby for another couple, without any further intention to raise it, i.e. i.e. maternity rights are waived⁴⁷¹."

Family law systems in many countries around the world are based on the principles of *Mater semper certa est* (the mother is always known) and *Mater est quam gestatio demonstrat* (the

⁴⁶³ Riddle, M. P. (2022). The psychological impact of surrogacy on the families of gestational surrogates: Implications for clinical practice. *Journal of Psychosomatic Obstetrics & Gynecology*, 43(2), 122–127. DOI: 10.1080/0167482X.2022.2043940

⁴⁶⁴ Swanson, K., & Einerson, B. D. (2021). When a pregnant patient is not the mother: Language use in studies on gestational surrogacy - A reply to "Fetal mitochondrial deoxyribonucleic acid in maternal plasma in surrogate pregnancies: Detection and topology". *Prenatal Diagnosis*, 41(4), 478–478. DOI: 10.1002/pd.5904

⁴⁶⁵ Desai, M., & Goel, S. (2018). *Child rights education for inclusion and protection: Primary prevention*. Springer. DOI: 10.1007/978-981-10-8426-9

⁴⁶⁶ Brandão, P., & Garrido, N. (2023). Commercial surrogacy: An overview. *Revista Brasileira de Ginecologia e Obstetrícia*, 44, 1141–1158. DOI: 10.1055/s-0043-1767921

⁴⁶⁷ Patel, N. H., et al. (2018). Insight into different aspects of surrogacy practices. *Journal of Human Reproductive Sciences*, 11(3), 212–218. DOI: 10.4103/jhrs.JHRS_114_18

⁴⁶⁸ Smith Rotabi, K., et al. (2017). Regulating commercial global surrogacy: The best interests of the child. *Journal of Human Rights and Social Work*, 2(3), 64–73. DOI: 10.1007/s41134-017-0037-7

⁴⁶⁹ Chisholm, R. (2020). Children's right to know their (legal) parents.

⁴⁷⁰ Torres, G., Shapiro, A., & Mackey, T. K. (2019). A review of surrogate motherhood regulation in South American countries: Pointing to a need for an international legal framework. *BMC Pregnancy and Childbirth*, 19, 1–12. DOI: 10.1186/s12884-019-2411-7

⁴⁷¹ Ellenbogen, A., Feldberg, D., & Lokshin, V. (2021). Surrogacy: A worldwide demand. Implementation and ethical considerations. *Gynecol Reprod Endocrinol Metab*, 2, 66–73. DOI: 10.5005/jp-journals-10036-1104

mother is the one who gave birth to the child)⁴⁷². These principles have remained one of the foundational principles of family law despite the development of reproductive medicine, which allows the biological mother to have no genetic connection to the baby she carries⁴⁷³. The emergence and popularity of surrogacy is one of the reasons for the growing differences in the concept of motherhood in individual countries. "Both in law and in culture, the natural model of two parents - father and mother - is disappearing⁴⁷⁴." The ambiguous definition of the concept of motherhood is one of the problems that often has a significant impact on the recognition of the surrogate mother's rights to the child born and carried⁴⁷⁵.

The question of a child's access to his or her origins, crucial though it is, has not been one of the major preoccupations of the States that have chosen to authorize and regulate surrogate motherhood. Everything depends on how the child is attached to its intended parents. In countries where the intended parents are the child's legal parents from birth, the surrogate mother remains in the shadows, unless her identity is revealed to the child. Conversely, in countries where a transfer of parental rights at birth is necessary, as in the case of adoption, the surrogate mother's name will appear on the child's birth certificate, giving the child the opportunity to access his or her origins⁴⁷⁶.

In Belgium, there is currently no law regulating the use of surrogate motherhood, which is "tolerated" and practiced in certain procreation centers. A number of bills have recently been tabled to regulate the practice. The question of a child's access to his or her origins, or at the very least the link between the child and the surrogate mother, does not seem to have caught the attention of parliamentarians. In any case, it is not explicitly addressed by any of the bills tabled to date⁴⁷⁷.

Depending on whether the surrogate mother has or does not have a genetic connection with the child to be born, surrogacy is divided into two types - traditional and gestational surrogacy⁴⁷⁸. Traditional surrogacy - when the egg of the surrogate mother is fertilized by artificial

⁴⁷² Čulo Margaletić, A., Preložnjak, B., & Šimović, I. (2019). Presumption of motherhood on crossroad of surrogacy arrangements in EU. *EU and Comparative Law Issues and Challenges Series (ECLIC)*, 3, 778–802. DOI: 10.25234/eclit/8957

⁴⁷³ Niedzielska, A. (2018). Modern surrogacy: Quick review. *Internetowy Przegląd Prawniczy TBSP UJ*, (1), 41.

⁴⁷⁴ Keller, H. (2022). *Cultures of infancy*. Routledge. DOI: 10.4324/9780429260298

⁴⁷⁵ Torres, G., Shapiro, A., & Mackey, T. K. (2019). A review of surrogate motherhood regulation in South American countries: Pointing to a need for an international legal framework. *BMC Pregnancy and Childbirth*, 19, 1–12. DOI: 10.1186/s12884-019-2411-7

⁴⁷⁶ Chevichalova, J. V. (2021). Surrogacy in international private law and public law aspects. *Theory & Practice of Jurisprudence*, 20, 98. DOI: 10.21564/2225-6555.2021.20.224961

⁴⁷⁷ Garayová, L. (2022). Surrogate motherhood - The European legal landscape. *Law, Identity & Values*, 2, 65. DOI: 10.55073/2021.2.65

⁴⁷⁸ Ellenbogen, A., Feldberg, D., & Lokshin, V. (2021). Surrogacy: A worldwide demand. Implementation and ethical considerations. *Gynecol Reprod Endocrinol Metab*, 2, 66–73. DOI: 10.5005/jp-journals-10036-1104

insemination with the sperm of the intended father or a donor⁴⁷⁹. In this case, both the surrogate mother and the intended father (or donor) become the child's biological parents⁴⁸⁰. For example, *In re Baby M* case the type of surrogacy was the same⁴⁸¹. In traditional surrogacy, the intended mother has no genetic connection to the child to be born⁴⁸².

Traditional surrogacy differs from gestational surrogacy in that, in the case of traditional surrogacy, the woman who gave birth to the baby is also its biological mother⁴⁸³. As for gestational surrogacy, using the method of artificial insemination in a test tube (in vitro fertilization)⁴⁸⁴. An embryo is created from the germ cells of the intended parents (in cases where the man's sperm is inactive or the woman's eggs are not functional, the embryo can be created from donor gametes), which is implanted in the surrogate mother to the uterus⁴⁸⁵. In this way, the surrogate avoids the genetic connection with the baby and carries the already fertilized eggs. Women who cannot carry a baby on their own often choose gestational surrogacy. However, have perfectly functioning ovaries. In this case, the intended parents, using the services of a surrogate mother, can be happy to have a biological child of both of them⁴⁸⁶.

Compared to altruistic surrogacy, paid surrogacy is viewed negatively and receives more criticism. This type of surrogacy is often equated with the exploitation of women (for example, financially disadvantaged and less educated women decide to become surrogates and "rent" their wombs to others, even if it would endanger their lives or even be fatal)⁴⁸⁷. Also, paid surrogacy in certain cases is equated with human trafficking (on the other hand, if a woman decided to become a surrogate of her own free will, such an act cannot be equated with human trafficking)⁴⁸⁸.

⁴⁷⁹ Torres, G., Shapiro, A., & Mackey, T. K. (2019). A review of surrogate motherhood regulation in South American countries: Pointing to a need for an international legal framework. *BMC Pregnancy and Childbirth*, 19, 1–12. DOI: 10.1186/s12884-019-2411-7

⁴⁸⁰ Carone, N., Baiocco, R., & Lingiardi, V. (2017). Italian gay fathers' experiences of transnational surrogacy and their relationship with the surrogate pre-and post-birth. *Reproductive Biomedicine Online*, 34(2), 181–190. DOI: 10.1016/j.rbmo.2016.11.014

⁴⁸¹ Areen, J. (1987). Baby M reconsidered. *Geo. LJ*, 76, 1741.

⁴⁸² Patel, N. H., et al. (2018). Insight into different aspects of surrogacy practices. *Journal of Human Reproductive Sciences*, 11(3), 212–218. DOI: 10.4103/jhrs.JHRS_114_18

⁴⁸³ *Ibid.*

⁴⁸⁴ Watkins, E. (2019). Who's your daddy?: In vitro-fertilization and the parental rights of the sperm donor. *U. Fla. JL & Pub. Pol'y*, 30, 131.

⁴⁸⁵ Niemiec, E., & Howard, H. C. (2020). Ethical issues related to research on genome editing in human embryos. *Computational and Structural Biotechnology Journal*, 18, 887–896. DOI: 10.1016/j.csbj.2020.03.032

⁴⁸⁶ Weyers, H., & Zeegers, N. (2022). Avoiding ideological debate: Assisted reproduction regulation in the Netherlands. In *The Regulation of Assisted Reproductive Technologies in Europe* (pp. 115–136). Routledge. DOI: 10.4324/9781003112751-8

⁴⁸⁷ Vertommen, S., & Barbagallo, C. (2022). The in/visible wombs of the market: The dialectics of waged and unwaged reproductive labour in the global surrogacy industry. *Review of International Political Economy*, 29(6), 1945–1966. DOI: 10.1080/09692290.2021.1988368

⁴⁸⁸ Brandão, P., & Garrido, N. (2023). Commercial surrogacy: An overview. *Revista Brasileira de Ginecologia e Obstetrícia*, 44, 1141–1158. DOI: 10.1055/s-0043-1767921

Altruistic surrogacy from the outside seems like a noble deed for those people who cannot conceive naturally⁴⁸⁹. Meanwhile, paid surrogacy is equated with human trafficking, exploitation of women and profiting from pregnancy. Comparing both these types of surrogacy, despite the different approaches to them, it can be seen that various social, moral and psychological problems are inevitable in the case of both remunerated and altruistic surrogacy⁴⁹⁰. For example, from a psychological perspective, when a woman gives a baby to the intended parents, she experiences spiritual experiences, often falls into depression and feels guilty. From a social point of view, not all family members can understand such a woman's choice to become a surrogate mother. Therefore, it is likely that the fear of being humiliated by the people around has a negative effect on a woman's psychological state⁴⁹¹.

Regarding the child's right to know his biological parents, it is important to note that a surrogacy agreement can involve up to five parents: the egg supplier, the sperm supplier, the pregnant woman (surrogate mother) and the two intended parents, and the legal regulation in this area must balance the rights of all parties involved⁴⁹². According to Mr. Fronek, children are the most vulnerable in such agreements, so it is necessary to give priority to the rights of children born through surrogacy agreements⁴⁹³. Tesfaye argues, that many countries still apply complete anonymity to gamete donors, surrogate children born through such donation would miss out on an important aspect of their right to private life protected by the ECHR. But again, not recognizing the legal relationship is a disproportionate response, as surrogate children find themselves in an even more difficult and vulnerable position⁴⁹⁴. Although children have the right to know information about their parentage and relationship, the protection issues of a child born through surrogacy are too often dismissed as exceptional cases⁴⁹⁵, because it is generally assumed that children are children, so many questions related to surrogacy remain unresolved. There are great disagreements and disputes in the scientific community and public opinion⁴⁹⁶. There are those who

⁴⁸⁹ Johnson, K. M. (2023). *Undoing motherhood: Collaborative reproduction and the deinstitutionalization of US maternity*. Rutgers University Press. DOI: 10.36019/9781978826806

⁴⁹⁰ Vertommen, S., Pavone, V., & Nahman, M. (2022). Global fertility chains: An integrative political economy approach to understanding the reproductive bioeconomy. *Science, Technology, & Human Values*, 47(1), 112–145. DOI: 10.1177/01622439211037948

⁴⁹¹ Niemiec, E., & Howard, H. C. (2020). Ethical issues related to research on genome editing in human embryos. *Computational and Structural Biotechnology Journal*, 18, 887–896. DOI: 10.1016/j.csbj.2020.03.032

⁴⁹² Stockey-Bridge, M. (2018). Technologies of enchantment: Commercial surrogacy and egg donation in India. In *Selective Reproduction in the 21st Century* (pp. 171–192).

⁴⁹³ Fronek, P. (2018). Current perspectives on the ethics of selling international surrogacy support services. *Medicolegal and Bioethics*, 11–20. DOI: 10.2147/MB.S151283

⁴⁹⁴ Tesfaye, M. G. (2022). What makes a parent? Challenging the importance of a genetic link for legal parenthood in international surrogacy arrangements. *International Journal of Law, Policy and The Family*, 36(1), ebac010. DOI: 10.1093/lawfam/ebac010

⁴⁹⁵ Cook, C. (2022). The rights of stateless children born from cross-border reproductive care. *Emory Int'l L. Rev.*, 37, 287.

⁴⁹⁶ Piersanti, V., et al. (2021). Surrogacy and 'procreative tourism'. What does the future hold from the ethical and legal perspectives? *Medicina*, 57(1), 47. DOI: 10.3390/medicina57010047

believe that surrogacy should be allowed because it benefits all parties, while banning it would limit the autonomy of couples, and there are those who believe that the risks outweigh the benefits⁴⁹⁷.

Surrogacy laws and legalities vary around the world. Many countries do not have any regulations that clearly govern surrogacy. Some countries prohibit surrogacy altogether, while others restrict commercial surrogacy and allow altruistic surrogacy⁴⁹⁸. In contrast, several countries allow commercial surrogacy with certain restrictions, and international surrogacy is prohibited in certain jurisdictions⁴⁹⁹. Surrogacy makes it possible to give birth to children who are then raised by parents who may have no genetic or biological connection to them at all⁵⁰⁰. There seems to be an atmosphere of hostility in Europe towards this practice, especially when it involves a contract that is essentially commercial in nature. Each EU member state has adopted various laws, often contradicting each other⁵⁰¹. Within the Council of Europe, member states' regulation of surrogacy arrangements is a patchwork of varying degrees of national rules, ranging from legalization to non-regulation and/or outright prohibition⁵⁰². Many European countries prohibit the use of surrogacy technologies, and the methods of prohibition in such countries vary. In some, such a prohibition is directly established in the constitutions or imposed by the courts, based on the interpretation of its more general provisions; in others, it is provided for in civil law or established by special laws; thirdly, it is supported by the sanctions of the criminal law⁵⁰³.

It should be noted that the Assisted Fertilization Law of the Republic of Lithuania stipulates that any surrogacy is prohibited in Lithuania. Article 11 of this law declares, "civil transactions in which one woman undertakes to conceive, carry and, after giving birth, transfer a baby to another person or persons, renouncing her maternal rights to the child born (surrogacy), are null and void"⁵⁰⁴. In addition, the Seimas of the Republic of Lithuania recently published a resolution condemning surrogacy and calling on the president and the Ministry of Foreign Affairs

⁴⁹⁷ *Ibid.*

⁴⁹⁸ Brandão, P., & Garrido, N. (2023). Commercial surrogacy: An overview. *Revista Brasileira de Ginecologia e Obstetrícia*, 44, 1141–1158. DOI: 10.1055/s-0043-1767921

⁴⁹⁹ Dogra, Y., & Chawla, H. (2021). Surrogacy milieu in India: A legislative vacuum. *ScienceRise: Juridical Science*, 3(17), 37–42. DOI: 10.15587/2523-4153.2021.241240

⁵⁰⁰ Aznar, J., & Martínez Peris, M. (2019). Gestational surrogacy: Current view. *The Linacre Quarterly*, 86(1), 56–67. DOI: 10.1177/0024363918820771

⁵⁰¹ Montanari Vergallo, G. (2019). A child of two mothers: What about the father? Italian overview. *Acta Bio Medica: Atenei Parmensis*, 90(3), 319. DOI: 10.23750/abm.v90i3.8380

⁵⁰² Tesfaye, M. G. (2022). What makes a parent? Challenging the importance of a genetic link for legal parenthood in international surrogacy arrangements. *International Journal of Law, Policy and The Family*, 36(1), ebac010. DOI: 10.1093/lawfam/ebac010

⁵⁰³ Ponomarenko, O. M., Ponomarenko, Y. A., & Ponomarenko, K. Y. (2020). Legal regulation of surrogacy at the international and national levels: Optimization of permissions, prohibitions and liability. *Wiadomości Lekarskie*, 73(12/2), 2877–2881.

⁵⁰⁴ Mikelėnas, V., & Mikelėnait, R. (2018). Is the battle over? The new Lithuanian law on assisted reproduction. *Russian Law Journal*, 6(1), 119–132. DOI: 10.17589/2309-8678-2018-6-1-119-132

to propose amendments to international treaties that would facilitate the prohibition of surrogacy at the national level ⁵⁰⁵. It should be noted that, according to the Republic of Lithuania, any kind of surrogacy is prohibited; the institute does not pose any problems with restrictions on children's rights to know their biological parents.

In Greece, the courts are obliged to ensure that the pregnant woman does not seek any financial gain. Surrogacy is completely outlawed in Sweden and France, and both countries have passed laws to discourage their citizens from using services abroad. Surrogacy has been banned in France since the Constitutional Court condemned it on the basis that "the object of contracts can only be goods" and ruled that "any contract for childbirth or pregnancy on behalf of a third party is void"⁵⁰⁶. In Italy, anyone who carries out, promotes or organizes surrogacy is subject to imprisonment or a fine. Similar restrictions apply to jurisdictions in Australia that have laws prohibiting the promotion and arrangement of overseas surrogacy in any form. In Australia, birth certificates do not record enough information to protect a child's right to know their biological parents⁵⁰⁷. Surrogacy is currently unregulated in Ireland, but a surrogacy certificate has been proposed that would not state that the child was born because of surrogacy⁵⁰⁸. In contrast, in the United Kingdom, it is proposed that the birth certificate state that it was a surrogate birth, but not the identity of the surrogate. In this country, surrogacy is legal, provided that all advertising and brokering activities related to surrogacy are prohibited. Also, the United Kingdom applies a birth test in cases of surrogacy, i.e. i.e. the woman who gave birth is considered the legal mother of the child. In other countries, genetic tests are used, according to which the parents of the child are determined based on genetics⁵⁰⁹.

However, it should be noted that surrogacy is treated differently throughout Europe. Some countries allow altruistic surrogacy (eg Portugal, Greece, United Kingdom); others prohibit any surrogacy (eg Germany, France); in others, it is not regulated in detail, but is legally allowed only in an altruistic mode (eg Sweden, Belgium); others do not allow it at all but are considering possible regulation (eg Spain). It should be noted that the surrogacy institute essentially

⁵⁰⁵ Seimas of the Republic of Lithuania, "Resolution No. XIII-3160 of the Seimas of the Republic of Lithuania on Condemning All Forms of Surrogacy" (2020), Retrieved 07.21.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/f9d49860d70111ea8f4ce1816a470b26?jfwid=-1819or94w2>.

⁵⁰⁶ Courduriès, J. (2018). At the nation's doorstep: The fate of children in France born via surrogacy. *Reproductive Biomedicine & Society Online*, 7, 47–54. DOI: 10.1016/j.rbms.2018.06.001

⁵⁰⁷ O'Callaghan, E. (2021). Surrogacy reform and its impact on the child's right to birth registration. *Reproductive Biomedicine & Society Online*, 13, 46–50. DOI: 10.1016/j.rbms.2021.06.002

⁵⁰⁸ *Ibid.*

⁵⁰⁹ Igareda González, N. (2020). Legal and ethical issues in cross-border gestational surrogacy. *Fertility and Sterility*, 113(5), 916–919. DOI: 10.1016/j.fertnstert.2020.02.129

complicates children's opportunities to know their biological parents, and at the same time violates children's natural rights⁵¹⁰.

In the United States, there is no federal regulation that oversees surrogacy, leaving this important and complex issue up to individual states. In the US, about half of the 50 states have surrogacy legislation. Commercial surrogacy is completely banned in four states, viz. i.e. New York, New Jersey, Indiana, and Michigan, and 14 states regulate and allow some form of commercial surrogacy⁵¹¹. Finally, surrogacy is not clearly addressed in statute or case law in many states, so there is considerable variation in whether the practice can work⁵¹². Surrogacy is also common in several Eastern European countries, such as Ukraine, Asia, and especially in India, Nepal and Thailand⁵¹³. Commercial surrogacy is legal in India (practiced despite the absence of legal regulation)⁵¹⁴, Ukraine and California, while only altruistic surrogacy is recognized in the United Kingdom, most US states and Australia. In contrast to Germany, Sweden, Norway or Italy, which do not recognize any surrogacy contracts. Cross-border surrogacy raises issues regarding citizenship, maternity, and paternity and child rights⁵¹⁵.

In conclusion, it can be said that the legal regulation of surrogacy varies from country to country. Some states expressly prohibit all types of surrogacy arrangements, others expressly allow certain forms of surrogacy and regulate it by law, some states have no specific regulation, but also no legal prohibition. It should be noted that one or another state chooses whatever approach to the legal regulation of surrogacy. Each has problems with its application and the consequences of its application, and regulatory inconsistencies undermine the right of children born under international surrogacy agreements to know their biological parents and there is a real risk that the child will not be able to acquire the citizenship of either his parents or the country where he was born. Therefore, it is safe to say that surrogacy has become a common problem for all states and requires the creation of a common concept of its regulation, taking into account the best interests of the child.

⁵¹⁰ Igareda Gonzalez, N. (2019). Regulating surrogacy in Europe: Common problems, diverse national laws. *European Journal of Women's Studies*, 26(4), 435–446. DOI: 10.1177/1350506819869581

⁵¹¹ Smith Rotabi, K., et al. (2017). Regulating commercial global surrogacy: The best interests of the child. *Journal of Human Rights and Social Work*, 2(3), 64–73. DOI: 10.1007/s41134-017-0037-7

⁵¹² Herweck, A., et al. (2024). International gestational surrogacy in the United States, 2014–2020. *Fertility and Sterility*, 121(4), 622–630. DOI: 10.1016/j.fertnstert.2023.12.010

⁵¹³ Marinelli, S., et al. (2024). The legally charged issue of cross-border surrogacy: Current regulatory challenges and future prospects. *European Journal of Obstetrics & Gynecology and Reproductive Biology*.

⁵¹⁴ Sarnacka, E., & Demchenko, I. (2024). Legal regulation of surrogacy in Poland and Ukraine—a comparative analysis. *Review of European and Comparative Law*, 57(2), 223–248. DOI: 10.31743/recl.13733

⁵¹⁵ *Ibid.*

2.3.5. Other cases related with the restriction of the children's right to know their biological parents in this chapter to find suitable references

A. Birth under X

Childbirth under X is authorized in France and, to a certain extent, in Luxembourg and Italy. In these countries, it is possible for a woman to give birth to a child without revealing her identity⁵¹⁶.

Belgian law does not recognize childbirth under X. Every birth must be declared to the civil registrar by the father, mother or, more recently, the co-parent (30) or, if they fail to do so, by the person in charge of the institution or his or her delegate, or by the person present at the birth if it did not take place in a hospital. The birth certificate must also mention the mother's name (as well as that of the father or co-parent if paternity or co-parenthood is established). Entry of the mother's name in the birth certificate establishes maternity by operation of law. This is the application of the adage *Mater semper certa est* (the mother is always certain). The Penal Code also makes it an offence not to declare a birth, to substitute one child for another, to attribute to a woman a child she has not given birth to, to destroy proof of a child's civil status or to prevent its establishment⁵¹⁷.

Nonetheless, when tragic events such as the dumping of an infant in a baby box, unauthorized abandonment or infanticide are publicized in the media - social events which are certainly disturbing, but which fortunately remain marginal - the debate on the advisability of introducing the possibility of anonymous childbirth into our law is systematically rekindled. Several bills have been tabled to this effect, but fortunately they have never come to fruition. Proposals to introduce anonymous childbirth according to the French model must be firmly condemned, as they grant the mother an absolute right to anonymity and ignore current developments in international law. The Committee on the Rights of the Child has stated on several occasions that States which provide for anonymous maternity violate article 7 of the Convention on the Rights of the Child, in the same way as those which tolerate the abandonment of babies in baby boxes⁵¹⁸.

It should also be noted that there is no objective data to show a link between anonymous or discreet childbirth and the number of infanticide cases, which are more likely to be linked to

⁵¹⁶ Franzoi, I. G., et al. (2024). Returning to work after maternity leave: A systematic literature review. *Archives of Women's Mental Health*, 1–13. DOI: 10.1007/s00737-023-01335-2

⁵¹⁷ Eggermont, M. (2015). Safety of birth: A comparative analysis of the legal guarantees in maternity care (Belgium — France — The Netherlands). *European Journal of Health Law*, 22, 113–140. DOI: 10.1163/15718093-12341355

⁵¹⁸ Danner, C., et al. (2005). [Anonymous birth and neonaticide in Tyrol]. *Zeitschrift Fur Geburtshilfe Und Neonatologie*, 209(5), 192–198. DOI: 10.1055/s-2005-916172

intense psychological distress in the mother, who is no longer able to reason. A law on anonymous or discreet childbirth would therefore probably have no impact on this number.

B. Paternity secrecy

It's not always the legislator who instigates secrecy. It can happen, for example, that a child does not know his father, because his mother does not want to reveal his identity. In Belgian law, neither the law nor case law imposes an obligation on the mother to reveal the name of the child's father if she does not wish to do so. Some countries, on the other hand, recognize a child's right to take action against his or her mother to obtain information about his or her origins⁵¹⁹.

It can also happen that a child suspects a man of being his biological father, but the latter refuses to take a DNA test to confirm or deny the link between them. What does the law allow in such situations? Is the child's right to know his or her biological father guaranteed?

In Belgium, in any dispute relating to parentage, the judge may order, even *ex officio*, a blood test or any other test based on proven scientific methods. Since genetic expertise can be used to verify or exclude paternity with almost absolute certainty, it is normal for judges to favour this method of proof when there is doubt as to paternity. The right to respect for bodily integrity implies, however, that a person can refuse to submit to an ordered expert examination, and no one can force him or her to do so *manu militari*. Most judges, however, refuse to regard genetic testing as an inadmissible infringement of the right to privacy or the right to respect for the physical integrity of the person whose paternity is sought. They rightly consider that the right to physical integrity is not absolute, and that common sense allows us to consider that the alleged infringement of a person's physical integrity, consisting in taking one or more drops of blood from the tip of a finger, is insignificant compared to the child's interest in seeing his or her filiation established. In the event of refusal to undergo genetic expertise, some judges are in favor of imposing a penalty in the name of the child's right to have his filiation established. Recourse to post-mortem genetic expertise is also authorized, and judges do not hesitate to order the exhumation of the body of the presumed father for this purpose, believing that the respect due to the dead and to the integrity of a mortal remains, as well as the respect due to the relatives of the deceased, cannot be preferred to the right of a child to establish his paternal filiation and to obtain all the evidence to this end⁵²⁰.

In Switzerland, children have the right to obtain information about their origins (guaranteed by the Constitution), a right they can exercise against their parents, in particular their mother, whose refusal to communicate this information cannot be considered discretionary. However, this

⁵¹⁹ Stjepanovic, B. (2018). The right of a child started with assisted reproduction aid to get information of its donors - Comparative law solutions. *Strani Pravni Zivot*, 233.

⁵²⁰ Martin, S. (2024). The right to life at the end of life: A note on *Mortier v Belgium* App No. 78017/17, 4 October 2022. *Medical Law International*, 24(2), 128–141. DOI: 10.1177/09685332231157085

right is not absolute. A balancing of interests will be necessary. However, federal case law seems to accept that the interests of the child far outweigh any conflicting private interests⁵²¹.

In Germany, since a landmark ruling by the Constitutional Court on January 31, 1989⁵²², children also have a genuine right to know their genetic origins, based on the general right of personality, itself founded on the fundamental right to dignity and free development of the personality. The Court thus sought to establish the right to know one's origins as a constitutional value. Although it took care to specify that the right to know one's biological parentage and to have it legally proclaimed was not absolute, the Constitutional Court, following the case law of the civil courts, nonetheless tended to consider that the child's interest in knowing his or her origins outweighed the mother's interest in protecting her privacy⁵²³.

In recent years, the absence of national and international regulations - national borders are no longer an obstacle - governing the use of genetic fingerprints as evidence of parentage has led to an increase in their use for private purposes, outside any legal proceedings, with no guarantee of the involvement of health professionals or the reliability of the results. The number of sites appearing on the Internet following a search for "paternity test" is impressive. These sites offer Internet users a low-cost paternity test claimed to be 99.99% reliable. As these tests can be carried out without the knowledge of the mother and child, their results can be used as a means of pressure or blackmail in separations, for financial or housing issues⁵²⁴.

C. Incest

The question of incest is likely to touch on that of the secrecy of origins in two ways. Firstly, when a child is born of an incestuous relationship, the legislator may be tempted to maintain the secrecy of his or her birth and thus prevent the establishment of his or her double filiation, in the name of protecting his or her interests. This is the current solution in Belgian law, in cases of absolute incest. In practice, it will always be the paternal filiation that cannot be established, maternity deriving, under Belgian law, from childbirth and the registration of the mother's name in the birth certificate. However, the Constitutional Court has ruled that, in certain cases, it may be in the interests of a child born of an incestuous relationship to have his or her filiation established with regard to both parents, if the advantages outweigh the disadvantages. This ruling is obviously to be welcomed in that it means that incestuous children, like any other

⁵²¹ Besson, S. (2007). Enforcing the child's right to know her origins: Contrasting approaches under the Convention on the Rights of the Child and the European Convention on Human Rights. *International Journal of Law, Policy and the Family*, 21(2), 137–159. DOI: 10.1093/lawfam/ebm004

⁵²² Rupp v. Brunneck, W. (1972). Germany: The Federal Constitutional Court. *Am. J. Comp. L.*, 20, 387.

⁵²³ Callus. (2004). Tempered hope - A qualified right to know one's genetic origin: *Odievre v France*; Hanebeck, A. (2001). DNA-analysis and the right to privacy: Federal constitutional court clarifies rules on the use of "genetic fingerprints." *German Law Journal*, 2(3), E2. DOI: 10.1017/S2071832200011802

⁵²⁴ Mishra, A., & Sathyan, S. (2016). Role of DNA fingerprinting in disputed paternity. *Journal of National Medical College*, 1(1), 44–46. DOI: 10.3126/jnmc.v1i1.17953

children, can benefit from the establishment of their dual parent-child relationship if this is in their best interests⁵²⁵.

Secondly, by multiplying the number of people involved in the procreation process under cover of anonymity, the law increases the risk of unions between people who unknowingly share common genes. One possible solution could be to set up a system enabling anyone who knows or suspects that they have been conceived by a particular method (medically-assisted procreation with a donor or surrogate motherhood) to contact a competent body to find out whether there is any genetic similarity with the person they intend to marry. Of course, such a system presupposes that competent bodies keep the information needed to make this right effective and accessible in ad hoc registers⁵²⁶.

In the UK, a child over the age of majority can ask a body for the identity of other children from the same donor if they consent, but also, from the age of sixteen, whether he or she is or could be related to the person with whom he or she wishes to marry, enter into a civil partnership, or even simply have an intimate physical relationship. However, there is no impediment to marriage between children from the same donor, and their children will have the right to establish their double filiation. In the same way, Portuguese law, which imposes donor anonymity, unlike UK law, allows people born of donor-assisted procreation to ask the National Council for Assisted Procreation for information on the possible existence of a blood relationship which, in the absence of medically-assisted procreation, would correspond to an impediment to marriage based on kinship, while maintaining confidentiality regarding the identity of the donor, unless the latter expressly authorizes the lifting of anonymity⁵²⁷.

2.4. The legal consequences and responsibility related to the limitation of the children right to know their biological parents

A child's right to know their biological parents is perceived as fundamental to the development of their personal identity and long-term mental stability. This right is recognized at various international levels, regulated by legal standards such as the United Nations Convention on the Rights of the Child, which stipulates that each child should, as much as possible, know their parents and be raised by them. Nevertheless, this right is frequently in tension with other legal

⁵²⁵ Farrelly, C. (2008). The case for re-thinking incest laws. *Journal of Medical Ethics*, 34(9), e11. DOI: 10.1136/jme.2007.021428; Schatzow, E., & Herman, J. L. (1989). Breaking secrecy: Adult survivors disclose to their families. *Psychiatric Clinics of North America*, 12(2), 337–349. DOI: 10.1016/S0193-953X(18)30428-4.

⁵²⁶ De Rycke, M., Liebaers, I., & Van Steirteghem, A. (2002). Epigenetic risks related to assisted reproductive technologies: Risk analysis and epigenetic inheritance. *Human Reproduction*, 17(10), 2487–2494. DOI: 10.1093/humrep/17.10.2487

⁵²⁷ Garayová, L. (2022). Surrogate motherhood - The European legal landscape. *Law, Identity & Values*, 2, 65. DOI: 10.55073/2021.2.65

prerogatives, notably the right to privacy of biological parents and the right of adoptive parents to establish a family dynamic without external interventions⁵²⁸.

In various European countries, legislation related to medically assisted reproduction promotes transparency, allowing children born through these methods to access the identity of their donors once they reach adulthood, as observed in Sweden and Switzerland⁵²⁹. This measure recognizes the importance of this information in the construction of an individual's personal identity. Conversely, some countries have traditionally implemented policies that guarantee total anonymity for gamete donors, such as France until a recent time⁵³⁰. Nonetheless, this model has developed due to a shift in societal perspectives and the activist initiatives of children's rights organizations, resulting in legal reforms promoting increased transparency.

In the United States, laws concerning the accessibility of information about gamete donors differ greatly across various states. States like Oregon and Washington have passed legislation enabling children conceived through gamete donation to learn the identities of their donors when they become adults. These legal clauses highlight the significance of understanding one's biological identity for personal growth and mental well-being. Nevertheless, in numerous other states, the principle of donor anonymity is still prevalent, leading to concerns regarding children's rights to learn about their biological roots⁵³¹.

International case law also illustrates the complex dynamics between opposing rights. Notably, decisions by the European Court of Human Rights demonstrate a tendency to favor the right of the child to know their biological origins. This perspective is demonstrated in the case of *Odièvre vs. France*, in which the Court decided that French legislation should reconcile the safeguarding of donor confidentiality with the child's fundamental right to know their biological roots. This choice emphasizes the effort to balance the respect for donor privacy with the identity needs of children⁵³².

In Germany, a significant case concerning a child from an anonymous sperm donation attracted public interest when the child sued the state to acquire details about their biological donor

⁵²⁸ Lamçe, J., & Çuni, E. (2013). The right of the children to know their origin in adopting and medically assisted reproduction. *Mediterranean Journal of Social Sciences*, 4(6), 605. DOI: 10.5901/mjss.2013.v4n6p605

⁵²⁹ Stjepanovic, B. (2018). The right of a child started with assisted reproduction aid to get information of its donors - Comparative law solutions. *Strani Pravni Zivot*, 233.

⁵³⁰ De Lorenzi, M., & Piñero, V. B. (2009). Assisted human reproduction offspring and the fundamental right to identity: The recognition of the right to know one's origins under the European Convention of Human Rights. *Personalized Medicine*, 6(1), 79–92. DOI: 10.2217/17410541.6.1.79

⁵³¹ Sabatello, M. (2015). Regulating gamete donation in the US: Ethical, legal and social implications. *Laws*, 4(3), 352. DOI: 10.3390/laws4030352

⁵³² Callus. (2004). Tempered hope - A qualified right to know one's genetic origin: *Odièvre v France*; Steiner, E. (2003). *Odièvre v France* - Desperately seeking mother - Anonymous births in the European Court of Human Rights. *Child & Fam. LQ*, 15, 425.

⁵³³. The Constitutional Court decided in favor of the child, asserting that their entitlement to know their biological origins took precedence over the donor's right to remain anonymous. This choice signifies a crucial moment, emphasizing the value given to the mental health and identity of the children concerned⁵³⁴.

The psychological impact of being unaware of one's biological origins is well documented. Studies indicate that children who have access to their biological history are generally more psychologically balanced. Understanding their history aids in answering questions about their identity, which in turn fosters improved long-term mental well-being. On the other hand, the uncertainty and enigma about a person's origins can lead to feelings of loneliness, confusion, and at times, resentment or emotional turmoil. ⁵³⁵.

In light of new challenges, numerous countries are presently updating their laws and regulations concerning donor anonymity. The ethical discussions related to these matters are intrinsically intricate, necessitating a equilibrium between children's rights to understand their biological background and the donors' right to confidentiality. As evidence continues to grow concerning the advantages for children in understanding their biological roots, laws are slowly advancing towards enhanced transparency. These legal modifications seek to reinforce children's rights while safeguarding the interests of all stakeholders, demonstrating a continuous effort to address the competing needs of the individuals involved in a balanced and considerate way⁵³⁶.

The discussion regarding children's rights to be aware of their biological parents grows increasingly intricate due to the practical and ethical considerations linked to assisted reproductive technologies like in vitro fertilization (IVF) and gamete donation. Although these developments have allowed numerous people to become parents, they also pose important questions regarding the identity and rights of children conceived through these methods. For instance, in the instance of anonymous sperm donation, it is typical for people, upon reaching adulthood, to wish to explore their genetic background. This necessity frequently encompasses worries regarding genetic health issues and the urge to explore their cultural and ethnic backgrounds. Having access to this information can be vital for developing a comprehensive self-image and for examining issues connected to genetic tendencies towards certain illnesses⁵³⁷.

⁵³³ Cohen, I. G. (2011). Prohibiting anonymous sperm donation and the child welfare error. *Hastings Center Report*, 41(5), 13–14. DOI: 10.1002/j.1552-146X.2011.tb00131.x

⁵³⁴ de Melo-Martín, I. (2022). Reproductive technologies and the valuing of the biogenetic family. *The Muslim World*, 112(3), 353–366. DOI: 10.1111/muwo.12401

⁵³⁵ Wakefield, C. E., et al. (2016). The psychological impact of genetic information on children: A systematic review. *Genetics in Medicine*, 18(8), 755–762. DOI: 10.1038/gim.2015.181

⁵³⁶ De Melo-Martín, I. (2014). The ethics of anonymous gamete donation: Is there a right to know one's genetic origins? *Hastings Center Report*, 44(2), 28–35. DOI: 10.1002/hast.316

⁵³⁷ Cohen, I. G. (2011). Prohibiting anonymous sperm donation and the child welfare error. *Hastings Center Report*, 41(5), 13–14. DOI: 10.1002/j.1552-146X.2011.tb00131.x

To address these ethical and practical issues, several countries have created registries that store donor details, which can be accessed by the children when they become adults. The United Kingdom, for example, has instituted the Human Fertilisation and Embryology Authority (HFEA), which maintains a comprehensive register of all donations and IVF treatments. Individuals conceived by these methods have the right to access non-identifying information about their donors at the age of 16 and identifying information from the age of 18. This approach aims to balance the child's right to know their origins with the donor's right to confidentiality⁵³⁸.

Nonetheless, despite the presence of these policies, there are instances where children might experience a feeling of estrangement from their biological roots, prompting emotionally intense personal endeavors to seek out their biological parents. Tales of these reunions, often featured in the media, can occasionally bring joy, but they can also be emotional, highlighting the intricate feelings experienced by everyone involved.

Furthermore, in nations like the United States, where laws can differ greatly from state to state, certain children conceived through gamete donations may not have any legal entitlement to obtain details about their biological heritage. In these situations, these people might seek out commercial DNA tests and online databases to locate their biological parents. This method can uncover surprising and occasionally unwelcome family secrets, thereby emphasizing complicated ethical dilemmas and troubled family relationships⁵³⁹.

These challenges highlight the importance of ongoing assessment and modification of policies regarding assisted reproduction and children's rights to understand their biological roots. As technology continually evolves, it is crucial for legislators to stay mindful of the psychological and social effects these advancements have on the children they create. This method seeks to safeguard the welfare and rights of children while managing a progressively intricate legal and ethical environment⁵⁴⁰.

The ethical issues related to transparency and confidentiality stimulate ongoing discussion. On one side, certain ethicists and legislators support greater transparency, claiming that children are entitled to be informed about any information that could affect their self-image and wellbeing. Conversely, it is also acknowledged that donors possess privacy rights that need to

⁵³⁸ Ng, H. Y. G. (2023). Zero or 18: At which age should UK's fertility watchdog disclose egg donor identity to donor-conceived children? *Voices in Bioethics*, 9.

⁵³⁹ Kasiske, B. L., et al. (2021). Outcomes of living kidney donor candidate evaluations in the living donor collective pilot registry. *Transplantation Direct*, 7(5), e689. DOI: 10.1097/TXD.0000000000001151

⁵⁴⁰ Sabatello, M. (2015). Regulating gamete donation in the US: Ethical, legal and social implications. *Laws*, 4(3), 352. DOI: 10.3390/laws4030352

be protected. This division between the child's rights and the donor's rights constitutes the essence of ongoing legal and ethical discussions⁵⁴¹.

The discussion regarding children's entitlement to learn about their biological parents extends beyond just legal and ethical concerns, addressing more extensive elements of parenting and the connections that tie families together. As these conversations persist in society, the responses should consider not just personal needs but also the wider societal consequences. It is essential to pursue solutions that honor and acknowledge all stakeholders in these highly personal and frequently intricate issues.

This chapter has discussed how the increasing acknowledgment of children's right to identify their biological parents is changing legal frameworks globally. This right, crucial for a person's identity, genetic well-being, and personal connections, still presents challenges when incorporated into national and international legal systems. It may clash with the privacy rights of both biological and adoptive parents.

At the national level, laws vary greatly. Some countries, like Lithuania, have laws that allow a child to discover the identity of their biological parents against their will, if the child's best interest is deemed a priority. This process is often governed by rigorous legal procedures⁵⁴².

Nevertheless, the implementation of these rights is not without obstacles. Entities charged with protecting the rights of the child must juggle the privacy of the parents and the child's right to know their origins, a dilemma exacerbated in cases involving gamete donations or surrogacy where anonymity may be chosen. Courts often play a crucial role in arbitrating these sensitive issues, balancing the right to confidentiality of biological parents with the right of children to know their own history⁵⁴³.

Internationally, the child's right to know their biological parents is supported the UN Convention on the Rights of the Child, which affirms the child's right to know and be raised by their parents when possible, emphasizing the importance of access to parental identity information for the well-being of the child. However, the practical application of these rights is uneven. Birth registries and other official documents may not always accurately reflect the identity of the biological parents, especially when the birth results from assisted reproduction. The anonymity of biological parents may conflict with the child's entitlement to understand their origins, leading to a complicated scenario both legally and ethically. Judicial bodies frequently act as key arbitrators

⁵⁴¹ Harper, J. C., Kennett, D., & Reisel, D. (2016). The end of donor anonymity: How genetic testing is likely to drive anonymous gamete donation out of business. *Human Reproduction*, 31(6), 1135–1140. DOI: 10.1093/humrep/dew065

⁵⁴² Perkumienė, D., Beriozovas, O., & Escudeiro, M. J. (2021). Legal regulation of international adoption in Lithuania and Portugal. *Laisvalaikio Tyrimai: Elektroninis Mokslo Žurnalas*, 1(17).

⁵⁴³ O'Callaghan, E. (2024). Surrogate born children's access to information about their origins. *International Journal of Law, Policy and The Family*, 38(1), ebab009. DOI: 10.1093/lawfam/ebab009

in these delicate matters, reconciling the biological parents' right to privacy with the children's right to understand their own backgrounds. These choices greatly impact children's identities and their capacity to develop significant family bonds.

In conclusion, while the entitlement of children to identify their biological parents is receiving acknowledgment and legal backing, its successful execution is still filled with challenges. The concurrent safeguarding of parental privacy and the essential rights of children necessitates a delicate and thoughtful strategy, considering legal, social, and individual circumstances. The alignment of legislation and improved global collaboration may be crucial to enhance the efficacy of these rights, guaranteeing every child the opportunity to learn about their origins within a context that honors the rights of everyone concerned.

3. EMPIRICAL RESEARCH: THE PRACTICAL SETTLEMENT OF LEGAL REGULATION OF CHILDREN'S RIGHT TO KNOW THEIR BIOLOGICAL PARENTS

The analysis of the previous chapter of the thesis revealed the essential legal aspects of the child's right to know his biological parents and the relevant general analysis of legal information in the context of national and international law. This chapter of the thesis continues the research to analyze the main problems of ensuring the rights of the children to know their biological parents and the possible ways of solving these problems. This chapter conducted an empirical study that helped to identify the practical problems of the implementation of the child's right to know his/her biological parents, faced by different organizations responsible for the protection of the child's rights. Therefore, an empirical study was conducted in this chapter, which helped to identify the practical problems of the implementation of the child's right to know his biological parents, faced by various organizations responsible for the protection of children's rights. For real contribution in the improvement of the laws of children's rights to know their biological parents process, in the second chapter of the thesis, combining the elements of the analysis of national and international laws, the analysis of the qualitative approach of experts was completed. A semi-structured interview method was used for examining the legal regulation problems in the context of national and international law related to the implementation of the Republic of Lithuania and international rights. This qualitative study aimed to identify the children's rights to know their biological parents and at the same time their origin as accurately as possible, as well as the problems of the implementation of children's rights in Lithuania in the context of private international law.

Empirical research methods and strategies form the foundation of scientific investigation, offering a structured way to explore and comprehend the intricacies of the environment surrounding us. Grounded in the principles of observation, measurement, and evidence-based analysis, empirical research is an essential component of numerous fields, spanning from the natural sciences to social sciences and more. Empirical research fundamentally aims to investigate and clarify phenomena by gathering and analyzing data obtained from actual observations and experiences in the real world. This thorough methodology aims to reveal patterns, connections, and foundational principles, aiding in the creation of knowledge that is both trustworthy and confirmable⁵⁴⁴.

⁵⁴⁴ Jasti, N. V. K., & Kodali, R. (2014). A literature review of empirical research methodology in lean manufacturing. *International Journal of Operations & Production Management*, 34(8), 1080–1122. DOI: 10.1108/IJOPM-04-2012-0169

The basis of all empirical research is the establishment of a well-defined research strategy and methodology. Scientists need to meticulously design and carry out their research, detailing the precise procedures, methods, and instruments they will use to collect pertinent information. This procedure includes choosing suitable research designs, sampling techniques, and data gathering tools, all intended to guarantee the precision and validity of the results. In this changing and developing area, researchers constantly enhance and modify their approaches to address the needs of various research inquiries and goals⁵⁴⁵. The combination of cutting-edge technologies, statistical methods, and interdisciplinary strategies further improves the accuracy and thoroughness of empirical studies. This introduction lays the groundwork for a more comprehensive examination of the complex realm of empirical research approaches and techniques. In exploring the complexities of this field, we will reveal the importance of meticulously constructed research designs, the influence of ethical factors, and the necessity of deriving insightful conclusions from empirical data. By thoroughly grasping these principles, researchers can maneuver through the intricacies of empirical research, offering significant insights to the continually growing field of human knowledge⁵⁴⁶.

3.1. Design and methodology of the research

The methodological setup of the study consists of four steps. These steps include analysis, design, implementation and evaluation. Of these steps, the analysis phase has already been completed, and the other 3 steps show the planned actions. Firstly, the methodological setup of the research is summarised and presented in the visual below:

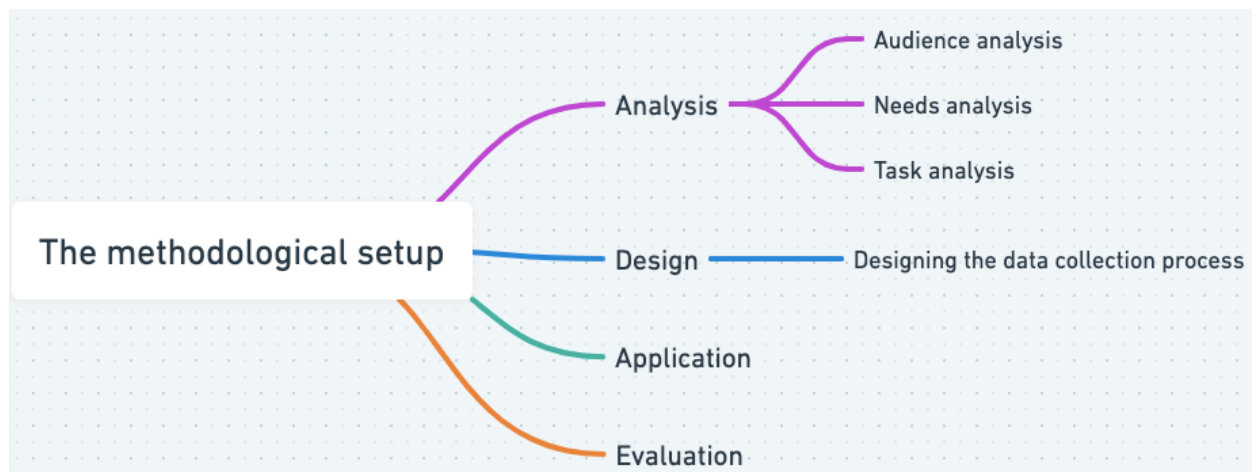


Figure 13. The methodological setup of the study

⁵⁴⁵ Soni, G., & Kodali, R. (2012). A critical review of empirical research methodology in supply chain management. *Journal of Manufacturing Technology Management*, 23(6), 753–779. DOI: 10.1108/17410381211253315

⁵⁴⁶ Hider, P., & Pymm, B. (2008). Empirical research methods reported in high-profile LIS journal literature. *Library & Information Science Research*, 30(2), 108–114. DOI: 10.1016/j.lisr.2007.11.007

1. Analysis

a. Audience analysis

i. Identification of participants (stakeholders)

- ✓ *The sample of the study is planned to be composed of people who have expertise in children's rights in the European Union countries and the United Nations.*

ii. Analysing the problem by meeting with the participants

- ✓ *It was planned to evaluate the children's right to know their biological parents and the problems related to legal processes related to this right by making a preliminary interview with the participants.*

b. Needs analysis

i. Analysis of infrastructure need

- ✓ *It is planned to determine the legal needs of the European Union and international organizations regarding children's rights and to make evaluations regarding the solution of the problems.*
- ✓ *After examining the content of the concept of biological parenting and the legal principles of the child's right to know his or her biological origin, it is aimed to reveal the need for biological origin information and its effect on the formation of the child's personality and identity.*
- ✓ *To determine the aspects of the legal regulation of biological parenting (maternity) institutions, as well as the general principles for determining the origin of the child.*
- ✓ *Examine the legal regulation of the child's right to know his or her biological parent, in the context of national and international law, by naming the circumstances leading to the limitation or limitation of this right.*
- ✓ *After carrying out a practical analysis of civil cases, identify practical application issues related to the enforcement of the child's right to know his or her biological parents.*

c. Task analysis

i. It is aimed to determine the most accurate research group for the effective realization and follow-up of the aims and objectives set forth in the research.

- ✓ *It is aimed to create participatory groups that are involved in children's rights and court processes and that are adequately equipped in this regard.*

✓ *It is aimed to reach the right and competent participant groups, to find the right answers to the research questions, and to present realistic findings in theory and practice.*

ii. Planning of the work packages targeted during the research by the researcher.

✓ *In the study, the tasks were divided into general literature review, interviews with the participants, final analysis of the data obtained, and presentation of suggestions. Thus, it is aimed to complete each work package within the intended time in a way that will serve the research questions.*

2. Design

a. Designing the data collection process

i. Compiling and classifying the written documents, laws, regulations, plans and policies of European Union countries and international organizations on children's rights and recognition of parents,

ii. It is aimed to design a semi-structured interview form regarding the process of obtaining opinions from the participant group, which was created in accordance with the purpose of the research.

3. Application

a. Examining the written documents of European Union countries and international organizations on children's rights and recognizing parents, texts related to laws, regulations, plans and policies by document analysis method,

b. It is aimed to obtain data by conducting interviews with the semi-structured interview form regarding the process of obtaining opinions from the participant group, which was created in accordance with the purpose of the research.

4. Evaluation

a. Analysing the written documents of European Union countries and international organizations on children's rights and recognizing parents, and texts on laws, regulations, plans and policies,

b. Conducting interviews with the semi-structured interview form regarding the process of obtaining opinions from the participant group, which was created in accordance with the purpose of the research,

c. Analysing and finalizing the data obtained as a result of the interviews,

d. It is aimed to present suggestions in the light of the data obtained through document analysis and face-to-face interviews.

3.1.1. Research Process

The purpose of this research is to evaluate the effectiveness of the implementation of the child's right to know his/her biological parents as a natural right of the child, revealing the problematic issues of the practical application of this right in court practice. In accordance with this purpose the method of the research to be used in the study, the study group of the research, the data collection tools of the research, the data collection process of the research and the data analysis are stated in this section.

In this research, firstly, written documents on children's right to know their biological parents in the context of international private law were examined. At the same time, a detailed analysis of national and international relations regarding children's right to know their biological parents was carried out in the Republic of Lithuania. Then, face-to-face interviews were conducted through a semi-structured interview form to reveal expert opinions (look appendix No. 1) on children's right to know their biological parents. Depending on the purpose stated above, answers were sought to the following research questions:

1. After analysing the content of the concept of biological parentage and the legal principles of the child's right to know his biological origin, reveal the need for knowledge of biological origin and its influence on the formation of the child's personality and identity.
2. Apart from the general basics of determining the origin of the child, identify aspects of legal regulation of biological parentage (maternity) institutes.
3. In the context of national and international law, to examine the legal regulation of the child's right to know his biological parents by naming the cases leading to the limitation or limitation of this right.
4. After conducting a practical analysis of civil cases, identify problems of practical application related to the implementation of the child's right to know his biological parents.

The research model constructed in the study is visualized and presented in Figure 14 below.

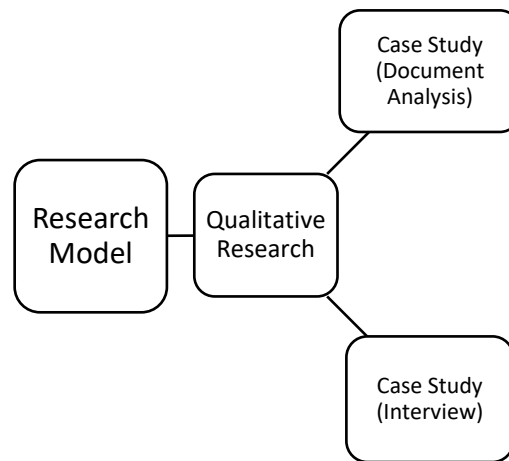


Figure 14. Research Model

3.1.2. Research Method

In this study, which was carried out with the aim of "evaluating the effectiveness of the child's right to know his/her biological parents, as a natural right of the child, and revealing the problematic issues in the practical application of this right in court practice", a descriptive analysis design based on the qualitative research method was used. Qualitative research is Describing and researching events and situations in their natural environment is a research approach that gathers data with qualitative research methods such as observation, interview and content analysis, which emerges to understand the opinions of the participants about the event and situation and to reflect them within the scope of the research⁵⁴⁷. In qualitative research, the focus is on smaller units of people and society, including methods and analyses that determine the meanings, perceptions and understandings that individuals and groups attach to behaviours, experiences and social phenomena⁵⁴⁸. Although it can be adapted to a wide variety of methods and data sources, qualitative research is a subjective approach that aims to understand and interpret the experiences of individuals by watching the world through their eyes⁵⁴⁹. For this reason, the study was planned as a qualitative research design and was applied in two stages. In the analysis of the findings obtained from the semi-structured interview forms, descriptive analysis method, one of the qualitative research methods, was used.

While the aim in descriptive analysis is to present the findings to the reader in an organized and interpreted form, the main purpose in content analysis is to reach the concepts and relationships that can explain the collected data. In other words, while the data summarized and

⁵⁴⁷ Clissett, P. (2008). Evaluating qualitative research. *Journal of Orthopaedic Nursing*, 12(2), 99–105. DOI: 10.1016/j.joon.2008.03.004

⁵⁴⁸ Hammersley, M. (2012). *What is qualitative research?* Bloomsbury Academic; Morse, J. M. (2005). What is qualitative research? *Qualitative Health Research*, 15(7), 859–860. DOI: 10.1177/1049732305278594

⁵⁴⁹ Ormston, R., et al. (2014). The foundations of qualitative research. In *Qualitative Research Practice: A Guide for Social Science Students and Researchers* (2nd ed., pp. 52–55).

interpreted in descriptive analysis, the data is subjected to a deeper process in content analysis so that concepts and themes that cannot be noticed with a descriptive approach can be discovered because of this analysis⁵⁵⁰.

The qualitative dimension of the research consists of two steps. In the first step, written documents on children's right to know their biological parents in the context of international private law were examined. At the same time, a detailed analysis of national and international relations regarding children's right to know their biological parents in the Republic of Lithuania was made.

The purpose of the document review method is to examine the legislation and examine the jurisprudence on the right of children to know their biological parents. Document analysis is a method based on the detailed, meticulous, and systematic classification and analysis of written documents⁵⁵¹. Therefore, it provides the opportunity to analyse and interpret the existing data to make a certain meaning with document analysis and to reveal an understanding on the subject⁵⁵².

Document review is a research method that involves the systematic analysis of documents, records, reports, and other written materials to extract information and data relevant to a research question or objective. Document review is a valuable research method that provides several benefits, including:

1. Access to historical and archived data: Reviewing documents enables researchers to obtain historical and archived data that might not be accessible through other research techniques. This can offer important perspectives on historical occurrences, trends, and advancements that can aid in situating present research.
2. Efficient and cost-effective: Document review is an efficient and cost-effective research method that can save time and resources. Unlike other research methods, document review does not require researchers to collect data directly from participants, which can be time-consuming and costly.
3. High levels of reliability and validity: Reviewing documents can yield significant reliability and validity. Given that documents are generally produced for distinct objectives and must adhere to strict criteria of precision and thoroughness, they frequently serve as very trustworthy and credible sources of information.

⁵⁵⁰ Creswell, J. W., & Creswell, J. D. (2018). *Research design: Qualitative, quantitative, and mixed methods approaches* (5th ed.). Sage Publications ; Robson, C. (2024). *Real world research*. John Wiley & Sons.

⁵⁵¹ Wach, E., Ward, R., & Jacimovic, R. (2013). Learning about qualitative document analysis.

⁵⁵² Hamilton, A. B., & Finley, E. P. (2019). Qualitative methods in implementation research: An introduction. *Psychiatry Research*, 280, 112516. DOI: 10.1016/j.psychres.2019.112516

4. Diverse Varied data sources: Reviewing documents can grant access to varied data sources, such as governmental reports, corporate documentation, personal journals, and digital content. This can offer researchers a diverse and extensive data set that can be examined from various viewpoints.
5. Non-intrusive research method: Document review is a non-intrusive research method that does not require researchers to directly engage with participants. This can be particularly useful when researching sensitive or confidential topics, as it can help to protect participants' privacy and avoid potential ethical issues⁵⁵³.

In the second step, face-to-face interviews were conducted through a semi-structured interview form to reveal expert opinions (look appendix No. 1) on children's right to know their biological parents. In this process, the opinions of the participants will be conveyed directly. Because what should be emphasized in the reporting process of the interviews is not the numbers but what the participants say⁵⁵⁴. A semi-structured interview is a research method that combines both open-ended and closed-ended questions in a structured format while also allowing for flexibility and exploration of the participant's responses. Semi-structured interviews are a valuable research tool that provides several important benefits, including:

Flexibility: Semi-structured interviews enable researchers to pose follow-up questions and elucidate answers, offering adaptability to the research methodology. This guarantees that participants' experiences and viewpoints are thoroughly recorded, resulting in a broader and more detailed comprehension of the subject. **Thorough investigation:** Semi-structured interviews enable a thorough investigation of participants' experiences, views, and convictions. Researchers can explore specific topics or issues that arise during the interview, resulting in a more comprehensive understanding of the research subject⁵⁵⁵.

Participant engagement: semi-structured interviews promote participant engagement and involvement in the research process. By allowing participants to share their thoughts and experiences, they become active contributors to the research, which can lead to more insightful and meaningful data. **Validity and reliability:** Semi-structured interviews provide greater validity and reliability than unstructured interviews because they include both open-ended and closed-ended questions. The structured format ensures that all participants are asked the same core set of

⁵⁵³ Biermann, O., et al. (2020). Active case-finding policy development, implementation and scale-up in high-burden countries: A mixed-methods survey with national tuberculosis programme managers and document review. *PLoS One*, 15(10), e0240696. DOI: 10.1371/journal.pone.0240696

⁵⁵⁴ Creswell, J. W., & Plano Clark, V. L. (2017). *Designing and conducting mixed methods research*. Sage Publications.; Timans, R., Wouters, P., & Heilbron, J. (2019). Mixed methods research: What it is and what it could be. *Theory and Society*, 48, 193–216. DOI: 10.1007/s11186-019-09345-5

⁵⁵⁵ Adams, E. (2010). The joys and challenges of semi-structured interviewing. *Community Practitioner*, 83(7), 18–22.

questions, making it easier to compare and analyse the responses. Accessibility: Semi-structured interviews are accessible to a wide range of participants, including those who may have difficulty with written surveys or those who may be more comfortable expressing their thoughts and experiences orally⁵⁵⁶.

Interviewing is an effective method of basing data on certain assumptions, especially when collecting information for certain types of research. Interviewing is an effective method especially when researchers want to understand the perspectives of the participants or learn how the participants attribute meanings to facts and events⁵⁵⁷. One of the most frequently used data sources in case studies is the interview. Interviewing is used as a research strategy to gather information about participants' experiences and views on a particular research question or phenomenon⁵⁵⁸. The interview has structured, semi-structured, unstructured and focus group interview techniques. The semi-structured interview involves asking a predetermined set of questions and addressing specific issues. These questions are usually asked to each participant in a systematic and consistent order.

3.1.3. Sample Group

The universe is defined as a group containing all kinds of living or non-living elements from which the data needed to answer the measurement tools are obtained. Since it is not possible to interview everyone or observe everything about the subject in many studies, a method that has justifications for choosing people, events and times is needed⁵⁵⁹. Purposive sampling method was used to determine the participant group in this study. Purposeful sampling is used to conduct detailed research and collect information in line with the target set for the research topic⁵⁶⁰. Purposive sampling allows for in-depth research by selecting information-rich situations (meeting certain criteria or meeting certain criteria) in line with the purpose of the study. In criterion sampling, which is one of the purposive sampling methods, observation units consist of people, events or objects with certain qualities⁵⁶¹.

⁵⁵⁶ Dearnley, C. (2005). A reflection on the use of semi-structured interviews. *Nurse Researcher*, 13(1); Galletta, A. (2013). *Mastering the semi-structured interview and beyond: From research design to analysis and publication* (Vol. 18). NYU Press. DOI: 10.18574/nyu/9780814732939.001.0001

⁵⁵⁷ Burkette, J. (2022). The research interview: A performative reinterpretation. *Qualitative Inquiry*, 28(3-4), 300–311. DOI: 10.1177/10778004221078989

⁵⁵⁸ Ryan, F., Coughlan, M., & Cronin, P. (2009). Interviewing in qualitative research: The one-to-one interview. *International Journal of Therapy and Rehabilitation*, 16(6), 309–314. DOI: 10.12968/ijtr.2009.16.6.42433

⁵⁵⁹ Robinson, O. C. (2014). Sampling in interview-based qualitative research: A theoretical and practical guide. *Qualitative Research in Psychology*, 11(1), 25–41. DOI: 10.1080/14780887.2013.801543

⁵⁶⁰ Denieffe, S. (2020). Commentary: Purposive sampling: Complex or simple? Research case examples. *Journal of Research in Nursing*, 25(8), 662–663. DOI: 10.1177/1744987120962189

⁵⁶¹ Campbell, S., et al. (2020). Purposive sampling: Complex or simple? Research case examples. *Journal of Research in Nursing*, 25(8), 652–661. DOI: 10.1177/1744987120927206

The sample size was determined to ensure that the research was carried out in accordance with scientific criteria. There are different factors affecting the sample size. These factors are: (1) the similarity of the universe in terms of the feature to be measured, (2) the number of important uncontrollable variables, (3) the number of subsets to which the sample will be divided when analysing the data, (4) the type of sampling, (5) the confidence level sought in representing the population value, the amount of deviation, (6) the type of universe value to be estimated, and (7) the possibilities for research⁵⁶². Considering these factors, the sample group was determined.

Purposeful sampling is a non-probability sampling technique widely used in qualitative research. It involves selecting participants for a study based on specific criteria related to the research questions or objectives. Purposeful sampling is a deliberate and intentional method of sampling that aims to include participants who can provide rich and diverse data, thereby enhancing the credibility and transferability of the research findings⁵⁶³. There are several reasons why purposeful sampling an important method in qualitative research is:

1. Improving the quality and depth of data: intentional sampling enables researchers to choose participants who can offer comprehensive and varied information pertinent to the research goals. By choosing participants with distinct experiences, knowledge, or viewpoints, researchers can obtain more detailed and sophisticated data that can improve the quality and depth of the study's results.
2. Enhancing data collection effectiveness: intentional sampling enables researchers to target specific individuals who are more inclined to offer relevant and valuable data, thus enhancing the effectiveness of data collection. This may conserve time and resources while enhancing the validity and reliability of the research results.
3. Guaranteeing diversity and representation: intentional sampling makes certain that the study participants reflect the population of interest and encompass a variety of perspectives and experiences. This may aid in minimizing biases and enhancing the applicability of the study's results to different contexts or groups.
4. Addressing research questions and objectives: Purposeful sampling allows researchers to select participants who can provide data that addresses the specific research questions or

⁵⁶² Sivasamy, S. (2023). Sample size considerations in research. *Endodontology*, 35(4), 304–308. DOI: 10.4103/endo.endo_146_23

⁵⁶³ Palinkas, L. A., et al. (2015). Purposeful sampling for qualitative data collection and analysis in mixed method implementation research. *Administration and Policy in Mental Health and Mental Health Services Research*, 42, 533–544. DOI: 10.1007/s10488-013-0528-y

objectives. This can help to ensure that the study's findings are relevant, meaningful, and useful for addressing the research problem⁵⁶⁴.

In the sample group of the research are 4 groups with 5 experts in each group. The Lithuanian representatives of the sample group consists with a group of 20 experts: specialists of State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labor (5 experts); specialists of children's rights protection (5 experts); practicing lawyers related to the protection of children's rights (5 experts); Lithuanian academics related with children's rights protection (5 experts). Experts from Lithuania are coded in the following order “LE1, LE2, LE3, LE4, LE5, LE6, LE7, LE8, LE9, LE10, LE11, LE12, LE13, LE14, LE15, LE16, LE17, LE18, LE19, LE20”.

The international representatives of the sample group consisted of a group of 20 experts. Accordingly, there were 5 experts of the United Nations Children's Fund (UNICEF), 5 experts of the European Agency for Fundamental Rights (FRA) and 5 experts of the UN Committee on the Rights of the Child (OHCHR). International academics involved in the protection of children's rights 5 experts. International experts' codes are as follow : “IE1, IE2, IE3, IE4, IE5, IE6, IE7, IE8, IE9, IE10, IE11, IE12, IE13, IE14, IE15, IE16, IE17, IE18, IE19, IE20”.

A total of 40 interviewees participated in the study.

3.1.4. Data collection tool

Within the scope of the research, a semi-structured interview form developed by the researcher for the interviews with the participants because of the findings obtained from the literature was used. A semi-structured interview is a type of interview form used in qualitative research. In this form of interview, the interviewer has a set of pre-determined questions but can also ask follow-up questions based on the participant's responses. This type of interview form allows for both flexibility and structure, providing the researcher with the opportunity to gather rich and detailed data while still maintaining a degree of control over the conversation⁵⁶⁵.

In this form, in addition to the questions prepared beforehand in the interviews, there is the freedom to ask additional questions that are not written in the interview forms, if needed, depending on the course of the interview. This feature of the interview gives flexibility to the research⁵⁶⁶. In addition, survey questions are determined in advance in semi-structured interviews

⁵⁶⁴ Benoot, C., Hannes, K., & Bilsen, J. (2016). The use of purposeful sampling in a qualitative evidence synthesis: A worked example on sexual adjustment to a cancer trajectory. *BMC Medical Research Methodology*, 16, 1–12. DOI: 10.1186/s12874-016-0114-6

⁵⁶⁵ Kallio, H., et al. (2016). Systematic methodological review: Developing a framework for a qualitative semi-structured interview guide. *Journal of Advanced Nursing*, 72(12), 2954–2965. DOI: 10.1111/jan.13031

⁵⁶⁶ DeJonckheere, M., & Vaughn, L. M. (2019). Semistructured interviewing in primary care research: A balance of relationship and rigour. *Family Medicine and Community Health*, 7(2). DOI: 10.1136/fmch-2018-000057

and data is tried to be collected with these questions ⁵⁶⁷. Such interviews combine both fixed choices answering and being able to go in depth in the relevant field. In addition, semi-structured interview is an interview technique prepared with the aim of revealing the participants' own thoughts and solving the problems that are required to be clarified⁵⁶⁸.

One of the most important criteria of scientific research is the credibility of the results. From this point of view, the two most used criteria in research today are validity and reliability⁵⁶⁹. Each researcher is expected to carefully test the validity and reliability of the data collection tools and research model they use and to report the results to the reader⁵⁷⁰. The following suggestions will be considered for the validity and reliability of the semi-structured interview form to be used in the research:

- Since the questions in the interview form are in English, they will be checked by language experts and will be finalized after corrections.
 - In the interviews, the interview process will be explained in detail and the volunteerism of the participants will be taken as a basis.
 - The same questions will be asked in the same words and in the same way to each interviewee.
- All raw data of the study will be stored so that it can be reviewed by others.

Within the scope of this research, the studies carried out by the researcher to ensure the validity and reliability of the data collection tool are presented in the table below:

Table 3. Validity and Reliability Studies of the Data Collection Tool (compiled by the author based on DeJonckheere, & Vaughn, 2019; Wilson, 2014)

Data collection tool	Validity	Reliability
Research Editing	Making a pilot application	Making a pilot application
Semi-Structured Interview	Asking questions with purpose Making a pilot application Confirmation of the statements in the interview form	Audio recording Making more than one interview Confirming the statements in the interview form Making a pilot application
Semi-Structured Interview Form	Examination of the relevant field paper Adaptation of the general form to trigonometry to ensure content validity Getting expert opinion Making a pilot application	Examination of the relevant field article Getting expert opinion Preparation for the research problem Making a pilot application

⁵⁶⁷ Wilson, C. (2014). Semi-structured interviews. In *Interview Techniques for UX Practitioners* (1st ed., pp. 23–41). DOI: 10.1016/B978-0-12-410393-1.00002-8

⁵⁶⁸ Adams, E. (2010). The joys and challenges of semi-structured interviewing. *Community Practitioner*, 83(7), 18–22.

⁵⁶⁹ Bhalla, S., Bahar, N., & Kanapathy, K. (2023). Pre-testing semi-structured interview questions using expert review and cognitive interview methods. *International Journal of Business and Management*, 7(5), 11–19. DOI: 10.5539/ijbm.v7n5p11

⁵⁷⁰ Kallio, H., et al. (2016). Systematic methodological review: Developing a framework for a qualitative semi-structured interview guide. *Journal of Advanced Nursing*, 72(12), 2954–2965. DOI: 10.1111/jan.13031

Semi-Structured Interview on the Form	Making a pilot application Asking questions with purpose Confirmation of the interview form	Preparation for the research problem Making a pilot application Making more than one call Audio recording Confirming the answers to the form
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During the interviews, the participants included in the study group were given preliminary information about the study, their appointment requests regarding the day and time of the meeting were sent, the interviews were recorded with an image and sound recorder and then they were transcribed. The interview form developed within the scope of the study includes the following questions:

1. How often children who do not know one or both of their biological parents are interested in identifying them? What help you can offer for them?
2. What legal and social challenges are encountered in implementing the child's right to know his biological parents and at the same time implementing the biological parents' rights to remain anonymous?
3. What family law institutes restrict children's right to know their biological parents and why?
4. Specify the problems of practical application related to the implementation of the child's right to know his/her biological parents.
5. Is the implementation of this right effective?
6. What are your recommendations in order to implement this right more efficiently? How do you think these problems could be solved in order to ensure the child's natural right to know his biological parents?
7. Has the development of biotechnology, smart solutions and scientific progress opened more legally sensitive legal issues in determining the child's biological parents?
8. Does this mean that scientific progress and legal uncertainty can affect the various needs of children and violate their rights?

Semi-structured interviews serve as an important method for collecting qualitative data in social science studies. By offering a mix of structure and flexibility, they enable researchers to investigate participants' experiences, views, beliefs, and attitudes in a thorough and subtle manner. Through meticulous planning and implementation, semi-structured interviews can yield valuable and significant insights across various research subjects.

3.2. Research results: analysis and evaluation of research data related to the child's right to know his biological parents

3.2.1. Analysis of Data

The data obtained from the semi-structured interview form were analysed in two different ways according to sub-problems and grade levels⁵⁷¹. The main purpose of qualitative data analysis is to try to discover and reveal the information hidden in these data, based on the data collected from the field⁵⁷². In the analysis, descriptive analysis was used while evaluating the data in the structured interview form⁵⁷³. The main purpose in descriptive analysis is to interpret the data obtained by taking into consideration predetermined themes. When starting the descriptive analysis, firstly, the data on the interview form was questioned and direct quotations were included.

Tables are summarized under each table and the findings are explained and interpreted. Interpretation of findings is at the heart of qualitative research, according to⁵⁷⁴, because it is directly related to the meaning-making process of qualitative research. Huberman (2014) suggest using matrices, graphs and tables while visualizing data. Thus, standing apart from each other, ⁵⁷⁵ suggests categorizing the data obtained from the interviews according to their frequencies and reflecting the thoughts of the interviewed individuals as they are by taking some sentences directly in this process. At this stage, direct quotations are given just below the findings to support the findings.

3.2.2. RESULTS

Table 4. Children who do not know one or both of their biological parents, the frequency with which they recognise their parents and the support offered for this

Experts	Statements
LE1, LE3, LE5, LE8, LE10, LE12, LE14, LE15, LE16, LE18, LE19, LE20, IE3, IE4, IE7, IE9, IE10, IE12, IE14, IE16, IE18, IE20	<ul style="list-style-type: none"> • It depends on their demands and increasing. • Create effective prevention programs and strategies

⁵⁷¹ Burnard, P. (1991). A method of analysing interview transcripts in qualitative research. *Nurse Education Today*, 11(6), 461–466. DOI: 10.1016/0260-6917(91)90009-Y

⁵⁷² Kallio, H., et al. (2016). Systematic methodological review: Developing a framework for a qualitative semi-structured interview guide. *Journal of Advanced Nursing*, 72(12), 2954–2965. DOI: 10.1111/jan.13031

⁵⁷³ Thomas, R. M. (2003). *Blending qualitative and quantitative research methods in theses and dissertations*. Corwin Press.

⁵⁷⁴ Willig, C., & Stainton Rogers, W. (Eds.). (2017). *The SAGE handbook of qualitative research in psychology*. Sage.

⁵⁷⁵ Yin, R. K. (2018). *Case study research and applications*. Sage Publications.

LE1, LE2, LE4, LE6, LE7, LE9, LE11, LE13, LE9, LE17, LE20, IE1, IE2, IE3, IE5, IE6, IE8, IE11, IE13, IE15, IE16, IE17, IE19, IE20	<ul style="list-style-type: none"> • Ensure the proper functioning of child rights protection institutions. • Talk to parents and psychologists. • Contacting relevant institutions
LE3, LE7, LE8, LE9, LE11, LE13, LE14, LE18, LE19, LE20, IE4, IE6, IE11, IE13, IE14, IE15, IE17, IE18, IE19, IE20	<ul style="list-style-type: none"> • DNA test • The child's right to know his biological parents must be respected and ensured

Within the scope of the research, the experts asked how often children want to know their biological parents; They stated that especially the demands of children to know their parents are increasing nowadays and will increase day by day. Experts following the question of how children can be helped in the process of getting to know their parents; they draw attention to the fact that this demand is primarily legal and must be met. However, in this process, “to create effective prevention programs and strategies; ensure the proper functioning of child rights protection institutions; talking to parents or a psychologist; to contact relevant institutions; They reveal that guidance and support such as "doing a DNA test" can be provided. The opinions of some experts on the related question are given directly below.

In particular, the view that children's right to know their biological parents is a legal and natural right has come to the fore. It is very important and necessary to meet these demands, especially after adulthood. Experts' opinions on this situation are presented as follows.

“The child's right to know his or her biological parents must be respected and guaranteed (LE1; LE3; LE12; LE16; LE19; IE1; IE6; IE10; IE14; IE18; IE20)”. “I believe that more than half of such children seek to know about their biological parents” (LE2; LE7; LE11; LE13; LE16; LE19; IE5; IE9; IE14; IE15; IE17; IE20). “The children seek to find out who their biological parents are, to find out the circumstances of their adoption, details of their past, to know their childhood (LE15; LE18; LE20; IE4; IE10; IE19)”. “The United Nations Convention on the Rights of the Child enshrines the principle that a child from birth has the right, as far as possible, to know and be cared for by his or her parents (LE3; LE7; LE11; LE20; IE8; IE12; IE13; IE16; IE18)”. “According to the State Child Rights Protection and Adoption Service, the number of children interested in finding out their biological relatives is increasing every year (LE2; LE9; LE10; LE18)”. “It is important to understand that the child's right to know his biological parents must be respected and ensured if it corresponds to the principles of the child's well-being and interests. So, if a child wants to know his biological parents, he must be given help and support to do so

Experts	Statements
LE2, LE3, LE4, LE5, LE7, LE8, LE9, LE12, LE14, LE15, LE17, LE19, IE4, IE6, IE8, IE9, IE10, IE11, IE13, IE16, IE19	<ul style="list-style-type: none"> • Possible confrontation with the adopted child. • Lack of legal regulations • Insufficient laws
LE1, LE2, LE3, LE6, LE9, LE10, LE11, LE13, LE16, LE17, LE20, IE1, IE2, IE7, IE9, IE10, IE11, IE12, IE15, IE19	<ul style="list-style-type: none"> • Don't keep donor information for a long time. • The relatives do not express the desire to communicate with him/her.
LE3, LE5, LE7, LE9, LE10, LE11, LE12, LE14, LE15, LE17, LE19, IE3, IE5, IE8, IE9, IE10, IE11, IE14, IE16, IE18, IE20	<ul style="list-style-type: none"> • Biological parents have the right to remain anonymous. • Parents who wish to remain anonymous and protect their human rights

Within the scope of the research, the answers given by the experts to the question "What legal and social challenges are encountered in implementing the child's right to know his biological parents and at the same time implementing the biological parents' rights to remain anonymous" were gathered under five headings in general. These are that information on donors is not stored for a long time; children and parents do not want to communicate; avoidance of possible confrontation with the child; inadequacy of legal regulations; biological parents want to remain anonymous and want to protect their own rights. The opinions of the participating experts on the relevant question are directly quoted below:

“For gamete donors: anonymity is desired, it is considered that by being a donor, you have provided society (someone) with (one-time) help. You don't want someone to contact you after N years with claims and offers to commit to him/her (to inherit your property, requiring communication, family-like relationships if the parenting family did not succeed in life/upbringing) (LE12)”. “We often hear of cases where even after finding biological relatives, the child is disappointed, because the relatives do not express the desire to communicate with him (IE8)”. “The Convention on the Protection of the Rights of the Child does not clearly define that a child has an absolute right to know his parents, it mentions that ‘a child has the right to know his parents’, but it is not discussed in detail (IE10, IE18)”. “The Civil Code of the Republic of Lithuania directly states that a child has the right to know his parents. The child's right to know his biological parents, enshrined in the United Nations Convention on the Rights of the Child, is not absolute. Considering the developed judicial practice, the main elements that must be

evaluated in the context of the child's right to know his biological parents are distinguished. Who is considered a "child" in a dispute situation who seeks to know his origin data, his age, what is the age of third parties affected by the disclosure of confidential information. Whether the "child" is a representative of a minority; what are the vital interests that lead the "child" to know the data of his origin, whether the disclosure of confidential information will cause more harm than good to the "child" (IE16, IE20)". "If the person being sought does not agree to communicate or does not want any information about him to be provided, the search procedure is immediately terminated by informing the other party (IE8, IE11, IE13, IE19)".

In particular, the fact that the laws are not clear enough and that parents wish to remain confidential can be seen as the most significant problem in this process. Parents often view confidentiality as their right and choose to maintain it. Moreover, refraining from communication is still a feasible choice, even when the child and family are able to find one another. The information regarding the responses that are prominent based on the participants' perspectives reveals notable legal and social deficiencies in enforcing children's right to know their biological parents in Lithuania:

1. **Lack of legal regulations:** A deficient legal structure hinders the complete enforcement of children's rights to understand their origins.
2. **Insufficient laws:** Existing legislation does not sufficiently address all important factors for children to obtain their biological data.
3. **Being anonymous:** The legal rule enabling biological parents to stay anonymous directly contradicts the children's right to understand their origins.
4. **Limited information:** The fleeting existence of information about biological parents frequently results in obstacles, obstructing children's quest for their identity.
5. **Not communicating:** There is frequently hesitance or a deficiency of legal frameworks to promote interaction between biological parents and their children, hindering the formation of possible relationships.

These obstacles highlight the challenges of reconciling parents' privacy rights with children's rights to understand their biological origins, emphasizing the necessity for more defined and thorough legal structures.

Table 5. Institutions that restrict the right of children to know their biological parents (compiled by the author based on research data)

Experts	Statements
LE2, LE3, LE4, LE5, LE7, LE10, LE11, LE13, LE16, LE19, IE2, IE4, IE6, IE9, IE11, IE12, IE14, IE17, IE19	<ul style="list-style-type: none"> • National and international legal acts • Maintenance obligation
LE1, LE2, LE6, LE8, LE9, LE12, LE14, LE19, IE1, IE2, IE3, IE7, IE10, IE13, IE15, IE18, IE19	<ul style="list-style-type: none"> • The Basics of Child Rights Protection • The Convention on the Rights of the Child
LE1, LE2, LE6, LE8, LE11, LE12, LE15, LE18, IE1, IE5, IE7, IE8, IE10, IE12, IE14, IE16, IE19, IE20	<ul style="list-style-type: none"> • The Civil Code • The paternity dispute institute. • Child Rights Protection of the Republic of Lithuania

The answers given by the experts to the question "What family law institutes restrict children's right to know their biological parents and why" are grouped under seven headings. These include national and international legal documents; duty of maintenance; Fundamentals of Child Rights Protection; The Convention on the Rights of the Child; Child Rights Protection in the Republic of Lithuania; The Civil Code; The institution of paternity disputes. Seven legal regulations and enforcement institutions play a crucial role in the relationships between children and parents.

Regarding the question of why, the answers were presented by directly conveying the opinions of the experts.

“Although the child's right to know his biological parents is enshrined in both national and international legal acts (LE1, LE7, LE18)”. “Parents ensure this right of the child. If this child's right is not ensured, state and municipal institutions and institutions take steps to ensure this child's right in accordance with the procedure established by laws and other legal acts (LE5, LE12, LE19)”. “One of the institutions restricting the child's right to know his biological parents is the paternity dispute institute. It entitles one of the parents to deny the legal fact of their child's origin and father/mother, thus ending the existing rights and obligations between the child and the persons (LE4, LE12, LE17)”. “Most often, adoptive parents, people who have undergone artificial insemination using the DNA of a stranger, do not want to reveal their true origin to the children, because they raise the children as their own biological ones (LE2, LE6)”. “Children's right to know their biological parents is limited by the fact that the right is valid if it does not violate the child's interests and laws (LE12, LE17, LE18)”. “Article 12 of the Law on the Basics of Child Rights Protection of the Republic of Lithuania. 1 d. provides: A child has the right to live with his parents. The child has the right to communicate with the separated parents (one or the only one of them), except in cases where this is against the interests of the child (LE11, LE17)”.

According to the opinions of the experts participating in the research, there are legal regulations necessary to reveal and regulate the relations between the parent and the child. Especially with this law and legal regulations, children's rights have been guaranteed and the protection of children has been determined as a priority. In particular, it is aimed that children get to know their parents and reveal their processes clearly and precisely. In addition, the legislation, which is a comprehensive assessment specific to Lithuania, focuses on the protection of children's rights to a great extent. Depending on the expert opinions (look appendix No. 1), it is understood that the most important restrictive institution is the paternity dispute institution. The strict and strict policies of the paternity dispute institution come to the fore in the process of obtaining information about and getting to know the fathers and mothers of the children.

Table 6. Practical problems of implementation of the right to know the biological parents of the child (compiled by the author based on research data)

Experts	Statements
LE1, LE2, LE3, LE6, LE8, LE9, LE10, LE12, LE14, LE16, LE 19, IE1, IE3, IE7, IE8, IE9, IE13, IE16, IE20	<ul style="list-style-type: none"> • ECHR • Respect for the foster parents
LE1, LE3, LE4, LE5, LE7, LE10, LE11, LE13, LE15, LE19, IE2, IE3, IE4, IE6, IE10, IE12, IE15, IE18	<ul style="list-style-type: none"> • • Fear of rejection • Loss of emotional connection
LE2, LE3, LE5, LE6, LE7, LE9, LE11, LE12, LE16, LE20, IE3, IE5, IE7, IE8, IE10, IE13, IE14, IE17	<ul style="list-style-type: none"> • Parents' reluctance and right to know. <ul style="list-style-type: none"> • Narrow court practice
LE3, LE4, LE5, LE6, LE7, LE10, LE11, LE13, LE16, LE19, IE1, IE3, IE6, IE9, IE10, IE11, IE15, IE19	<ul style="list-style-type: none"> • Desire to remain anonymous. <ul style="list-style-type: none"> • Lack of knowledge

The answers given by the experts to the question posed as Specify the problems of practical application related to the implementation of the child's right to know his biological parents, are grouped under seven headings. These are Respect for the foster parents; Fear of rejection; Loss of emotional connection; Parents' reluctance and right to know; Narrow court practice; Desire to remain anonymous; Lack of knowledge; Fear of rejection. It can be said that some problems have arisen in the practice of parent and child rights, which are guaranteed by the European Court of Human Rights in international standards. Especially the anxiety of rejection,

insufficient emotional connection and lack of knowledge are the problems highlighted by experts. Despite the legal guarantee, disruptions in bilateral relations can negatively affect the process. Expert opinions on the problems that arise in practice are given below:

“Article 8 of the ECHR and existing ECHR jurisprudence supports the idea that everyone can determine their identity as a human being and that this clearly includes the right to access information about the biological parents who inevitably contributed to their child's identity (LE3; LE7; LE19; IE10, IE14, IE19)”. “The most common problem related to the implementation of the child's right to know his biological parents is the reluctance of adoptive parents to reveal the truth to their adopted child for fear of rejection and a possible loss of emotional connection (LE7; LE14; LE18; IE8; IE12; IE20)”. “The right to know one's parents can be difficult to implement in the case of social and biological separation of parentage but In the Lithuanian legal system, the priority principle of protection and defence of children's rights and interests is enshrined (Article 3.3 d. 1 of the Civil Code), which means that, both when adopting and applying legal acts, and when solving issues that are not regulated by legal acts (LE5; LE8; LE19)”. “Parents who adopted a child may not give him permission to access the adoption documents until he is 18 years old. Another problem may be that the parents refuse to provide more information to the child who applied to the adoption agency (LE4; LE11; LE20)”. “Another relevant problem in this aspect is surrogate motherhood and artificial insemination, surrogate motherhood is not legalized in Lithuania, but assisted insemination services are increasingly being used. In these situations, there is a legal conflict between the anonymity of the biological parents and the natural right of the child to know his biological parents (LE2; LE9; LE17)”.

Although the legal basis for the relationship between parents and children has been established, especially by the European Court of Human Rights, it is seen that the problems in practice mostly originate from the parents. Basic problems such as lack of information, reluctance to communicate, and wanting to keep their identities hidden cause a bottleneck in solving the problem. In addition, narrow and limited make-up applications also intimidate parents. However, insufficient emotional attachment and fear of rejection can also cause parents to take a step back.

Table 7. The practical effect of this right (compiled by the author based on research data)

Experts	Statements
LE1, LE4, LE5, LE8, LE9, LE10, LE11, LE14, LE16, LE20, IE2, IE3, IE7, IE9, IE10, IE12, IE15, IE16, IE18	<ul style="list-style-type: none"> • Yes, a natural right. • Legal right • It is necessary to know the biological parents
LE2, LE3, LE5, LE6, LE7, LE10, LE12, LE13, LE16, LE19, IE1, IE3, IE4, IE8, IE10, IE13, IE15, IE18	<ul style="list-style-type: none"> • It's important to consider these emotions. • Depends on conditions
LE2, LE4, LE5, LE6, LE7, LE10, LE11, LE15, LE16, LE20, IE1, IE5, IE6, IE9, IE10, IE11, IE14, IE15, IE16, IE19	<ul style="list-style-type: none"> • Legal rights • Reluctance to communicate. • Remain anonymous

Are the practices regarding the right of children to know their parents effective? When asked about the question, experts expressed the view that children have natural rights. However, they also note that there are some problems in practice. It is known that there are problems in practice such as parents or relatives not wanting to communicate and the legal processes being quite long. In particular, the emphasis of some institutions on human rights and the desire of parents to remain anonymous may cause problems in practice. Expert opinions on this process are given below.

“Both international and national legislation clearly state that a child who does not know one or both of his biological parents has a natural right to know them, but the implementation of this right is not effective” (LE2; LE6; LE18; IE5; IE12, IE19). “Then you have to take into account the fact that the meeting with the biological parents can cause negative emotional reactions for both the child and the biological parents, which I also mentioned at the top, so it's important to consider these emotions and do your best to keep this encounter to a minimum traumatic for all involved” (IE4; IE17). “The rule enshrined in the United Nations Convention on the Rights of the Child protects the child's right to his origin, as well as CC 3.161. 2 d. provides for the child to know his parents if this does not harm his interests or the law provides otherwise. The mother's right to choose to give birth anonymously is provided for in the European Convention on Human Rights and Fundamental Freedoms” (LE1; LE18). “Conditions have been created for a child to find out his biological relatives, special institutions have been created to implement this process, to provide assistance to a person searching for his roots, but the implementation of this right is hampered by social factors,

reluctance of relatives to communicate” (IE3; IE19). “There is an increasing number of cases in European courts regarding the right to know one's genetic origin, and a trend is being observed that the child's right to know one's origin (this issue is particularly relevant in the field of inheritance of genetic diseases) is defended despite the donor's right to confidentiality” (IE11; IE20).

It has been clarified by experts that children want to know their parents and receive legal support in this process. In particular, the use of these rights by children has been established with a legal trust. However, the result is that there are some deficiencies in the process of exercising this right. Especially the parents' desire to remain anonymous, their unwillingness to communicate, or their relatives' reluctance to communicate stand out as barriers to effective use of this issue. It can be said that parents are prone to establish secure communication at the end of a certain process, but they are prone to breaking off due to the prolongation of legal processes and the emergence of different demands (inheritance, etc.). Although the use of the legal right is guaranteed by the European Court of Human Rights, it is seen that there are problems in practice due to the reasons stated above.

Table 8. Solutions to ensure the child's natural right to know his/her biological parents (compiled by the author based on research data)

Experts	Statements
LE1, LE4, LE5, LE6, LE7, LE10, LE12, LE15, LE16, LE18, IE2, IE5, IE6, IE8, IE10, IE11, IE14, IE15, IE16, IE19	<ul style="list-style-type: none"> • Appropriate legal mechanisms • Organize workshops and Education Activities <ul style="list-style-type: none"> • Raise public awareness
LE1, LE2, LE3, LE7, LE9, LE10, LE11, LE13, LE14, LE20, IE1, IE3, IE4, IE9, IE10, IE11, IE14, IE15, IE16, IE17	<ul style="list-style-type: none"> • Priority of the child's interest and the right to know their biological parent • Maintain a national registry of donors
LE1, LE3, LE5, LE8, LE7, LE10, LE11, LE15, LE16, LE18, IE2, IE3, IE7, IE9, IE10, IE12, IE13, IE15, IE16, IE19	<ul style="list-style-type: none"> • A clear definition of the law • Strengthening of laws

How do you think these problems could be solved in order to ensure the child's natural right to know his biological parents? It is possible to collect the answers given by the experts under six headings. These are Maintain a national registry of donors, A clear definition of the law, Interests of the child must be sought, Appropriate legal mechanisms, Organize seminar and Education Activities and Raise public awareness. In particular, the opinion that clear legal

regulations can facilitate this process stands out. In addition, it is also aimed to increase social awareness through awareness and training activities. Not being content with only legal regulations in the functioning of the social structure and increasing social awareness on this issue can help to eliminate the confusion. Expert opinions on this process are given below.

“A child's right to know his biological parents is one of his natural rights; therefore, it is necessary to take all necessary measures so that all children, regardless of the circumstances of their birth, can receive information about the identity of their biological parents. States that permit gamete donation should establish and maintain a national registry of donors and donor-conceived persons to facilitate the exchange of information, as well as to ensure that a child can find out his or her biological parents if needed” (LE4; LE15; LE19; IE2; IE8; IE19). *“I think a clear definition of the law is needed, which would explain the circumstances that give the right to find out one's parents by a court decision (e.g. not only a desire)* (LE3). *“Individuals are not equal in terms of subjective rights. A child is one of the weakest members of the legal society, who does not fully understand and cannot properly defend his rights. Therefore, the rights and interests of the child have priority over the rights of other persons. In all cases, the best interests of the child must be sought”* (LE2). *“These problems are not unsolvable; information is sought only in case of the applicant's request to find his biological parents”* (IE4; IE15; IE20). *“Due to the right to know one's biological parents in the practical application of EU countries, there are many problems with the regulation of norms (for example: conflict between mother and child), so in order to maintain a legal balance between human rights, in my opinion, appropriate legal mechanisms should be established to ensure the rights of each person existence”* (IE2; IE13; IE18). *“In my opinion, the public should be more informed, constitutional, child rights protection guidelines, etc. should be reminded. significant facts and institutions providing such services, social advertising, various seminars”* (IE7; IE18). *“One way to address these issues is to raise public awareness of a child's right to know his or her biological parents. Parents should be encouraged to provide their personal data so that children can learn about their origins”* (IE6; IE19).

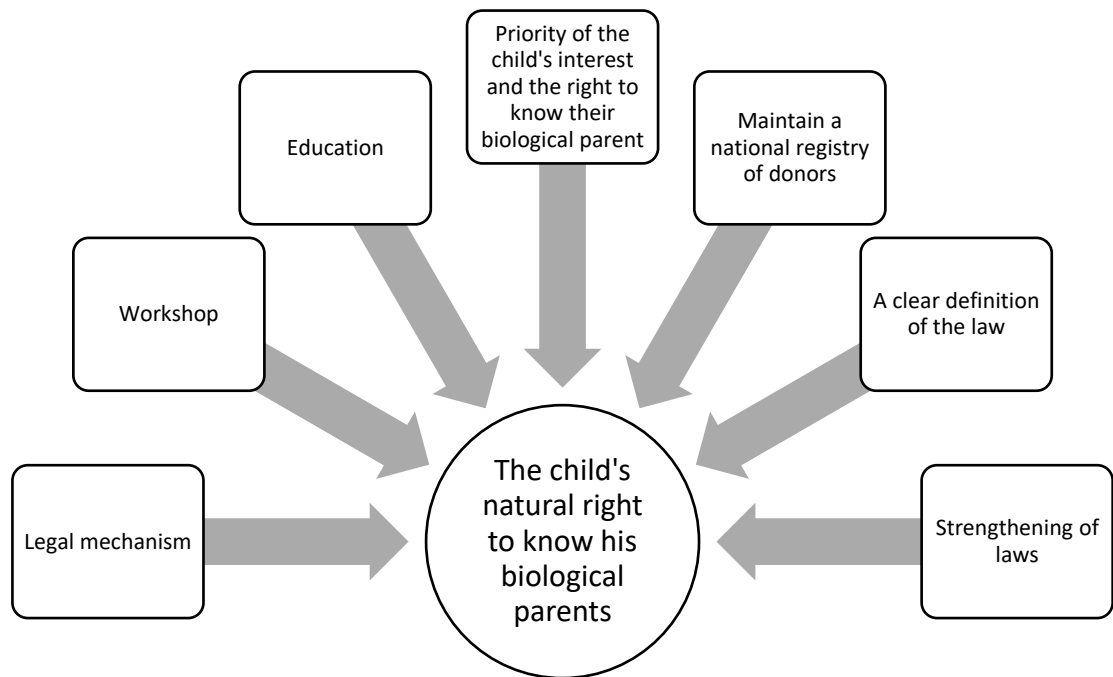


Figure 16. Problem Solving Options (compiled by author)

The social structure can function in a certain order with laws and laws. Laws become even more important at a sensitive point such as the regulation of family relations and the rights of children and parents. However, together with the legal regulations, the wishes of individuals, their right to recognition or their requests to remain anonymous should also be taken into account. For this, it is inevitable to increase the level of awareness. Accurately informing and directing people through education and awareness activities can lead to positive results in terms of both children's rights and parental rights.

Result 7. Has the development of biotechnology, smart solutions and scientific progress opened more legally sensitive legal issues in determining the child's biological parents?

All of the experts participating in the research answered yes to the question of whether „has the development of biotechnology, smart solutions and scientific progress opened up more legally sensitive legal issues in determining the child's biological parents” and stated that they facilitated the relevant processes.

Within the scope of the research, all of the participants answered yes to the question of whether the developments in biotechnology help children get to know their parents and eliminate the uncertainties in this process. In particular, the opinion that biotechnology removes many uncertainties at the point of recognizing and detecting the family through DNA and donor sperm dominates. It has been stated that very useful technologies are used especially in identifying biological parents and recognizing children's families. Expert opinions on the processes of biotechnology for children to recognize their parents are given below.

“The development of biotechnology, smart solutions and scientific progress in determining a child's biological parents has opened up many legally sensitive legal issues, which means that all of this can affect the various needs of children in a way that could negatively affect their rights as individuals” (LE1). “Yes, the development of biotechnology, smart solutions and scientific progress has opened more legally sensitive legal issues related to the identification of biological parents and the child's right to know his biological parents. Modern technologies such as artificial insemination are tied to new legal issues of how to determine who are biological parents, what to do when there are multiple potential biological parents, and in which cases they may be most wanted” (LE4). “For example: sperm or egg donation in Lithuania is completely anonymous and is defined as the right of individuals to private life, in such a case it becomes practically impossible to realize the child's right to know his biological father” (LE3).

It is known that assisted reproduction has become increasingly widespread, especially in recent years, and the uncertainties between the family and the child have increased in this direction. However, it is known that these uncertainties disappear with the use of biotechnology applications. DNA scans have become easier and parent and child identifications have accelerated. The coded expert opinion, which draws attention to how easy this process is, is as follows:

“The number of people who were born only because of assisted reproduction is increasing every year. So, it is natural that there are more and more requests to find their biological parents. Since such requests are increasing, the legislator is forced to create or change existing norms so that one value is no less protected than another (anonymity)” (IE4; IE12; IE19).

In addition, it is known that in Lithuania, sperm and egg donations are implemented on the basis of confidentiality with laws and laws. However, as stated above, this secrecy can lead to increased uncertainty and some disruptions in practices. Experts comment on how biotechnological developments will contribute to the elimination of these uncertainties as follows.

“Sperm or egg donation in Lithuania is completely anonymous and is defined as the right of individuals to private life, in such a case it becomes practically impossible to realize the child's right to know his biological father. Information related to donation and the specific use of cells for artificial insemination is confidential. The identity of the donor will not be revealed to future parents, except for information about the individual's genetic and

anthropometric data, which cannot reveal identity. The donor also cannot receive information about the people who have decided to use the donor's cells. To protect the identity of the donor, it is prohibited for any person to apply to establish biological paternity” (LE12; LE18; LE20).

Technological progress affects every aspect of life. It is especially useful in facilitating human life. Medicine and treatment methods are at the forefront of the fields affected by technology. With the support of the biotechnological infrastructure with technology, DNA tests give reliable and valid results depending on the research. In this way, especially the processes of finding and recognizing the parents of children can be fast and easy. All of the experts participating in the research point out that these developments bring strong solutions to the research question.

Result. 8 Does this mean that scientific progress and legal uncertainty can affect the various needs of children and violate their rights?

All of the experts participating in the research answered yes to the question of whether „Does this mean that scientific progress and legal uncertainty can affect the various needs of children and violate their rights”.

Within the scope of the research, all of the experts answered yes to the question, "Can the developments in biotechnology cause legal problems for children and parents to arise?" The complex and inadequate legal infrastructure does not allow every result to have an accurate effect. It's legal at this point. It is noted that gaps can cause some problems. Expert opinions on this subject are given below.

“New technologies can also increase the likelihood that children's rights will be violated, such as when personal data is not securely stored or transferred to an unwanted person. Therefore, these issues need to be carefully examined and addressed to ensure the well-being and rights of children” (IE11; IE15; IE18). “Although human rights laws establish that children are full rights holders, there is no doubt that scientific progress and legal uncertainty are infringing on children's needs and rights. Despite the inevitable difficulties in reaching a global agreement” (LE14; LE19). “Yes. To ensure mutual protection of the rights of both children and surrogate parents or donors, it is necessary to update the existing legal acts, which would be harmonized with each other and do not violate the rights of the listed persons” (LE13; LE18; LE19).

Despite the technological progress, it is understood that sufficient steps have not been taken in the development of national and international legal infrastructure. It is stated that legal

progress should be accelerated in parallel with today's developments. Regarding the inadequacy of legal regulations, experts state that legal progress lags behind technology.

“Legal regulation lags rapidly expanding science. They are trying to solve one problem with one issue, but the legal system lacks the regulatory issues that arise to protect the rights of the child in this case. Therefore, it affects the child's needs and interests in one way or another.” (LE3; LE9; LE12; LE17; IE2; IE7; IE17). *“We cannot rule out the possibility that scientific progress and legal uncertainty may affect the various needs of children and violate their rights. Legal uncertainty alone can allow new problems and interpretations to arise. The existing legal acts may not adequately protect the legitimate interests of individuals”* (LE4; LE11; LE16; IE5; IE14; IE16).

In addition, the opinion that legal uncertainties and inadequacies should be eliminated not only for the identification of children or parents, but also for the protection of their rights is gaining weight. In this situation, which is one of the most sensitive issues in society, it is important to strictly protect the rights of the parties. Experts on this point present their views as follows.

“In order to ensure mutual protection of the rights of both children and surrogate parents or donors, it is necessary to update the existing legal acts, which would be harmonized with each other and do not violate the rights of the listed persons” (LE4; LE16; LE20; IE5; IE13; IE20). *“With the progress of science, there are also new, vaguely legally regulated obstacles to the realization of children's rights”* (LE4; LE12; LE16; IE5; IE6; IE14). *“In order to regulate the impact of biotechnology in 2005 the Universal Declaration on Bioethics and Human Rights was adopted, Article 3 of which it is established that human dignity, rights and basic freedoms must be fully respected, therefore, compared to the interests of science, the article expresses the priority of human interests and the protection of well-being”* (LE3; LE13; LE16; IE5; IE11; IE18).

The most important instrument of social life is the family institution. It is very important to protect this institution and strengthen it in social life. It is a very natural process for children to want to know their parents or for families to want to find their children. However, in order for this process to be managed properly, the legal infrastructure needs to be strengthened and legal regulations must be operated effectively. While trying to strengthen the family institution, it is necessary to protect the basic human rights of children and parents and to take steps in this context. As stated in the declaration of human rights, human rights and responsibilities are sacred. The

preservation of this sanctity and the correct management of the process depend on the strong construction of legal regulations.

The research was conducted with the participation of 40 experts (the Lithuanian representatives of the sample group consisted with a group of 20 experts and the international representatives of the sample group was 20 experts) on child and parent rights. The answers and statements of the experts to the research questions were tried to be presented by quoting directly. The answers given by the experts to the 8 questions directed to the experts within the scope of the research are presented as a summary (see appendix no. 1).

The research focuses on the children's right to know their biological parents, and the problems and solutions that may arise in this process. In particular, the lack of legal regulations stands out. In recent years, children's demands for getting to know their parents have increased, according to expert opinions. At the beginning of the problems encountered in this process, it is striking that parents want to remain anonymous, do not want to communicate and especially avoid emotional bonds. Again, reluctance of not only parents but also relatives is perceived as an important problem. Parents who are not informed about the process and children who do not fully know their rights also represent an important part of the process. Depending on the developments in technology in recent years, the opinion that the detection of parents and children has definitely become easier. However, according to experts, such progress can cause problems. Finally, while the experts emphasize the inadequacy of the legal basis, they state that the laws should be strengthened and implemented effectively.

3.3. The practical settlement of legal regulation of children's right to know their biological parents

Considering the problematic aspects of the legal regulation of children's right to know their biological parents identified in the third chapter of the dissertation, related to violations of the implementation of children's rights, rational solutions to the identified problems are presented in this chapter. For the results of the empirical study to be useful for improving both the national and international legal framework and to maximize practical applicability, the purpose of this chapter is to present rational and as specific as possible proposals to the legislator for the implementation of children's right to know their biological parents.

3.3.1 Analysis of cases related to the child's right to know his biological parents

Children's rights are of a special nature due to the very identity of children as rights holders, and the inability to determine what this means in theory shows fundamental difficulties

in solving issues related to the implementation of children's rights in practice. It should be noted that adoption cases in Lithuania are not publicly available. Cases of this type are heard in closed court sessions. The legal regulation of assisted reproduction in Lithuania is at an initial stage. Any kind of surrogacy is prohibited in Lithuania in general (it is not legalized). Therefore, it is difficult to base the child's right to know his biological parents on examples of Lithuanian court practice, so this chapter will analyze the cases of foreign courts, including the ECtHR, which resolve issues related to the child's right to know his biological parents.

3.3.2. Practical issues related to the adopted children's right to know their biological parents

Adopted children usually face violations of the right to know their biological parents. This right is also violated if children are conceived through assisted reproduction or born in the case of surrogacy. The problem is deepened by the fact that children search for their biological parents and try to restore contact with them only when they become adults. Children's desire to understand who their biological parents are and where they come from is practically innate⁵⁷⁶. This is *an understandable aspiration and human desire that helps fill and expand the worldview of an adult child*. Knowing one's origin can help explain certain personality traits or reveal the causes of certain diseases, but confidentiality is considered a very important aspect in both adoption and assisted reproduction and surrogacy processes. Today, most states keep sealed records of all or most adopted children. Such a situation severely limits or even deprives children of the opportunity to find out their origin and biological parents. To identify the problems that arise when an adopted person seeks to exercise his right to know his biological parents for medical reasons, it is worth mentioning the 2016 March 11 Decision made by the Iowa Supreme Court⁵⁷⁷. In this case, the adoptee (RD) appealed a juvenile court order denying a request to disclose adoption records to identify biological parents. According to the case, the married couple gave up their newborn daughter for adoption, and the adoption records were sealed. When RD turned six, her adoptive parents told her she was adopted. RD felt the loss of her biological family, and the lack of knowledge about her origins caused her anxiety, depression, and alcohol addiction. RD, an adult, petitioned the juvenile court pursuant to Iowa Code section 600.16A(2) (d), which allows access to adoption records “if the adoption records are necessary to save the life or prevent irreparable

⁵⁷⁶ Riaño-Galán, I., Martínez González, C., & Gallego Riestra, S. (2021). Ethical and legal questions of anonymity and confidentiality in gamete donation. *Anales de Pediatría (English Edition)*, 94(5), 337-e1. DOI: 10.1016/j.anpedi.2020.07.009

⁵⁷⁷ Iowa Supreme Court, “Supreme Court Opinions Archive,” 2016, Retrieved 07.14.2024, From: <https://www.iowacourts.gov/iowa-courts/supreme-court/supreme-court-opinions/opinions-archive>.

physical or mental harm to the adopted person or persons posterity". RD provided evidence that not knowing her biological family history was the root cause of her mental health problems and that learning the identities of her biological parents would help her recover ⁵⁷⁸.

A juvenile court has clarified that Iowa's adoption law does not contain a provision that allows biological parents to file a statement agreeing to or objecting to the disclosure of their identities. The court recognized that the medical data submitted by RD proved that the opening of the adoption records is necessary to save her life or prevent irreparable physical and mental damage, but after examining the adoption records, the court found that they do not contain any important medical information, except for the identity of her biological parents ⁵⁷⁹. Moreover, the law forbids publishing their names and emphasized that confidentiality is the most important thing in adoption statutes, so RD rejected the request. Disagreeing with the court's decision, the applicant appealed to the Iowa Supreme Court, which also found that, although revealing the identities of RD's parents would help treat her depression and anxiety, there was no guarantee that her problems would be resolved once she found out. The court held that the anticipated medical therapeutic benefit of learning the identities of her biological parents did not outweigh the statutory provision to protect the identities of the biological parents and concluded that the legislature's balance in maintaining confidentiality mandated that RD's request to disclose the identities of her biological parents be denied⁵⁸⁰.

Another case analyzed also dealt with the issue of disclosure of biological parents' identities. S. J. D. was adopted. After the district court denied his request to disclose confidential information about his adoption so that he could learn the identities of his biological parents, the applicant appealed to the Iowa Supreme Court ⁵⁸¹. His adoptive parents did not object to the search for the adoptee's biological parents. The applicant stated that he wants to know his biological parents to satisfy his curiosity and obtain medical information, which arises from his own mental condition (suffering from manic depression at the age of 15). The applicant testified that he wanted to know whether manic depression is hereditary because he expressed concern about the health of his two biological children. The court found that the applicant proved that he had been treated for a mental illness but did not provide any medical evidence that this disorder could be hereditary and is linked to his status as an adoptee⁵⁸². The evidence presented does not establish that he needs

⁵⁷⁸ Carp, W. E. (2017). Adoption and disclosure of family information: A historical perspective. In *A history of child welfare* (pp. 210–233). Routledge.

⁵⁷⁹ *Ibid.*

⁵⁸⁰ Roach, W. H., Jr. (1991). Legal review: Access to adoption records--Recent developments in case and statutory law. *Topics in Health Record Management*, 11(3), 81–87.

⁵⁸¹ Supreme Court of Iowa, IN RE: the adoption of s.j.d. (2002) (April 3, 2002).

⁵⁸² Carp, W. E. (2017). Adoption and disclosure of family information: A historical perspective. In *A history of child welfare* (pp. 210–233). Routledge.

the identifying information to save his life or the adopter's offspring, or to prevent irreparable physical or mental harm to himself, and the minimum proof is necessary to meet the high standard of compelling reason established by the legislature. The court stated that confidentiality is the most important criterion of adoption statutes and indicated that no constitutional or personal right is unconditional and absolute, excluding the rights of all other persons. The court ruled that the adopted persons' right to information is in direct conflict with the biological parents' right to privacy, and therefore rejected the request⁵⁸³.

New York law states that adoption records are confidential and must be sealed once the adoption is finalized. K.E., who was adopted, petitioned the Queens County Family Court to unseal the adoption case and provide him with a copy of the original birth certificate, even though he has been in contact with his biological mother for the past ten years⁵⁸⁴. The court found that the applicant knew his personal history because he was over 14 years old at the time of the adoption, and his consent to adoption was required. The court said that a person can request access to sealed adoption records and disclose them for medical reasons, and in the absence of an urgent medical need, the applicant must state a good reason why such information is needed. The court found that the applicant's original birth certificate did not contain any identifying information relating to his biological father, nor was there any statement from the applicant's biological mother to support his claims regarding their relationship. The court decided that the adoptee's curiosity or desire to learn more about his biological parents and to have a copy of the original birth certificate is not an important reason to reveal the identities of his biological parents, and therefore rejected the applicant's request. The compatibility of the mother's right to remain anonymous and the child's right to know his or her origin as an adopted child can be analyzed by examining the jurisprudence of the ECtHR. As already mentioned, the laws of Italy and France allow a woman to give birth anonymously and not to recognize her child while at the same time agreeing that the child should be adopted⁵⁸⁵.

The conflict of interest between the child and his right to know his origin as an adopted child, as well as the biological mother's right to remain anonymous, was examined by the ECtHR in *Godelli v. Italy*. A woman (the applicant) who was adopted after being abandoned at birth brought the case. The applicant, an Italian citizen, was abandoned after giving birth by her mother, who did not agree to her name being entered on the child's birth certificate. When she was 10 years

⁵⁸³ Ball, J. R., & Omenn, G. S. (1980). Genetics, adoption, and the law. In *Genetics and the law II* (pp. 269–281). Springer.

⁵⁸⁴ Roach, W. H., Jr. (1991). Legal review: Access to adoption records--Recent developments in case and statutory law. *Topics in Health Record Management*, 11(3), 81–87.

⁵⁸⁵ Roach Jr, W. H., & Silverman, B. S. (2001). The winds of change in adoptions laws: Should adoptees have access to adoption records? *Family Court Review*, 39(1), 85–103. DOI: 10.1111/j.174-1617.2001.tb00591.x

old, the applicant's adoptive parents informed her that she was not their biological child. As an adult, she began to search for information about her biological mother, but to no avail. The applicant's requests to the Italian courts were rejected because Italian law protects the mother's right to remain anonymous. The applicant then applied to the ECtHR claiming that the refusal to provide her with information about her birth violates her right to respect for family and private life according to Article 8 of the ECHR. The applicant stated that she suffered significant damage due to not knowing her personal history and complained that the legislator was prioritizing the mother's interests⁵⁸⁶.

The applicant also stated that according to UNCRC Article 7 a child has the right from birth to know his parents as far as possible. And the Hague Convention on the Protection of Children and Cooperation in the Field of Intercountry Adoption, also ratified by Italy, provides that it is the duty of the competent authorities of the State to ensure that the information they have about the child's medical history, the identity of his parents would be preserved. The ECtHR linked the right to identity with knowing the identity of the parents and determined that the right to identity, which includes the right to know one's biological parents, is an integral part of private life protected by Article 8 of the ECHR⁵⁸⁷. In this case, both the woman who gave birth and the child have a right to privacy, but their interests are competing. On the one hand, the applicant's right to receive information about her origin, on the other hand, Italian law gives women the right to remain anonymous after giving birth. The ECtHR found that in the case at hand the applicant's attempt to establish her identity was automatically rejected, meaning that when a born child seeks information about its parentage, Italian law unequivocally favors the mother who wishes to remain anonymous⁵⁸⁸.

The ECtHR ruled that although Italian law did not provide for a procedure whereby the mother could revoke the request for anonymity. The case did not consider the interests of the child. I.e. the right balance between the interests in question was not established, because the legislation in cases where the mother decided not to reveal her identity prevented a child who was not officially recognized at birth and was adopted from demanding information about his origin or revealing the identity of the birth mother with the latter's consent. The ECtHR concluded that the

⁵⁸⁶ Agosta, S. (2021). Coming without coming from: The adoptee's right of access to origins within the constraints of maternal anonymity. *BioLaw Journal - Rivista di BioDiritto*, 1(S), 171–185. DOI: 10.15168/2284-4503

⁵⁸⁷ Margaria, A. (2014). Anonymous birth: Expanding the terms of debate. *The International Journal of Children's Rights*, 22(3), 552–580. DOI: 10.1163/15718182-02203009; Gerards, J. (2013). How to improve the necessity test of the European Court of Human Rights. *International Journal of Constitutional Law*, 11(2), 466–490. DOI: 10.1093/icon/mot003

⁵⁸⁸ Van der Sloot, B. (2015). Privacy as personality right: Why the ECtHR's focus on ulterior interests might prove indispensable in the age of big data. *Utrecht Journal of International and European Law*, 31(80), 25–50. DOI: 10.5334/ujiel.dg

Italian state violated Article 8 of the ECHR by not allowing children born "anonymously" to get access to any information about their origin⁵⁸⁹.

The case of *Odièvre v. France*⁵⁹⁰, which also deals with the child's right to know his biological mother and the mother's right to give birth anonymously, was the opposite of the case before it. The applicant stated that after giving birth anonymously, she was placed in foster care and later adopted. As an adult, she appealed to the French social services claiming that her right to know her origins had been violated because she did not have access to information about the circumstances in which she was born and abandoned and that would help identify her biological mother. The French social services only gave her access to some information about the biological mother from the adoption records, but it was not enough to identify the mother. The applicant then appealed to the ECtHR stating that she was unable to obtain information about her natural family, which is contrary to Article 8 of the ECHR. The applicant stated that the inability to identify her birth family was very damaging to her as it deprived her of the opportunity to reconstruct her life story. The court decided to examine the case from the perspective of private and not family life, as the applicant's claim to have the right to know her personal history in the name of biological truth was based on the inability to obtain access to information about her origin and related identification data. The court noted that there are two competing interests in the case under consideration: on the one hand, the right to know one's origin is a vital interest of the child for its personal development, and on the other hand, the woman's interest in remaining anonymous in order to protect her health during childbirth in healthy conditions. In this regard, the court noted that the applicant was adopted and that disclosure without consent could pose a significant risk not only to the mother herself, but also to the adoptive family, the biological father, each of whom also has the right to respect for their personal and family life. The court also stated that the French legislation aimed to protect the health of the mother and the child during childbirth and prevent illegal abortions, and the right to respect for life was one of the goals of the French system. The ECtHR recognized that people have a fundamental right to know their origin, but also found that the mother had a legitimate interest in remaining anonymous and emphasized that the right to information about her origin and the identity of her biological parents is an essential element of an individual's personality. The ECtHR recognized that people have a fundamental right to know their origin, but also found that the mother had a legitimate interest in remaining anonymous and emphasized that the right to information about her origin and the identity of her biological parents is an essential element of an individual's personality. The ECtHR found that France did not violate

⁵⁸⁹ Agosta, S. (2021). Coming without coming from: The adoptee's right of access to origins within the constraints of maternal anonymity. *BioLaw Journal - Rivista di BioDiritto*, 1(S), 171–185. DOI: 10.15168/2284-4503

⁵⁹⁰ European Court of Human Rights, *Odièvre v. France* (February 13, 2003).

Article 8 of the ECHR because it succeeded in ensuring a fair balance between the competing interests of the child and the mother. HR found that France did not violate Article 8 of the ECHR because it succeeded in ensuring a fair balance between the competing interests of the child and the mother⁵⁹¹.

The case in Quebec, Canada

In 2017, Quebec adopted the Act to amend the Civil Code and other legislative provisions as regards adoption and the communication of information (LQ 2017, c 12). This reform marks a significant turning point in the liberalization of access to the origins of adopted persons. This text analyzes the French system, dating from January 22, 2002, and the recently reformed Quebec system, both of which expressly provide adopted persons with access to the identity of their parents of origin. Since two legal systems are comparable, at least within certain limits, a comparison of their differences highlights the advances and shortcomings inherent in each of them with regard to the stated objective⁵⁹².

Adoption in Quebec is based on the civil law tradition, as it is in French law. Both countries share a statutory framework, with an administrative phase and a judicial phase. What's more, French and Quebec adoption "are [generally] based on the same principle: the best interests of the child". the aim is to give parents to children who have no filiation or who have been abandoned and are in need of protection. In France, as in Quebec, adoption can be associated with the secrecy of biological parentage. Even if this French specificity makes the comparison more difficult, especially as children born under X are particularly sought-after in France by those wishing to adopt a child, the fact remains that in France and Quebec, children adopted or taken in by social services have long been confronted with silence about their origins, or with fragmentary information about the history of their abandonment or adoption. In an attempt to respond to these people's questions about their origins, each of the jurisdictions under study has sought, on the one hand, to limit the possibility for the parents of origin to request that their identity remain secret at the time of the child's abandonment, and on the other hand, when the origins have remained secret, to make such secrecy reversible. In this endeavor, the reforms in both Quebec and France have come up against the same limits: forcing parents of origin to reveal their identity is hardly a conceivable policy, given that the State had guaranteed them permanent confidentiality when the child was handed over to the social services for adoption⁵⁹³.

⁵⁹¹ Callus, T. (2004). Tempered hope - A qualified right to know one's genetic origin: *Odievre v France*. *Modern Law Review*, 67, 658. DOI: 10.1111/j.1468-2230.2004.00503.x

⁵⁹² Henrion, R. (2003). Access to personal origins: The new French law. *Bulletin de l'Académie Nationale de Médecine*, 187(8), 1587–1596.

⁵⁹³ Lavalley, T. L. (2005). Honouring Jordan: Putting First Nations children first and funding fights second. *Paediatrics & Child Health*, 10(9), 527–529. DOI: 10.1093/pch/10.9.527

After the analysis of the cases related to the right of an adopted child to know his biological parents, it is observed that the ECtHR's decisions on the right of a child to know his biological parents include the right to identity. In addition, are an integral part of the concept of private life, usually evaluated according to Article 8 of the ECHR (right to private and family life)⁵⁹⁴.

In conclusion, it can be said that the right of an adopted child to know his biological parents is not absolute and must be balanced with the rights of other persons, such as the right of a woman to give birth anonymously. Although a woman can give birth anonymously in both Italy and France, when comparing cases brought on the same basis, the ECtHR made different decisions. The ECtHR found that Italy, unlike France, failed to strike a balance of interests and therefore crossed the threshold of assessment. The mother's right to anonymity, being irreversible and absolute, prevents the child from demanding information about his biological parents. It should also be noted that courts rarely exercise their authority to unseal adoption records when adoptees request disclosure of information about their biological parents for medical reasons. Moreover, that higher court rarely overturn denials of access to documents, often citing the rights of biological parents and even adoptive parents to privacy on the basis that a compelling reason must be established for the disclosure.

3.3.3. Analysis of legal issues related to the right of children conceived through assisted reproduction to know their biological parents

As for the legal problems faced by the courts when examining cases related to the right of children conceived by assisted reproduction to know their biological parents, a case should be mentioned in which the child's right to know his origin outweighed the donor's (biological father's) right to anonymity and medical confidentiality. In Germany, there was a case in which the 12-year-old and 17 The sisters (plaintiffs), represented by their legal parents, appealed to the German Supreme Court ⁵⁹⁵ (Bundesgerichtshof) after the reproductive clinic (defendant) refused to provide information about their biological father, i.e. i.e. refused to reveal the identity of the sperm donor. The sisters were born after heterologous (using donor gametes) insemination, which was carried out on the plaintiffs' mother. This method of treatment was based on an agreement with the mother and the legal father, who were married, and in the notarial declaration, the spouses' renounced information about the identity of the sperm donor. The court rejected the lower court's argument

⁵⁹⁴ Frostell, K. (2020). Welfare rights of families with children in the case law of the ECtHR. *The International Journal of Human Rights*, 24(4), 439–456. DOI: 10.1080/13642987.2019.1634553

⁵⁹⁵ Germany Federal Court of Justice, Judgment of January 28, 2015 - XII ZR 201/13 (January 28, 2015).

that there should be a minimum age of 16 for children seeking information about their donor. age and asserted that it should be assumed that a child can have a desire to know his parents regardless of his age and it is natural that such a desire does not appear only when the child reaches the age of 16. The court found that the sperm donor's right to informed decision-making, i.e. i.e. decide for yourself what details about your private life to reveal to the wider public, based on Article 2 of the German Constitution 1 chapter the child's right to know his heritage is defined⁵⁹⁶.

The court stated that the balancing test between the basic rights of the child and the donor must consider the fact that the donor must accept a certain social and ethical responsibility towards the child and reasoned that the donor's economic interests were irrelevant in the balancing test. According to the court, a child's right to know his heritage also overrides a doctor's right not to disclose information about his patients. The court stated that Article 7 of the UNCRC enshrines the child's right to know his parents, as far as possible, without specifying age, therefore states should not set arbitrary age limits for this right. The court found that the possible negative impact on the donor's private life must be considered, but whether it is reasonable to require the doctor to provide information about the donor's identity must be decided on a case-by-case basis after fully assessing the specific fundamental rights. The court found in this case that a child's right to know generally carries "greater weight" than a donor's right to remain anonymous. In addition, held that the right to know one's parents does not require any minimum age for the child and that children of all ages have a right to know the identity of their father's donor, but applied condition - the parents must prove that the child requested such information. Until the ruling, German courts had held that children born from gamete donors could not ask for the identities of their biological parents to be revealed until they turned 16, but the decision was a game-changer⁵⁹⁷. in 2018 July 1 the Law on the Sperm Donor Register came into force, according to which the data of donors and recipients must be stored in the nationwide central register of sperm donors in order to ensure that children can later defend their right to know their biological parents⁵⁹⁸. In order to find out how the child's right to know his biological parents was implemented in Germany after the adoption of this law, the case in which this right was sought is analyzed. According to the data of the case, the plaintiff learned that her mother underwent assisted heterologous fertilization at the age of 23. She then decided to get to know her biological father and asked the reproductive clinic

⁵⁹⁶ Stjepanovic, B. (2018). The right of a child started with assisted reproduction aid to get information of its donors - Comparative law solutions. *Strani Pravni Zivot*, 233.

⁵⁹⁷ Frith, L. (2001). Gamete donation and anonymity: The ethical and legal debate. *Human Reproduction*, 16(5), 818–824. DOI: 10.1093/humrep/16.5.818

⁵⁹⁸ Ash, M. (2024). The rights of donor-conceived persons in Colorado: America's first foray into abolishing anonymous gamete donation. *Indiana Law Journal*, 99(3), 7.

(the defendant) to provide information about his identity, but the clinic refused to provide such information on the grounds that it was prohibited by medical confidentiality⁵⁹⁹.

When concluding the contract, the clinic guaranteed anonymity to the sperm donor, and when contacting the donor, he also forbade revealing his identity to the plaintiff. The plaintiff sued Klinka, but he also rejected the plaintiff's claim. The court indicated that this right of the plaintiff is rejected by the legally protected interest of the sperm donor, who could and can rely on confidentiality. The plaintiff did not agree with the decision and appealed to the German Supreme Court ⁶⁰⁰, which stated that knowledge about one's origin is necessary for the formation of a person's identity, and the inability to find out where one comes from can be a great burden. The court emphasized that the basic rights of the sperm donor must also be taken into account, and for this reason, the child's interests related to his origin must be balanced with medical confidentiality and the donor's right to anonymity. In the end, the court ruled that the child's interest in knowing whom he came from carries so much "weight" that the clinic's confidentiality and the sperm donor's interest must take second place to the child's interest. The analyzed decisions confirm the trend in Germany - children born through assisted reproduction have the right to know their biological parents. To find out whether children born through assisted fertilization in France were able to receive information about their biological parents, cases that have reached the ECtHR should be mentioned, but the final decisions have not been made. A. Gauvin-Faurins was born after assisted fertilization using donor sperm. When she came of age, her parents revealed the method of conception to her. In 2010 the applicant applied to the Center for Reproductive Technologies. She wanted to know the identity of the donor as well as other non-identifying information, i.e. i.e. donor's age, professional status, physical description, reasons for donation and medical data related to her history. However, the request for the principle of anonymity of gamete donation was rejected, stating that access to a person's origin is a recognized, but not an absolute right, and reminding of the important freedom of state assessment in this matter ⁶⁰¹.

The applicant then appealed to the administrative court. She submitted a medical certificate drawn up by a psychiatrist, which stated that the applicant suffered a severe identity crisis due to the secret of her origin in 2012 decision. The court also rejected the request stating that the information contained in the gamete donor's file, used during medical fertilization, is a secret protected by law, primarily guaranteeing the preservation of the donor's anonymity. The applicant filed an appeal in which she relied on court practice condemning the system of total

⁵⁹⁹ Zaami, S. (2018). Assisted heterologous fertilization and the right of donor-conceived children to know their biological origins. *La Clinica Terapeutica*, 169(1), e39–e43. DOI: 10.7417/T.2018.2040

⁶⁰⁰ Germany Federal Court of Justice, Judgment of January 23, 2019 - XII ZR 71/18 (January 23, 2019).

⁶⁰¹ Stjepanovic, B. (2018). The right of a child started with assisted reproduction aid to get information of its donors - Comparative law solutions. *Strani Pravni Zivot*, 233.

secrecy and argued that the right to know one's origin can be restricted only in the case of opposing high-value interests. She indicated that the protection of the donor's interests could not be a sufficient argument to deprive her of Article 8 of the ECHR guaranteed right. The French civil service dismissed the complaint, arguing that the rule on the anonymity of egg and sperm donation is intended to protect the private and family life of donors, recipients, and their families, and that the legislator had carried out a balanced assessment of the risks associated with the lifting of secrecy. Based on Article 8 of the ECHR the applicant submitted a request to the ECtHR, in which she stated that her right to know her origin had been violated. She argued that the Council of State confused the issue between the secrecy of a third-party donor that parents can choose to disclose to a child and the denial of access to information about her parentage and parentage. The applicant claims that this rule violates her right to be informed about her origin and is discriminatory ⁶⁰².

The applicant's complaint has not been examined at the ECtHR, but the relevance of these problems related to the legal impossibility of a person born through assisted fertilization to know the donor's identity is also shown by the fact that on the same day the identical case of *Silliau v. France* ⁶⁰³ was received at the ECtHR. *C. Silliau*, as in the previously mentioned case, was born through assisted fertilization and when he was already an adult, his parents revealed to him the method of his conception. After this information, the applicant sought in every possible way to find out the identity of the donor, to get access to medical information, etc. non-identifying information, but also unsuccessfully, with all requests denied.

In the cases mentioned, the applicants took steps to find out the identities of their biological parents and obtain some identifying and non-identifying information, but their efforts were thwarted by the legal rules regarding egg and sperm donation, as French law prohibited the disclosure of the donor's identity and only doctors could provide it. real non-identifying information for treatment purposes. However, the practice of France and the ECtHR confirmed the need to change French legislation, so in 2022 September 1 entered into force in 2021 France's bioethics law, which meant that gamete donation would no longer be anonymous. Children born through assisted reproduction will be able to request access to this information before reaching the age of majority ⁶⁰⁴.

In conclusion, it can be stated that the right to know their biological parents is allowed or restricted for children born through assisted fertilization, more or less drastically, depending on

⁶⁰² Parliamentary Assembly, "Anonymous Donation of Sperm and Oocytes: Balancing the Rights of Parents, Donors and Children," 2019, Retrieved 07.13.2024, From: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=27680>.

⁶⁰³ European Court of Human Rights, *Silliau c. France* (communicated) (June 5, 2018).

⁶⁰⁴ *Le Monde*, "End of Automatic Anonymity for Sperm and Egg Donors in France," *Le Monde.Fr*, September 1, 2022, Retrieved 07.21.2024, From: https://www.lemonde.fr/en/france/article/2022/09/01/end-of-automatic-anonymity-for-sperm-and-egg-donors-in-france_5995495_7.html.

the laws adopted by each country regulating this institution. The anonymity of gamete donation violates the child's right to identity, which includes his right to know his biological parents, and therefore states' arguments based on the alleged absolute nature of anonymity should be dismissed.

3.3.4. Restrictions on the child's right to know his biological parents in case of surrogacy

In many countries, surrogacy is not specifically regulated by targeted legislation, so the role of the courts is undoubtedly very important, especially in ensuring guarantees for children born by surrogacy abroad. Surrogacy children whose parents seek to legally register as their own, even though the child is only genetically related to one of them. In countries like France or Italy, where all forms of surrogacy are illegal, people are increasingly traveling to surrogacy countries allowed to have children. Some of the decisions of the ECtHR related to international surrogacy. And its impact on the rights of children born in this way are *Mennesson v. France*⁶⁰⁵ and *Lebassee v. France* in cases where the facts and circumstances are very similar, and although the ECtHR decided not to formally combine them, they were decided simultaneously, and the same arguments were made⁶⁰⁶. According to the case, both French couples were married and, unable to have children, went to the United States to enter surrogacy contracts, as surrogacy agreements are illegal in France. The *Mennesson* couple later had twins, and the *Lebassee* couple had a daughter. The sperm of the intended parents was used together with eggs from an anonymous donor, so the intended mother was not genetically related to the children. These surrogacy arrangements were made in California (*Mennesson*) and Minnesota (*Lebassee*), where surrogacy is legal, so the US authorities had issued birth certificates stating that the newborns were the children of the *Mennesson* and *Lebassee* couples, but the French authorities refused to register children's birth certificates in the national register⁶⁰⁷. After these refusals were appealed, the cases reached the French Court of Cassation, which found that the decision not to register the children's birth certificates was *corre*. *Mennesson* and *Lebassee* then applied personally and on behalf of their children born because of surrogacy arrangements to the ECtHR, claiming that their failure in France to recognize parent-child relationships legally established abroad was against the children's interests and violated Article 8 of the ECHR. In this case, the ECtHR drew attention to the fact that Article 8 of the ECHR requires that the domestic law of each member state provides for the

⁶⁰⁵ European Court of Human Rights, *Mennesson v. France* (June 26, 2014).

⁶⁰⁶ Bracken, L. (2017). Assessing the best interests of the child in cases of cross-border surrogacy: Inconsistency in the Strasbourg approach? *Journal of Social Welfare and Family Law*, 39(3), 368–379. DOI: 10.1080/09649069.2017.1344393

⁶⁰⁷ Margaria, A. (2020). Parenthood and cross-border surrogacy: What is 'new'? The ECtHR's first advisory opinion. *Medical Law Review*, 28(2), 412–425. DOI: 10.1093/medlaw/fwz026

possibility of recognizing the legal relationship of a child born under surrogacy abroad and the intended father in cases where he is the biological father. Moreover, failure to provide such recognition would mean the child's right to respect private life in accordance with Article 8 of the ECHR violation. The ECtHR indicated that the legally unrecognized relationship between the surrogate child and the intended mother of the child in surrogacy cases had a negative impact on several aspects of that child's right to respect for private life. The Court noted that respect for private life means that everyone should be able to determine the essence of their identity, including the legal relationship between parents and children, which was particularly important in this case because of the connection between biological children and intended parents, which the ECtHR considered an important component of identity. The ECHR found that the right of a child born abroad under a gestational surrogacy agreement to respect for private life as defined in Article 8 of the ECHR requires that domestic law provides for the possibility of recognizing the legal relationship of parents and children with the intended mother. The ECtHR stated that the general and absolute impossibility of recognizing the relationship between a child born under a surrogacy arrangement abroad and the intended mother is incompatible with the best interests of the child, which requires that each situation be examined on a case-by-case basis. The ECtHR ruled that the right to family life under Article 8 of the ECHR was not violated, but that the children's right to private life was violated under this article. The court noted that the children were not recognized under French law, so they were deprived of French citizenship. Although Art. 8 does not guarantee the right to acquire a specific nationality, the ECtHR noted that the fact remains that nationality is an element of personal identity, which also includes the right to know one's origin⁶⁰⁸.

The case of *Paradiso and Campanelli v. Italy*⁶⁰⁹ also concerns the possibility under domestic law to recognize a legal parent-child relationship between children born abroad through gestational surrogacy. In addition, the intended mother identified on the foreign birth certificate as the "legal mother" when the child was conceived using ova from an anonymous donor and where the legal relationship of parents and children with the intended father has been recognized in domestic law. However, in contrast to the previously mentioned cases, the ECtHR rejected the applicants' complaint and recognized the actions of the Italian authorities as legal, aimed at protecting the rights and freedoms of other persons. The main argument, in this case, was the absence of a biological connection between the child and the intended parents, the short duration of their relationship with the child and the uncertainty of their relationship from a legal point of view. Moreover, even though the reason for this was an error by the medical institution to which

⁶⁰⁸ Nalyvaiko, L., et al. (2023). The European Convention on Human Rights and the practice of the ECtHR in the field of gestational surrogacy. *Access to Justice in Eastern Europe*, 206. DOI: 10.33327/AJEE-18-5.2-n000320

⁶⁰⁹ European Court of Human Rights, *Paradiso and Campanelli v. Italy* (January 24, 2017).

the intended parents applied (a DNA test showed that the applicant is not the biological father of the child). The court considered that the implementation of the exclusive powers of the state to recognize the legal relationship between parents and the child is possible only in the case of a biological relationship or in case of adoption. In this regard, the ECtHR considered as legitimate the desire of the Italian authorities to reaffirm the exclusive competence of the state to recognize the legal relationship between parents and children and only in the case of biological connection or legal adoption to protect children⁶¹⁰.

A fundamental difference can be distinguished between the three analyzed cases: in the *Mennesson* and *Labassee* cases, the intended father was genetically related to the children, while in *Paradiso* and *Campanelli*; neither parent (due to the fault of the medical institution) was genetically related to the child. Furthermore, the genetic relationship is clearly given importance in view of the different ways of recognizing. The genetic father and the genetically unrelated mother (married to the genetic father) – the legal relationship of the genetically intended father to the child must be recognized *ab initio*, and states can choose how and when to recognize the relationship between genetically unrelated mother and child⁶¹¹.

In *H v United Kingdom*⁶¹², the applicant H was born in 2016 under a surrogacy arrangement between A and B (same-sex partners) and a married couple (C and D). C, using an egg from an anonymous donor and sperm from A and B, became pregnant. Prior to her birth, the relationship between the intended parents, one of whom was the genetic father, and between the surrogate mother and her spouse had broken down, so C and D failed to notify A and B of the applicant's birth and register her. Her birth certificate listed the surrogate mother who carried her as an embryo and the surrogate mother's husband as her "mother" and "father" under the rules of the UK Human Fertilization and Embryology Act⁶¹³.

The applicant, represented by B (biological father's same-sex partner). She told the court that she currently lives with her biological father (A) and his same-sex partner (B) and is in regular contact with surrogate mother C and her husband D. However, the parts of UK surrogacy laws that deal with the automatic registration of a surrogate mother's husband as the 'father' on her birth certificate - violate her right to identity. Although the data on the birth certificate could be changed, the surrogate mother and her husband do not agree, so the biological father cannot be recognized

⁶¹⁰ Marinelli, S. (2020). No more only one mom? European Court of Human Rights and Italian jurisprudences' ongoing evolution. *La Clinica Terapeutica*, 171(1), e36–e43. DOI: 10.7417/CT.2020.2184

⁶¹¹ Bracken, L. (2017). Assessing the best interests of the child in cases of cross-border surrogacy: Inconsistency in the Strasbourg approach? *Journal of Social Welfare and Family Law*, 39(3), 368–379. DOI: 10.1080/09649069.2017.1344393.

⁶¹² European Court of Human Rights, *H v. the United Kingdom* (dec.) (May 31, 2022).

⁶¹³ März, J. W. (2021). Challenges posed by transnational commercial surrogacy: The jurisprudence of the European Court of Human Rights. *European Journal of Health Law*, 28(3), 263–280. DOI: 10.1163/15718093-12341434

as her legal father. Given that the surrogate mother and her husband did not consent to the change of father on the applicant's birth certificate, the UK courts awarded parental responsibility to all four individuals and custody to the intended parents, but the applicant's birth certificate still named the surrogate mother's spouse as the father. Having lost at first instance and not being granted leave to appeal, the applicant, represented by B (biological father's same-sex partner), filed a complaint with the ECtHR claiming that her right to respect for private life under Article 8 of the ECHR was violated because D, not A, appeared on her birth certificate was listed as the biological father. H also argued that articles 3, 7 and 8 of the UNCRC should be considered, which make it clear that the best interests of the child are paramount, and that the child has the right from birth to know his or her parents, as far as possible, and to preserve his or her identity without unlawful interference⁶¹⁴.

The ECtHR found the complaint inadmissible as manifestly ill-founded under Article 35(3) of the ECHR. The court accepted that H was not completely deprived of her legal relationship with A. The applicant lived with both A and B and they both had parental responsibilities for her. The court also found that H was not completely deprived of the opportunity to establish her identity because A and B could tell her about the circumstances of her birth. The court stated that many factors must be considered when determining the discretion to be exercised by an individual state in deciding any case under Article 8⁶¹⁵.

An interesting fact in this case was that both A and B sperm were used to start the applicant's life, so it was not known (it was only later when a DNA test was carried out that the applicant's biological father was found to be A) who was her biological father, but it was known who her legal father was. Thus, the Court found that, given the potential for significant uncertainty as to the paternity of a child born through surrogacy (using assisted insemination), the UK government's decision to create clear rules on legal paternity fell within a wide margin of discretion for states⁶¹⁶.

In summary, it can be stated that in cases related to surrogacy, when the child is genetically related to only one of the parents, the court considers the possible biological relationship between the child and its intended parents when making decisions. The practice formed by the ECtHR is guided by the principle of the best interests of the child. And it provides that if there is a biological relationship between the child and at least one of the intended parents.

⁶¹⁴ Trimmings, K. (2016). Application for a parental order by a single commissioning father refused by the High Court. *Journal of Social Welfare and Family Law*, 38(1), 91–93. DOI: 10.1080/09649069.2016.1142496

⁶¹⁵ Vitkauskas, D., & Dikov, G. (2012). *Protecting the right to a fair trial under the European Convention on Human Rights*. Council of Europe.

⁶¹⁶ Latham, S. R. (2020). The United Kingdom revisits its surrogacy law. *Hastings Center Report*, 50(1), 6–7. DOI: 10.1002/hast.1085

In this case, the court recognizes the legal relationship between the intended parents and the child, and the non-recognition of such relationship means the child's right violation to respect his/her private life according to ECHR 8 Art.

3.3.5. The role and significance of institutions ensuring the protection of children's rights in implementing the child's right to know his biological parents

For UNCRC purposes, children are treated as a separate group, indicating that they require special attention. In many countries, policies are aimed at groups of children who are believed to be most vulnerable due to the disadvantages they face⁶¹⁷. Vulnerability is simultaneously understood broadly and narrowly, given that all children are vulnerable, but some are more vulnerable than others are, i.e. among such children, one could single out those who face restrictions on the implementation of the right to know their biological parents⁶¹⁸. The rights of the child are essentially human rights, which consist of protecting the child as an individual and creating conditions for the child's full development, so the protection of the child's rights is an integral part of the entire human rights system. According to D. Kabašinskaitė, "the idea of human rights is that every person is worthy of respect", thus, including the child and his rights⁶¹⁹.

As Kuprėnaitė et al., stated "the child's right to live together with biological parents, to be brought up and provided for in the parental family follows from the nature of every human being. However, there are no means of coercion. And there cannot be any mechanism that would help ensure the implementation of these rights of the child. For this reason, in cases where the parents cannot or do not want to ensure the rights of the child, the state assumes the obligation"⁶²⁰.

Without stopping the debate on the possibilities of implementing the child's right to know his biological parents "[...]. It is also important to analyze the institutional protection of the child's rights - what means do states seek to ensure the guarantees of the child's rights and implement international obligations⁶²¹. I.e. the ratified Convention on the Protection of the Rights of the Child and other human rights treaties", because "when there is no proper coordination, there are no

⁶¹⁷ McMellon, C., & Tisdall, E. K. M. (2020). Children and young people's participation rights: Looking backwards and moving forwards. *The International Journal of Children's Rights*, 28(1), 157–182. DOI: 10.1163/15718182-02801006

⁶¹⁸ Hallett, S. (2017). Vulnerabilities. In *Making sense of child sexual exploitation* (pp. 35–54). Policy Press.

⁶¹⁹ Kabašinskaitė, D. (2002). Vaikystės sociologija, vaikų teisės ir vaikų politika. *Filosofija. Sociologija*, 13(3).

⁶²⁰ Kuprėnaitė, Ž., Lubienė, J., & Dikovičiūtė, D. (2020). Pagalbos vaikui ypatumai po jo atskyrimo nuo biologinės šeimos. *Sveikatos Mokslai*, 3, 21–24.

⁶²¹ Žiobienė, E. (2017). Vaiko teisės ginančių ombudsmenų institucijų reikalingumas ir tinkamiausias modelis. *Jurisprudencija*, 24(2), 271–292.

conditions for cooperation, which is not based on a formal exchange of information, but on solving problems" ⁶²².

Individuals, including children, are "owners", but children, being young, cannot yet fully act as "owners". According to J. Stripeikienė, "taking into account [...] the child's physical and social maturity deficiencies, which prevent him from using his rights, an appropriate child rights protection system is formed in the state, and when the child is not an independent participant in the processes related to him, his interests are represented [...] by child rights protection institutions"⁶²³.

When we are solving the problems of implementation or protection of the child's right to know his biological parents, it is important to ensure the proper functioning of child rights protection institutions and to coordinate their activities. A system of various institutions and organizations ensuring the protection of children's rights has been established in Lithuania in 1994. The creation of the VTAS system in Lithuania, was started, and the Basic Law of the Child Rights of the Republic of Lithuania establishes. That the protection of the rights of children of the Republic of Lithuania and the implementation of their rights are ensured by the state and its institutions, municipal level institutions, non-governmental organizations whose activities are related to children⁶²⁴. According to Panevėžys county VTAS (Child Rights Protection Department) leader Ginaitė "the priority of the child's rights protection system is the child's natural right to grow up in a biological family and preserve family ties, protecting and defending the child's rights and legitimate interests"⁶²⁵.

The purpose of the State Child Rights Protection and Adoption Service established in Lithuania is "to implement the child rights protection policy in municipal territories and to participate in the formation of the state policy⁶²⁶ in the field of child rights protection". This institution performs the functions of organizing adoption and applies to the competent institutions for giving children who do not know the birth registration of their parents, the first and last name.

The institution of the child rights protection controller contributes to the improvement of the legal protection of the child protects the rights of the child. And its legitimate interests, ensures

⁶²² Gončiarova, N., & Tamutienė, I. (2016). Įvaikinimo trukdžiai Lietuvos Respublikoje. Ekspertų požiūris. *Public Policy & Administration/Viešoji Politika Ir Administravimas*, 15(2).

⁶²³ Stripeikienė, J. (2021). Vaiko interesus atitinkantis teisingumas: Samprata, prielaidos ir kai kurie probleminiai aspektai. *Jurisprudencija*, 28(1), 33–51.

⁶²⁴ Seimas of the Republic of Lithuania, "I-1234 Law on the Fundamentals of Child Rights Protection of the Republic of Lithuania" (1996), Retrieved 07.19.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.26397>.

⁶²⁵ Gyvenimas, "A child's right to grow up in a biological family – a priority for child rights defenders," 2020, Retrieved 07.11.2024, From: <http://rokiskiosirena.lt/naujiena/gyvenimas/vaiko-teis-augti-biologinje-eimoje-vaiko-teis-gynj-darbo-prioritetas>.

⁶²⁶ Supreme Court of Lithuania, "1114 On the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour," 2005, Retrieved 07.10.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.264166/asr>.

the implementation of the child's rights and its legitimate interests, which are established in international and national legal acts, controls the activities of institutions and organizations that ensure and protect the rights of the child, due to which the child's rights or his legitimate interests may be violated⁶²⁷.

According to A. Margevičiūtė, "children [...] are a weak part of society that needs additional, exclusive rights and the effective implementation of these rights and ensuring that children become a full-fledged part of society"⁶²⁸, but in practice it is still difficult to implement children's rights to participation. Indeed, understanding and addressing the vulnerability or dependency of children and young people is common in international child protection practice, as it both requires and justifies the child protection response⁶²⁹.

The UN Committee on the Rights of the Child and the ECtHR are international bodies responsible for developing guidelines and enforcing international laws related not only to many children's rights, but also to the child's right to know his or her origins. The UN Committee on the Rights of the Child is a body of 18 independent experts that monitors the implementation of the UNCRC. JTVTK Article 44 requires that the parties to this Convention periodically report, i.e. submit detailed reports to the Committee on the measures they have taken to implement the rights of the child (including the right to know their biological parents) provided for by the UNCRC and the progress made⁶³⁰. After examining them, the Committee presents its questions that cause concern and provides recommendations to the States of the Convention. The ECHR is an international judicial institution that examines complaints from natural persons, groups of persons and non-governmental organizations, which claim that their rights or freedoms enshrined in the ECHR have been violated⁶³¹.

As E. Žiobienė states, it is particularly important that "a high-quality, effective institutional system for the protection of children's rights operates in the state, which can immediately respond, find out and solve all issues of ensuring children's rights, as well as the

⁶²⁷ Seimas of the Republic of Lithuania, "Law No. X-1384 on the Amendment of the Law on the Child Rights Ombudsperson of the Republic of Lithuania" (2007), Retrieved 07.22.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.312048>.

⁶²⁸ Margevičiūtė, A. (2008). Konkretizuotų konstitucinių teisės normų suponuojama socialinė tikrovė, vaiko, kaip ginamos ir globojamos vertybės, atžvilgiu. *Jurisprudencija*, 106(4), 75–80.

⁶²⁹ Ruiz-Casares, M., et al. (2017). Children's rights to participation and protection in international development and humanitarian interventions: Nurturing a dialogue. *The International Journal of Human Rights*, 21(1), 1–13. DOI: 10.1080/13642987.2016.1248122

⁶³⁰ Seimas of the Republic of Lithuania, "Convention on the Rights of the Child" (1989), Retrieved 07.24.2024, From: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.19848>.

⁶³¹ Smith, G. (2016). The interface between human rights and police complaints in Europe. In *Civilian oversight of police: Advancing accountability in law enforcement* (pp. 159–177). [DOI non disponible]

cooperation of these institutions, the exchange of necessary information and targeted activities are very important"⁶³².

Regarding the promotion of access to the origin of children adopted or accepted by social services, it should be noted that, for example, in France and Quebec, when a child has been removed from his or her family of origin, unable to assume parental responsibilities. Or when he or she has been directly handed over by his or her parents to state social services for care, he or she may then be proposed for adoption. This orientation towards adoption has long been associated with the idea that the child should be given a fresh start, in a new family, and the erasure of traces of the initial civil status was part of this dynamic. In both jurisdictions, it was implemented to varying degrees, before the opposite trend, in favor of greater transparency of origins, gained ground. Both jurisdictions have progressively taken steps, according to a staggered timetable, to incorporate provisions that limit the scope of the child's right to secrecy concerning the identity of his or her parents of origin. For some, these new provisions limit secrecy ab initio, concomitantly with the child's separation from his or her original parents or adoption (A). For others, they provide a retrospective procedure for lifting secrecy once it has been implemented (B)⁶³³.

In conclusion, it can be said that institutions that ensure the protection of children's rights play a particularly important role in helping to ensure the implementation of children's rights, including the child's right to know his biological parents. Only by acting qualitatively, cooperating with each other and prioritizing the rights of the child and the best interests of the child can we help children protect and realize their rights.

3.3.6. Towards recognition of multiple parenthood

The connections that link a child to their parents appear to be natural, embedded in the deepest aspects of every individual's background. The development of marital and family life, along with the variety of approaches to conceiving and raising children, has led to an increase in scenarios and contexts where this claim can be questioned. Blended families, adoptive families or families through medically assisted procreation, or "homoparental" families in which one or more one or more same-sex couples around a child: these diverse same-sex couples: these diverse

⁶³² Žiobienė, E. (2022). Vaiko teisių apsaugos institucijų sistema: Raida, vaidmuo ir svarba. In *Administracinės teisės novelos. Liber Amicorum Algimantui Urmonui: Straipsnių rinkinys* (ISBN 9786094880292). Mykolo Romerio Universitetas.

⁶³³ Nacher, M., et al. (2020). Mapping French people's positions regarding the children's right to know their biological parents' identity. *Journal of Child and Family Studies*, 29, 1723–1731. DOI: 10.1007/s10826-020-01713-w

relational configurations visibility, sparking several social and political and political debates. They are leading us to question the very nature of the relationship between parents and children⁶³⁴.

The family changes of the last thirty years in Western societies are largely linked to the changing status of women and the new place of individual will in the creation of kinship. The role of women in the decision to divorce is well known, but it is also decisive in the constitution of offspring. Today, we can choose the number and timing of our children, we can become parents with a new spouse, without a spouse, we can become parents while being sterile or homosexual. Motherhood being, perhaps even more than in the past, a constituent part of female identity, we are witnessing an increase in the use of medically assisted procreation or adoption in cases of infertility, processes in which the will of women is once again dominant. However, these two ways of becoming parents have the characteristic of introducing other parents into the game. This is also the case, in a different way, in recomposed families after divorce, where the child is often endowed with a father and a stepfather, a mother and a stepmother. So, in addition to blood relatives, there are several kinds of social parents, so that we can speak of pluriparentalities. An anthropological approach helps us to understand how these pluriparentalities contradict the foundations of our system of filiation, and thus to explain the difficulty of our societies in integrating such important changes⁶³⁵.

In recent years, especially in the United States and Canada, there has been a movement towards legal recognition of multiple parenthood. This is the result of lobbying on behalf of the interests of the child, to whom new rights are being recognized: the right to be raised by good parents while retaining ties with his or her natural family, the right to maintain his or her standard of living and elective ties, and the right to know his or her origins⁶³⁶.

Let us start with the question of the respective place of fathers and stepfathers in blended families after divorce. In Anglo-Saxon countries, legal solutions are being sought to enable children to retain ties with both biological parents, while establishing new ties with their stepparent. In the UK, the Children Act 1989 (which took effect in 1991), based on the notion of "parental responsibility", gives stepparents who have been caring for a child on a daily basis for at least two years legally recognized rights and duties, up to the child's sixteenth birthday. These rights and duties do not call into question those of the child's two legal parents. Furthermore, in

⁶³⁴ Hamilton, L., Cheng, S., & Powell, B. (2007). Adoptive parents, adaptive parents: Evaluating the importance of biological ties for parental investment. *American Sociological Review*, 72(1), 95–116. DOI: 10.1177/000312240707200106

⁶³⁵ Aube, J., Fleury, J., & Smetana, J. (2000). Changes in womens' roles: Impact on and social policy implications for the mental health of women and children. *Development and Psychopathology*, 12(4), 633–656. DOI: 10.1017/S0954579400004090

⁶³⁶ Jacobs, M. B. (2007). Why just two - Disaggregating traditional parental rights and responsibilities to recognize multiple parents. *Journal of Law and Family Studies*, 9, 309; Meyer, D. D. (2006). Partners, care givers, and the constitutional substance of parenthood. SSRN.

view of the increasing frequency with which second unions break down in American society. And the large number of children who find themselves materially harmed by the departure of a stepfather who used to provide for their upkeep, legal experts are putting forward proposals to give him the legal status of de facto parent, a status that would create specific obligations for him, proportional to the time spent providing material care for their stepchildren. This would be a way of recognizing that the time of co-residence and the situation of foster father create a kind of parenthood between adult and child that must be recognized and, to a certain extent, institutionalized in the child's interest. In France, Irene Théry's proposals to the government propose, on the contrary, to preserve the father's own responsibility, but they aim to enable the stepfather to exercise certain parental functions in relation to his stepchild, and to bequeath his property to the latter on a preferential basis (by abolishing tax deductions on gifts between foreigners)⁶³⁷.

Recognition of multiple parenthood is not only linked to the ever-increasing importance of blended families in our society. It has also been driven by a growing awareness of the question of identity, expressed in the demand for a child's right to know his or her "origins", whether adopted or born by medically assisted procreation. In the United States, associations of adoptees and associations of natural parents who had abandoned their children and were fighting for a "reunion" with them, lobbied public opinion and achieved major changes, particularly in adoption law and practice. Over the past decade or two, adoption in the USA and Canada has moved from a "closed" model, based on the key ideas of total severance of the parent-child relationship, anonymity of the parties' involved and absolute secrecy of adoption files and original civil status records, to an "open" model now known as open adoption. Unlike the UK and Germany, France has remained temporarily on the sidelines of this trend, although the emergence over the last ten years of numerous associations fighting for the right to origins suggests a move in the same direction⁶³⁸.

Open adoption means fostering inter-acquaintance between parents and adoptive parents, in a wide variety of forms, ranging from simple knowledge of their respective identities to regular visits (with recognized visitation rights), with the contract being negotiated between the partners. Beyond the explicit objective of avoiding identity confusion for the adopted child in adolescence, this move towards openness has another, more hidden function: to slow the decline in the number of adoptable children by giving birth mothers a greater role. The fact that birth mothers are able to

⁶³⁷ Dekeuwer-Défossez, F. (2013). Blended families: The powerlessness of the law! *Dialogue*, 201(3), 23–34; Jacobs, M. B. (2007). Why just two - Disaggregating traditional parental rights and responsibilities to recognize multiple parents. *Journal of Law and Family Studies*, 9, 309.

⁶³⁸ Seymore, M. L. (2014). Openness in international adoption. *Columbia Human Rights Law Review*, 46, 163; Daly, K. J., & Sobol, M. P. (1994). Public and private adoption: A comparison of service and accessibility. *Family Relations*, 86–93. DOI: 10.2307/585607.

choose their child's adoptive parents, and do not have to sever all ties with the child, is likely to encourage them to consent to adoption. Most baby adoptions in the USA are carried out in private agencies based on this openness, which is particularly sought-after by birth parents, while public agencies that maintained traditional adoption have closed their doors one after the other. For the time being, legislation varies widely from state to state: a small number of states, such as California and Virginia, require all parties to exchange identifying information, but in most states, the modalities of interconnaissance are left to the discretion of the parties ⁶³⁹.

In the field of medically assisted procreation (MAP), a movement of opinion is moving in the same direction. In France, for example, psychologists who work with couples undergoing donor insemination have been urging them for some years not to keep their families and children in the dark about their origins. As for the anonymity of oocyte donors, this would seem to contradict the Hague Convention's affirmation of children's right to know their origin. Current debates suggest that the July 1994 law on bioethics may be amended on this point. In the face of French tensions over secrecy, the United States is acting as an experimenter - some would say a sorcerer's apprentice - by authorizing practices that run counter to the logic of our system. The practice of surrogate motherhood, authorized in several states, makes it impossible to eliminate the reproductive mothers. Television reports show them now of childbirth, surrounded by the couple to whom they have promised the child, and after the birth, we sometimes see them maintaining friendly relations with the family they have helped to form ⁶⁴⁰.

Finally, yet importantly, recent debates on the right of homosexual couples to adopt have brought to the forefront the various forms of co-parenting they are experiencing today. Although they are not yet very numerous in France, their great diversity is undoubtedly one of the richest "terrains" to observe from this point of view, insofar as situations of pluriparentality are the rule, with parenthood and conjugality usually dissociated.

In cases where the children come from a previous heterosexual union and one of the parents is now living with a person of the same sex, the question of the status of the "stepfather" or "stepmother" is reminiscent of that of blended families, while posing specific problems. When children are adopted by a single person (as authorized by law) but are raised and sometimes wanted by two people of the same sex, there is the problem of the status of the "co-parent", resolved in some countries by that of the adoptive parent. The birth of a child can involve four people: a couple of biological parents, made up of a lesbian mother and a gay father, and their respective partners.

⁶³⁹ Ayers-Lopez, S. J., et al. (2008). Openness in adoption and the impact on birth mother plans for search and reunion. *Families in Society*, 89(4), 551–561. DOI: 10.1606/1044-3894.3815

⁶⁴⁰ Letur, H. (2007). Current practices of oocyte donation in France and Europe. *Journal de Gynécologie Obstétrique et Biologie de la Reproduction*, 36(8), 727–737. DOI: 10.1016/j.jgyn.2007.10.005

This type of co-parenting, often practised in the United States, raises the issue of the place of each of the players, the construction of different parentalities, and its relationship with blood filiation and co-residence. Finally, yet importantly, children are also born through PMA or surrogate motherhood. This is particularly the case abroad, since the law in France prohibits PMA for single or homosexual people, as well as the use of surrogate mothers. However, this practice is already relatively widespread in certain states in the United States and is the subject of initial studies in the human and social sciences.

Sociological and ethnological studies of these families reveal that the substitution links described above never completely replace previous relationships. This can be seen, for example, in adoption, with the growing reference to the right to know one's origins, claimed by certain adopted children born under X. Access to knowledge of origins does not imply the legal translation of all existing relationships surrounding the child, but reveals, through their recognition, the entirety of a personal history. For example, in France, the law of January 22, 2002, while maintaining the possibility of giving birth under X, now allows children to search for their birth mother, who nevertheless retains the right to refuse to be identified and to meet the child. In the United States, "open adoption", characterized by the inter-connection of adoptive parents and birth mothers, is developing within private adoption agencies in a variety of forms. Ethnographic and sociological surveys carried out among heterosexual and homosexual couples who have undergone donor insemination show that this character is associated with a range of physical and moral characteristics. Such as level of education, or even religious affiliation real or imagined, which can influence the way he or she is chosen and then accompany the history and future of the child, through what his or her parents know about him or her. The anonymity of the donor is not the rule in all Western countries (in the United States, for example, legislation in some states allows the child to know the identity of the donor when he or she reaches the age of majority).

The increasing number of divorces and separations, and the growing number of blended families in today's family landscape, have also led to a different approach to redefining the child's ties with his or her parents and stepparents. The norm of substitution has been replaced by that of perpetuating the child's ties with his or her father and mother, whose equal rights, and duties the law protects as far as possible after the break-up. Alongside the father and mother, the stepparent thus becomes an additional parent, whose place and role are difficult to define, as the law recognizes no such status. Ethnography shows, however, that a variety of ties can be forged within genuine recomposed constellations, woven from several parental homes between which the child circulates. The experience of co-residence and shared childhood sometimes leads, through reciprocal election, to the recognition of a parent-child relationship, to the recognition of a parental relationship between the child and the spouse of his or her father or mother, in addition to the ties

the child has with his or her father and mother. Homoparental" families, formed by the recomposition of a homosexual couple after the separation of a heterosexual couple, by adoption or donor insemination, also sometimes unite two couples around a child, including the child's father and mother. In such cases, they borrow many features from recomposed configurations.

CONCLUSIONS AND RECOMMENDATIONS

Hypothesis Assessment Summary

The research hypothesis, which aimed to prove that the implementation of the absolute right of children to know their biological parents is limited by the legal acts regulating the institutes of adoption, assisted insemination and surrogacy, was confirmed. A detailed analysis of both the theoretical content and the practical application of the right of children to know their biological parents showed that the legal relations between different institutes and the legal regulation mechanism of states are only partially properly defined and regulated in the national legal system. The assurance and implementation of this right of children in both national and international legal norms remains formal and is not effective enough to ensure the right of children to know their biological parents.

Since this doctoral thesis analyzed legal issues of the implementation of the children's right to know their biological parents by studying the case of Lithuania in the perspective of international private law, suggestions and recommendations are provided to Lithuanian legislators to implement the 7th article of the Child's Rights Convention as much as possible, ensuring the child's right to know his biological parents.

In order to answer the goal, objectives and problematic questions raised in the work, the following conclusions were formulated:

I. Conclusions and recommendations regarding general questions on the children right as a natural right to know their biological parents in context of international private law.

1. Conclusion: Biological parentage is understood as the blood (genetic) relationship between parents and children. This connection forms the basis for determining biological parentage. The only exception is adoption, where the same legal parental relationships are established between adoptive parents and adopted children as in the case of blood kinship, even though no blood relationship exists. Knowledge of a child's genetic origin, including the circumstances of his or her conception and the identity of his or her biological parents, has a significant impact on the formation of his or her identity and personality. This knowledge provides a sense of coherence and self-understanding that is important for personal growth and self-assertion. However, while the right to know one's biological roots is significant, it is not absolute and often faces various ethical, social and legal challenges.

1. Recommendation. Create clear legal norms that guarantee children the right to know their biological origin, regardless of the circumstances of their birth. This could include the disclosure of biomedical information, such as the identity of biological parents, once the child reaches a certain age. In order to realize the child's right to know his or her biological parents,

international dialogue and cooperation should be promoted by creating uniform guidelines for the practice of surrogacy and assisted reproduction.

2. Recommendation. It's recommend reforming adoption processes to ensure that adopted children have access to information about their biological origin, where appropriate and safe. This could include mandatory provision of information to adoptive parents about the children's biological history.

2. Conclusion: Genetic connections determine kinship, parental rights and responsibilities are based on the genetic connection between parents and children, and knowledge of genetic origin, which includes the circumstances of the child's conception and knowledge of the biological parents, is necessary for the formation of the child's identity and personality. The state, regulating the determination of the child's origin from the mother and father, basically distinguishes the following ways of recognizing paternity: recognition according to the law; voluntary recognition of paternity, as a matter of free will, based on a statement and through a judicial process, both when establishing and disputing paternity (maternity). Mere knowledge of paternity, without legal recognition of the fact of paternity, is not a sufficient legal basis to create the rights and responsibilities of father and child, which are protected by means provided by law.

1. Recommendation. Implementing educational programs on children's rights, biological origin and parentage to make information more accessible to children about the circumstances that may require sharing this information, as well as developing specialized legal aid and support programs for children and families who may be facing identity issues, ensuring that they receive the necessary information and support.

2. Recommendation. In implementing the rights of children to know their biological parents, an effective institutional system for the protection of children's rights must be ensured, capable of clarifying and resolving all issues related to the implementation of children's rights and international cooperation between these institutions, as well as the exchange of necessary information. In order to ensure the child's right to identity, knowing their biological parents and origin, it is appropriate to introduce legal provisions ensuring that children conceived through surrogacy or assisted fertilization have access to information about their biological origin when they reach the appropriate age. The creation of centralized registers is also recommended: by creating confidential but accessible registers in which biological origin and other relevant data would be recorded, so that children could receive this information at the appropriate time.

3. Conclusion: Due to the progress of medical technology, the incompatibility of the rights of the child and his biological parents, the principle of confidentiality enshrined in law, the anonymity of the donor and surrogate motherhood agreements, loopholes in the legal regulation of the children's right to know their biological parents are increasingly appearing, therefore, in

order to implement the child's right to know his biological parents as effectively as possible, states must to ensure that there is no obstacle to the disclosure of the child's background, taking into account the appropriate balance of interests that is most favorable to the child.

1. Recommendation. In order to implement the child's right to know his/her biological parents, Lithuania could consider amending the articles of the Civil Code related to the establishment of paternity. It is proposed to supplement Article 3.147 of the Civil Code of the Republic of Lithuania (CC) with Part 4 "Persons entitled to apply for the establishment of paternity", adding to the article a provision that every child born through assisted reproduction has the right to receive information about his/her biological parents upon reaching the age of 18, and in exceptional cases even earlier. It is also strongly suggested to supplement this article with a new paragraph that would provide guidelines for international cooperation in cross-border assisted reproduction practice. This would allow for unification of rules and promote transparency. This also would strengthen the child's right to identity and understanding of family origin, which is recognized by international human rights instruments (e.g. the United Nations Convention on the Rights of the Child). It would also create clearer legal regulation in situations related to assisted reproduction practices, which are currently not fully regulated in Lithuania.

II. Conclusions and recommendations regarding the implementation of the children's right to know their biological parents in the context of national and international law and identification of the main problems.

1. Conclusion: Legislation regulating surrogacy and assisted fertilization restricts the absolute implementation of the child's right to know his biological parents has been proven because the legal system of many countries, which regulates surrogacy and assisted fertilization institutes, is more focused on protecting the interests of adults than the child, so the circumstances of conception usually remain the prerogative of the parents.

1. Recommendation. In order to address the situation where laws on surrogacy and assisted reproduction prioritize the interests of adults over the child's right to know their biological parents, legislators are advised to balance the rights and legitimate interests of all parties involved, with greater emphasis on the child's right to identity.

2. Conclusion: The children's right to know their biological parents is clearly denied by Article 8 of the ECHR, which constructs the right to respect for private and family life as a possible restriction when it conflicts with the rights and freedoms of other related persons. Children's right to know their biological parents is enshrined in both national and international legal acts, the legal regulation of which at the same time restricts this child's right in cases where the child is left in the Life Box, adopted, born through assisted fertilization or surrogacy. The child's interest in knowing his biological parents is recognized as essential, but the practice of foreign courts, including the

ECtHR, shows that it does not have an absolute nature. It may conflict with the interests of other persons: the biological mother, the mother's husband, the biological father, gamete donors, adoptive parents, as well as the surrogate mother, which have more or less importance depending on the individual situation, determining the balance of different interests.

1. Recommendation. In order to precisely legally regulate the protection of the interests of the child, implementing his right to know his biological parents, the proposed Article 3 of the Law on Assisted Fertilization of the Republic of Lithuania. Article 3, Chapter 10 of the Law on Assisted Fertilization of the Republic of Lithuania details the minimum criteria and areas of important reasons, but does not compile an exhaustive list of them, due to which relevant information is provided in the case of assisted fertilization. disclosed to the child. It is conceivable that such a legal regulation would encourage and help a child born through assisted fertilization to apply for the implementation of his right to know his biological parents, and in solving such issues, the factual basis of the court's permission to provide such information would be more clearly regulated. To fill gaps in Lithuanian law in the existing legal framework and enhance the protection of the rights of children and taking into account the Insights of experts conceived via assisted fertilization, it is suggested to revise Article 3 of the Law on Assisted Fertilization of Lithuania by establishing explicit criteria for when related information may be shared. This would entail creating list of 'significant reasons' for these disclosures, thus fostering a more organized and foreseeable legal environment. This improvement of Article 3 of the Law of Assisted Fertilization would help children grasp their origins and streamline court proceedings by offering judges a better framework for deciding on information disclosure permissions.

3. Conclusion: At the international level, the right of a child to know his or her biological parents is supported by the UN Convention on the Rights of the Child, which emphasizes the right of the child to know and, if possible, to be cared for by his or her parents. This highlights the essential role of access to parental identity information in ensuring the well-being of the child. However, the practical implementation of these rights remains inconsistent. Official records, such as birth registers, do not always accurately reflect biological parentage, especially in cases involving assisted reproduction. The anonymity of biological parents often conflicts with the child's right to understand his or her parentage, creating a complex legal and ethical dilemma. In such cases, judicial authorities often play a key role in balancing the biological parents' right to privacy with the child's right to know their origins. These decisions have a profound impact on the child's sense of identity and their ability to form meaningful family relationships.

1. Recommendation. To address these issues, it is proposed to amend Article 3.143 of the Civil Code of the Republic of Lithuania “Acknowledgement of Paternity Before the Child is

Born”. The article should be supplemented with a clear provision on the child’s right to know their biological parents. It is proposed to supplement the text of the law with a new Part 6:

“A child has the inalienable right to know his or her biological origin, including information about his or her biological parents, regardless of the way their paternity was established or not (including in cases of assisted reproduction). This right may be exercised upon the child’s reaching the age of majority, unless otherwise provided by law.” Also adding paragraph 7: “Information about biological parents, if available, must be registered and stored in civil registry offices or other competent institutions. Information about the origin of the child must be available to the child himself or to other persons only in accordance with the procedure established by law. When a child is born through assisted insemination or surrogacy, the biological parents or persons who initiated these processes must provide all information about the biological parents necessary for filling in the records of the child's origin.” And paragraph 8 of Article 3.143, indicating that “The State of Lithuania, in cooperation with the institutions of other states, seeks to ensure the right of the child to receive information about his or her biological parents when a child is born through assisted insemination or surrogacy abroad.”

Amendments to this article would contribute to the implementation of the child's right to identity and knowledge of biological origin, as required by international standards (e.g. the United Nations Convention on the Rights of the Child), and would also create a clearer legal basis for the registration and accessibility of parentage data, taking into account data protection requirements.

III. Conclusions and recommendations regarding practical settlement of legal regulation of children's right to know their biological parents.

1. Conclusion: The increasing acknowledgment of children's right to identify their biological parents is changing legal frameworks globally. This right, crucial for a person's identity, genetic well-being, and personal connections, still presents challenges when incorporated into national and international legal systems. It may clash with the privacy rights of both biological and adoptive parents. Courts, when resolving disputes related to the rights of the child and his biological parents, do not always give priority to the child's right to know his biological parents, it has been proven that priority is given to the child's right to know his biological parents, rather than the rights of the biological parents, only in cases where this does not harm the best interests of the child interests. In cases related to surrogacy, when the child is genetically related to only one of the parents, the court considers the possible biological relationship between the child and its intended parents when making decisions. The practice formed by the ECtHR is guided by the principle of the best interests of the child. And it provides that if there is a biological relationship between the child and at least one of the intended parents. In this case, the court recognizes the

legal relationship between the intended parents and the child, and the non-recognition of such relationship means the child's right violation to respect his/her private life according to ECHR 8 Art.

1. Recommendation. At the moment, the surrogacy institute is not legalized in Lithuania, but considering its prevalence in the world and possible development in the future, and taking into account the fact that there have already been proposals to legalize altruistic (unremunerated) surrogacy in Lithuania, it is recommended to clearly regulate the registration of the fact of birth of persons born by surrogacy under precisely defined conditions, which would be focused on the best interests of the child and fully protect the child's right to know his biological parents.

2. Conclusion: The right to know their biological parents is allowed or restricted for children born through assisted fertilization, more or less drastically, depending on the laws adopted by each country regulating this institution. The anonymity of gamete donation violates the child's right to identity, which includes his right to know his biological parents, and therefore states' arguments based on the alleged absolute nature of anonymity should be dismissed. The right of an adopted child to know his biological parents is not absolute and must be balanced with the rights of other persons, such as the right of a woman to give birth anonymously. Although a woman can give birth anonymously in both Italy and France, when comparing cases brought on the same basis, the ECtHR made different decisions. The ECtHR found that Italy, unlike France, failed to strike a balance of interests and therefore crossed the threshold of assessment. The mother's right to anonymity, being irreversible and absolute, prevents the child from demanding information about his biological parents. It should also be noted that courts rarely exercise their authority to unseal adoption records when adoptees request disclosure of information about their biological parents for medical reasons.

1. Recommendation.

3. Conclusion: According to the experts who participated in the semi-structured interview study, the right of children to know their biological parents is declared, but this right is often recognized with certain limitations, determining that it is implemented "to the extent possible" and leaving the possibility for the courts, when making decisions on this matter, to individually determine the limits of the possibility of knowing. Systematized research results revealed that, experts participating in the semi-structured interview study identified basic problems related to a child's right to know their biological parents, such as: lack of information, reluctance to communicate, and biological parents wanting to keep their identities hidden cause a bottleneck in solving the problem. After systematizing and summarizing the results of the semi-structured

interview with experts, it became clear that, according to the experts, in order to ensure the child's rights to know their biological parents, improvements to the currently valid legal regulation are necessary, for example, it is appropriate to make additions to the Civil Code of Lithuania and the Law on Assisted Fertilization of the Republic of Lithuania.

1. Recommendation. Recommendation. In order to implement the children's right to know their biological parents as optimally as possible, it is proposed to clarify Article 3.221 of the CC of the Republic of Lithuania without determining the age of a specific child seeking to receive information about adoption, and wording it as follows: "every child, regardless of his age, as well as former close relatives of the child by origin or other persons, may be given information about adoption, if this information is required for the health of the child, his close relative or other persons or for other important reasons". This modification would guarantee that the delivery of information is managed with the required adaptability to cater to distinct personal situations, thus improving the child's entitlement to personal health and family awareness without creating unwarranted obstacles. To solve the problem raised by the experts during the study regarding the lack of information about biological parents, it is recommended to develop a centralized registry or database that securely stores information about biological parentage, accessible to children upon reaching a certain age or under specific circumstances.

4. Conclusion: In this thesis was raised the question of whose rights are more important: the children's right to know their biological parents, or the biological parents' right to remain anonymous. Based on the insights of scientific research laws and the experts who participated in the interview, we cannot approach this issue unambiguously, since both the right of children to know their biological parents and the right of biological parents to remain anonymous have strong legal foundations and ethical implications. The right of a child to know their origins is associated with the formation of the child's identity, their psychological well-being and the possibility of obtaining medical information that may be important for their health and quality of life. Meanwhile, the right of biological parents to anonymity is based on the protection of their private interests, voluntary choice and the possibility of avoiding social, emotional or legal complications.

1. Recommendation. To implement the right of a child to know his or her origin, amendments to the Law on the Health System of the Republic of Lithuania are proposed, Chapter III "Health data processing by electronic means" is proposed to be supplemented with a new article, indicating that "In the case of assisted insemination and surrogacy, the medical data of the biological parents that may be of significance to the health of the child must be entered into a protected data register. These data are accessible to the adult child, in accordance with data protection requirements." The right of a person to anonymity in the process of assisted

insemination or surrogacy may be limited only to the extent necessary to protect the child's right to know his or her origin".

2. Recommendation. It is proposed to add in Article 12 th. of the Law on Assisted Fertilization "Origin of a Child Conceived by Assisted Fertilization" the following text: "When using donor genetic material in the assisted fertilization process, donors may request anonymity but must agree to provide basic medical information (e.g., history of hereditary diseases), which will be stored and accessible to the adult child. Donor anonymity may be revoked if the child, having reached the age of majority, requests disclosure of information about the biological parents and this does not conflict with the legal interests of the donors, which shall be assessed by the court."

3. Recommendation.

Proposed amendments or additions to the Law on the Fundamentals of the Protection of the Rights of the Child of the Republic of Lithuania: to supplement Article 7. „The right of the child to have parents“. The current wording of this article "Every child has the inherent right to have a father and a mother" is proposed to include a new point: "The child has the right to know his or her biological parents and origin. This right may be restricted only in cases established by law, when this is necessary for the protection of the interests of the child".

4. Recommendation. Amendments or additions to Article 9 of the Law on the Framework for the Protection of the Rights of the Child of the Republic of Lithuania "The right of the child to identity and its preservation" are also proposed: supplementing the aforementioned article with the provisions that "The child has the right to receive information about his or her biological parents and origin, including genetic, medical and social information. This right may be restricted only in cases established by law, when a legitimate purpose is necessary - for example, in order to protect the interests of the child or another person".

The proposed amendments and additions to the law would more clearly define in which cases and by what procedure a child can obtain information about his or her biological parents. It would create greater legal possibilities that would help ensure that state institutions cannot ignore or restrict this right without a legal basis. Amendments to the law would also help ensure that the biological father or mother's desire to remain anonymous does not infringe on the child's right to know their origin, except in cases where this would be contrary to the child's interests (e.g. if the information could cause emotional harm). For example, in the case of artificial insemination, donor anonymity would be regulated in such a way that the child could receive at least basic information about their origin (genetic, medical).

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APPENDIX

No. 1 Summary of expert opinions

QUESTIONS	
1.	How often are children who do not know one or both of their biological parents interested in identifying them? What help can you offer them?
	<ul style="list-style-type: none"> • It depends on their demands and increasing. • Create effective prevention programs and strategies. • Ensure the proper functioning of child rights protection institutions. • Talk to parents and psychologists. • Contacting relevant institutions • DNA test • The child's right to know his biological parents must be respected and ensured
2.	What legal and social challenges are encountered in implementing the child's right to know his biological parents and at the same time implementing the biological parents' rights to remain anonymous?
	<ul style="list-style-type: none"> • Don't keep donor information for a long time. • The relatives do not express the desire to communicate with him/her. • Possible confrontation with the adopted child. • Lack of legal regulations • Biological parents have the right to remain anonymous. • Parents who wish to remain anonymous and protect their human rights
3.	What family law institutes restrict children's right to know their biological parents and why?
	<ul style="list-style-type: none"> • National and international legal acts • Maintenance obligation • The Basics of Child Rights Protection • The Convention on the Rights of the Child • The Civil Code • The paternity dispute institute. • Child Rights Protection of the Republic of Lithuania
4.	Specify the problems of practical application related to the implementation of the child's right to know his biological parents?
	<ul style="list-style-type: none"> • ECHR • Respect for the foster parents. • Fear of rejection • Loss of emotional connection • Parents' reluctance and right to know. • Narrow court practice • Desire to remain anonymous. • Lack of knowledge
5.	Is the implementation of this right effective?
	<ul style="list-style-type: none"> • Yes, a natural right • It is necessary to know the biological parents. • It's important to consider these emotions. • Depends on conditions. • Legal rights • Reluctance to communicate. • Remain anonymous
6.	How do you think these problems could be solved in order to ensure the child's natural right to know his biological parents?
	<ul style="list-style-type: none"> • Maintain a national registry of donors. • A clear definition of the law • Interests of the child must be sought. • Appropriate legal mechanisms • Organize seminar and Education Activities • Raise public awareness
7.	Has the development of biotechnology, smart solutions and scientific progress opened more legally sensitive legal issues in determining the child's biological parents?

•	YES
8.	Does this mean that scientific progress and legal uncertainty can affect the various needs of children and violate their rights?
•	YES