



Forthcoming delivery of the first advisory opinion, in response to the request from the French Court of Cassation (no. P16-2018-001)

The European Court of Human Rights will deliver its **first advisory opinion** (No. P16-2018-001) in writing on **10 April 2019 at 11 a.m.**

The case concerns the possibility of recognition in domestic law of a legal parent-child relationship between a child born abroad through a gestational surrogacy arrangement and the intended mother, designated in the birth certificate legally established abroad as the “legal mother”, in a situation where the child was conceived using the eggs of a third-party donor and where the legal parent-child relationship with the intended father has been recognised in domestic law.

On 16 October 2018 the Court received a request for an advisory opinion from the French Court of Cassation. It is the first request received by the Court since the entry into force of [Protocol No. 16](#) to the European Convention on Human Rights on 1 August 2018¹.

The Court of Cassation put the following questions to the Court:

- “1. By refusing to enter in the register of births, marriages and deaths the details of the birth certificate of a child born abroad as the result of a gestational surrogacy arrangement, in so far as the certificate designates the ‘intended mother’ as the ‘legal mother’, while accepting registration in so far as the certificate designates the ‘intended father’, who is the child’s biological father, is a State Party overstepping its margin of appreciation under Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms? In this connection should a distinction be drawn according to whether or not the child was conceived using the eggs of the ‘intended mother’?”
2. In the event of an answer in the affirmative to either of the two questions above, would the possibility for the intended mother to adopt the child of her spouse, the biological father, this being a means of establishing the legal mother-child relationship, ensure compliance with the requirements of Article 8 of the Convention?”

The Court of Cassation has adjourned the proceedings until the Court gives its opinion. On 3 December 2018 the panel of the Grand Chamber accepted the request for an advisory opinion and on 4 December a Grand Chamber was constituted in accordance with Rule 24 § 2 (h) of the Rules of Court in order to consider it. The President of the Grand Chamber invited the parties to the domestic proceedings to submit written observations by 16 January 2019.

The Grand Chamber will deliver its opinion in writing on 10 April 2019 at 11 a.m.

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1. Protocol No. 16 allows the highest courts and tribunals, as designated by the member States which have ratified this text, to request the Court to give advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the Convention or its protocols.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.