

Ukraine's surrogate mothers struggle under quarantine

The COVID-19 pandemic has revealed that Ukraine's international surrogacy industry desperately needs to change.

[Polina Vlasenko](#)

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Marina, a Ukrainian surrogate mother. | Photo (c): Yuliana Paranko

During the COVID-19 crisis, Ukraine ended up at the centre of an international surrogacy scandal.

On 30 April, the Ukrainian fertility clinic Biotexcom released a video showing 46 surrogate babies being cared for at a hotel in the capital city of Kyiv. As foreign clients, the babies' genetic parents

were unable to collect them – earlier, on 12 March, Ukraine had introduced quarantine and temporarily banned all foreigners from entering the country until 22 June. These scenes made headlines internationally.

The incident also sparked fierce debate among officials about surrogacy for foreign clients – Ukraine is one of only a handful of countries which allows it. On 13 May, Ombudsman for Human Rights Ludmila Denisova first asserted in a Facebook post that surrogacy should be allowed only for Ukrainian citizens, since “the provision of such services to foreign nationals may lead to violations of children's rights.” The next day, the Ombudsman for Children's Rights Mykola Kuleba supported Denisova, calling commercial surrogacy “child trafficking” and exploitation of surrogate mothers, whose position he later compared to slavery. However, Denisova visited the hotel shortly after her statement, after which she announced that all the babies were in good health and that she would assist their biological parents in entering the country in order to collect them. On 3 June Denisova announced during a press conference that 79 foreign parents had received permission from the Ministry of Foreign Affairs to enter Ukraine despite the COVID-19 restrictions.

That may seem a happy ending, but the story is far from over.

How has Ukraine's reproductive medicine fared during COVID-19, and what can the pandemic tell us about assisted reproduction technologies (ARTs) and their deep dependence on transnational networks? And, most importantly of all – what has become of the surrogate mothers themselves?

Pandemic pregnancies

The surrogacy treatment procedure includes the creation of embryos through IVF (either from the genetic material of the commissioning parents or donor material) and their implantation into the surrogate, who carries the baby or babies to term. In Ukraine, commissioning parents should expect to pay around US\$38-45,000 for surrogacy (with egg donation if needed), while surrogate mothers are paid \$300-400 monthly during pregnancy and a lump sum of \$15,000 after giving birth. Surrogate mothers sign a contract either with the commissioning parents or with an agency which represents them.

Lesya (a pseudonym) is a 30 year old surrogate mother from a small town in Ukraine. She works as a cashier; her husband, with whom she has a 10 year old child, is a miner. She became interested in surrogacy after moving to the city of Chernihiv for work, where she soon tired of renting one apartment after another. So in 2017, Lesya completed her first surrogacy, giving birth to twins for an American couple. She used the money to buy an apartment of her own. It was the first of several surrogate pregnancies.

In February 2020, when she was 30 weeks pregnant, Lesya moved to Kyiv to live in an apartment rented for her by the surrogacy agency. The following month, the pandemic reached Ukraine, and Lesya had to stay in the apartment completely alone. In April she gave birth at a private maternity ward, and subsequently returned home to reunite with her family. Despite the border closures, the commissioning parents – an American couple – were able to arrive in Ukraine and complete their child's legal registration. At the time of writing they are still in Ukraine, waiting until they are allowed to return to New York with their baby.

Natalia (a pseudonym) is an employee at the surrogacy agency which worked with Lesya. She says that women working with her agency delivered four babies during the quarantine period. All were successfully picked up by their American commissioning parents, who entered Ukraine from neighbouring Belarus, where they had flown from the USA.



Oksana, a Ukrainian surrogate mother | Photo (c): Yuliana Paranko

Oksana (a pseudonym) began her third surrogacy programme right before Ukraine announced a quarantine on 12 March; despite her fears about the impact of the new restrictions, Oksana's embryo transfer successfully took place when the borders were already closed. She is now in the 12th week of her pregnancy, carrying a baby for a Chinese couple.

Oksana's motivation for being a surrogate mother is crystal clear: "Few [women] stop after the first surrogacy. They do more because they need money. So did I. No other motivation exists," she explains. Oksana now regards surrogacy as her main job and hasn't earned money in any other way since she started working as a surrogate mother in 2015. In the meantime, she is studying to become an obstetrician and is raising her eight-year-old son alone in a rented apartment in Kyiv. Oksana began her first surrogacy when she had to leave her hometown due to the armed conflict in eastern Ukraine. At the time she had no job and was unable to complete her university degree in Luhansk. In her 17th week of pregnancy, the Spanish couple for whom she was carrying two boys, moved her to Kyiv. After giving birth, Oksana continued living in the same apartment that her commissioning parents rented for her during the programme. She then signed up for two more international surrogacies in order to finally purchase her own apartment.

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Both women say that most surrogate mothers they know who have given birth to babies for foreign couples during quarantine must now look after their newborns alone, because the commissioning parents are unable to come to Ukraine.

Some surrogacy agencies have hired nannies to take care of the newborns. Others have arranged for the babies to be transferred to maternity wards, where they can remain until the commissioning parents arrive. However, in either case the surrogate mother must remain in Kyiv, whether with the baby or separately. This is because under Ukrainian law, a child can stay at the maternity ward unregistered for up to 28 days. The baby can only be removed from the ward with the surrogate mother (whose name is indicated on the medical birth certificate issued at hospital), or with the genetic parents after the legal birth certificate has been issued in their names by the registry office. However, often the only way to finalise registration is for the commissioning parents to be present at their embassy with the surrogate mother, where she can sign a renouncement.

In other words, until the paperwork is done, the surrogate mother isn't going anywhere.

For surrogate mothers who have essentially become full-time carers after giving birth, the experience has been emotionally draining. Lesya describes the situation faced by her friend Anna: "It is extremely hard for her to sit with this baby for so long. She complains that she doesn't have strength anymore and really misses her own children." Some surrogates have been paid half the lump sum for delivery with the promise that they will receive the balancing payment after the genetic parents arrive, while others have not yet been paid anything. Moreover, not all agencies cover this unforeseen work as caregivers nor pay mothers' rent in full for this period. Some surrogate mothers

complain that while their commissioning parents are paying for these extra expenses, the agencies do not distribute all this money to surrogate mothers and do not them to communicate with commissioning parents.

Both Oksana and Lesya believe that all agencies should have paid surrogate mothers in full, hired nannies to assist them in taking care of the babies, and arranged for surrogate mothers to reside separately from the children. They also argue that the state could have acted more promptly in assisting commissioning parents to enter the country.

“I would go mad if I had to care for someone else’s baby for so long, especially if nothing is paid for it! When you go into a surrogacy program, you want to receive your payment and continue living your life,” says Olga, another surrogate mother.

The small print

Although Ukraine has legislation that regulates the sphere of assisted reproduction technologies (ARTs), COVID-19 has revealed the extent to which much of the field is unregulated.

Dr. Uliana Dorofeyeva, the medical director of the Intersono IVF clinic in Lviv, says that the biggest problem has been the lack of coordination between reproductive medicine and the authorities during the quarantine. There are around 59 fertility clinics in Ukraine today, but they do not report their statistics to any authorities. Of these, 38 report to the Ukrainian Association of Reproductive Medicine, which is not a governmental body but a professional association. As there is also no national register of egg donation and surrogacy programs, it is impossible to assess how many surrogacy babies were born during the quarantine.

There were no instructions from the state or any widespread consensus among fertility specialists as to how to respond to the quarantine; clinics were left to decide individually. Therefore, only three clinics completely closed, while the rest continued operating to a certain capacity. Those genetic parents that were able to arrive often owed it to their clinic's connections and its ability to contact embassies and the Ministry of Foreign Affairs.

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Intersono was one of those which closed its premises, only completing egg donation and surrogacy programmes that were initiated before the quarantine began. The clinic reopened in May. According to Dorofeyeva, all ten babies that were born to surrogate mothers during this time were successfully collected by their parents, and most of them have already left Ukraine.

Dr. Vladyslav Svirydyuk, the director of IVMed clinic in Kyiv, had a similar experience. His clinic, too, did not initiate any new egg donation or surrogacy programmes after the border closures. All four of the foreign couples whose babies were born in his clinic during the quarantine have arrived in Ukraine, and two of them have already left with their babies. The newborns remained in the maternity ward while awaiting their parents.

Dorofeyeva claims that there were fewer hurdles to commissioning parents' arrival than expected: they often arrived on charter flights or by car from nearby countries (borders with neighbouring countries such as Belarus were not closed to private passengers arriving by car). She recalls that an Israeli couple were able to register their child at the embassy in a single day and headed back home – weekly flights to Israel continued despite the quarantine.

While IVF clinics are licensed and clearly indicate their responsibilities in their statutes, they often are responsible only for the medical part of the surrogacy process. The organisational needs are covered by surrogacy agencies, which recruits surrogates, signs contracts with them and with the IVF clinic, arranging prenatal care, maternity ward stays, and arranges for commissioning parents to arrive and register their children.

The pandemic revealed the problematic aspect of these middlemen, who are often not officially registered and cannot be held accountable. For example, couples that connected with their surrogate mothers and clinics through surrogacy agencies were not always helped in arriving to Ukraine or registering their children. Similarly, surrogate mothers who gave birth during the quarantine, such as Lesya's friend Anna, had to take care of the babies without being paid compensation.

“If these agencies exist, they need to be strictly regulated with clear areas of responsibility,” says Dorofeyeva.

A need for new rules

Ukraine's fertility specialists appreciate that their field is not strictly regulated and that the state does not intervene in it. On the other hand, they often express a desire for more regulation and control to weed out the irresponsible players and clarify the rules of the game. As Dorofeyeva emphasises: “The

fact that our field is quite self-organised is both an advantage and a disadvantage. On our local level we can make all the decisions regarding medical algorithms and processes, and which international treatment protocols to follow. It is good that we have this freedom, but the practice shows that not all parties prioritise the right things: safety and quality. Some prioritise profit and quantity. This needs to have some external control.”

But it's unclear what public authority would be able to step in. Moreover, experts fear that the involvement of the state may lead to undesirable restrictions. “The first reaction of our politicians is to ban the practice, because they do not have expertise in the topic. They cannot know the needs of the field if they never cooperated with it before,” remarks Dorofeyeva.

The dramatic consequences of the closure of borders for Ukraine's export-oriented surrogate industry reveals its profound dependency on unrestricted cross-border mobility. Many of the solutions depended on informal connections; Dorofeyeva believes that the industry's failure to articulate its concerns and proactively offer recommendations was largely to blame for the lack of state assistance.

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Nevertheless, COVID-19 has prompted a rethink of one important aspect of surrogacy arrangements.

While foreign commissioning parents could ship the embryos for surrogacy in Ukraine, their physical presence was still required for the registration of the child. There are now suggestions that the child registration procedure could be simplified and could be conducted without the presence of the commissioning parents, provided that they assign power of attorney.

The pandemic has also prompted Ukraine's surrogate mothers to organise themselves. For example, surrogate mother Svetlana is the founder of the “The Power of Mothers”, a nongovernmental organisation aimed at protecting the rights of surrogate mothers. Her organisation calls for the rights and responsibilities of surrogate mothers to be clearly defined in Ukrainian legislation.

It also offers legal advice on surrogacy contracts provided by specialist lawyers. Surrogate mothers frequently complain that agencies fail to act in their best interests, failing to specify the amount and

terms of compensation, the conditions of moving to the capital if required, the consequences of miscarriage, as well as the possible risks of pregnancy and compensation for them. Surrogate mothers such as those interviewed for this article have also claimed that agencies conceal important information from them and fail to assist them in covering medical expenses and arranging accommodation.



Natalya, an egg donor who also works for a recruitment agency for Ukrainian surrogate mothers. | Photo (c): Yuliana Paranko

“There are just a ton of beautiful websites with no one standing behind them,” says Elena Babich, a lawyer who works with The Power of Mothers.

Babich hopes that the wave of attention drawn to Ukraine's surrogacy industry will result in greater state involvement to the benefit of surrogate mothers. However, surrogate mothers themselves are more reluctant to engage with the authorities – they believe that even if they were to engage with the state, it would only lead to Ukraine banning surrogacy or enforcing other restrictions which would undermine them.

“The best thing the state can do is not to stick its nose here,” declares Oksana. “Changes for the better will happen only if surrogate mothers themselves switch on their brains and analyse what they are signing, choosing only those agencies and clinics that have good conditions and a good attitude. If

surrogate mothers make the right choice, unscrupulous intermediaries who lie and get them involved in illegal programmes will disappear on their own due to a lack of clients... Now news is circulating that the state will make us pay taxes. I already signed one contract that didn't specify any [compensation] sums because [the agency] was afraid they would have to pay taxes on it."

This pandemic has thrown a spotlight on a particularly poorly regulated and controversial industry. Public debate on the issue in Ukraine mostly revolves around the prohibition of commercial surrogacy for foreigners, which is perceived as a form of child trafficking and exploitation of Ukrainian women. What has gone less widely discussed is the need for greater transparency and rights enshrined by law – so as to protect all those who use surrogacy services, from egg donors to infertile couples, surrogate mothers, and children born as a result of them.

It is possible that this increased attention will finally result in a law on assisted reproduction technologies (ARTs) in Ukraine. Several draft versions of such a law have already been submitted to Ukraine's parliament. But given the lack of consensus among fertility specialists and lawyers, these proposals vary widely, and it cannot be said who will be protected and who will be left out.

But what is clear is the urgent need for change.

"It cannot continue this way," remarks Babich, the lawyer. "We have the state and it has to decide".

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