

**PERAN *EUROPEAN COURT OF HUMAN RIGHT* DALAM  
PERLINDUNGAN HUKUM HAK ANAK HASIL *INTERNATIONAL  
CROSS-BORDER SURROGACY***

Oleh  
**Putu Fairnanda Sastra Devi**  
NIM 2214101157  
Program Studi Ilmu Hukum

**ABSTRAK**

Penelitian ini bertujuan untuk (1). Menganalisis penerapan prinsip *best interest of the child* pada pengaturan perlindungan hak anak hasil *international cross-border surrogacy* dalam perspektif hukum internasional, (2). Mengkaji peran dari ECtHR melalui putusan-putusannya pada kasus *international cross-border surrogacy*. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan peraturan perundang undangan, konseptual, kasus, dan perbandingan.

Hasil penelitian menunjukkan bahwa (1). Prinsip *best interests of the child* sebagai norma fundamental internasional belum diterapkan secara konsisten dalam konteks *cross-border surrogacy* akibat perbedaan regulasi nasional dan konflik yurisdiksi, sehingga perlindungan konkret terhadap identitas, status filiasi, dan kewarganegaraan anak masih mengalami kesenjangan. 2) Peran ECtHR menjalankan peran sebagai *living instrument*, *balancing authority*, *positive obligations provider*, pengelola *margin of appreciation*, serta pelaksana *judicial supervisory role* guna memastikan bahwa diskresi hukum domestik negara tidak mengorbankan hak fundamental dan kehidupan privat anak.

**Kata kunci:** Peran, Perlindungan Hukum, Hak Anak. *Surrogacy*, ECtHR

**THE ROLE OF THE EUROPEAN COURT OF HUMAN RIGHTS IN LEGAL  
PROTECTION OF THE RIGHTS OF CHILDREN RESULTING FROM  
INTERNATIONAL CROSS-BORDER SURROGACY**

**By**

**Putu Fairnanda Sastra Devi**

**ID Student 2214101157**

**Law Study Program**

**ABSTRACT**

*This research aims to (1) analyze the application of the best interests of the child principle in regulating the protection of children's rights resulting from international cross-border surrogacy from an international legal perspective. (2) assess the contribution of the ECtHR through its judicial decisions in international cross-border surrogacy disputes. The research employs a normative legal method using statutory, conceptual, case and comparative approaches..*

*The results of the study show that (1). The principle of the best interests of the child as a fundamental international norm has not been consistently applied in the context of cross-border surrogacy due to differences in national regulations and jurisdictional conflicts, so that concrete protection of the identity, filiation status, and citizenship of children still experiences gaps. 2) The role of the ECtHR plays a role as a living instrument, balancing authority, positive obligations provider, manager of the margin of appreciation, and implementer of the judicial supervisory role to ensure that the state's domestic legal discretion does not sacrifice the fundamental rights and private life of children.*

**Keywords:** *Role, Legal Protection, Children's Rights, Surrogacy, ECtHR*