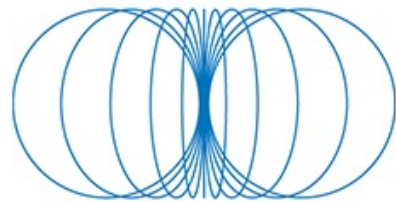




Update on the new donor law

David PENING, H.U.B Hôpital Erasme

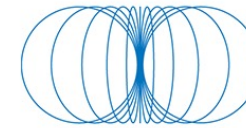
Shari MACKENS, UZ Brussel



BSRM

Belgian Society for Reproductive Medicine

Gamete donation



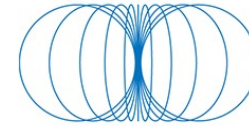
3 players

- Donor
- Recipients
(future parents)
- Offspring



3 options

- Known donor
- Anonymous donor
- ID released donor



BSRM

Belgian Society for Reproductive Medicine

Countries which allow access to origin

Sweden



- 1984 law: access to origin from 18 y.o for children born after **1985** and 2003 for oocyte donation

Netherlands



- **2002** law: access to origin **from 16 y.o** and at 12 y.o for non identifiable data

**NO COMMON
LEGISLATION**

United Kingdom

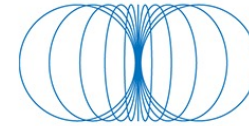


- **2005** law: access to origin from 18 y.o and at 16 y.o for non identifiable data
- Role of the HFEA (human fertilisation and embryology authority)
- Independant authority

Portugal



- **2018** law: access to origin for children born after 2019
- Confidentiality: the children born from a donor can not communicate the ID of the donor to a third party (penal sanctions)



Countries which allow partial access

Denmark 

- **2012** law: donors may choose anonymous vs non-anonymous

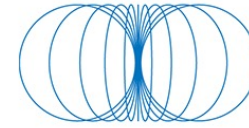
USA  Canada  Japan 

- **No law!** Depends on sperm and oocyte banks...

France 

- **2021** new bioethic law: MAR for all, access through the CAPADD (commission d'accès des personnes nées d'une assistance médicale à la procréation aux données des tiers donneurs)

2007 Belgian law on MAR



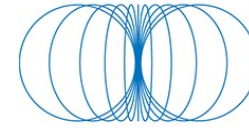
BSRM

Belgian Society for Reproductive Medicine



- Regulation of ART
- Safeguard gamete donation with ethical, medical and legal framework
- Protect donor anonymity and rights: keep donor-identifying data inaccessible
- Limit families to prevent consanguinity: no more than 6 children (or 6 women) per donor
- Altruistic donation: prohibits selling of gametes
- Provide legal protection for stakeholders: ban eugenic or sex-selection uses
- Regulate access and procedures: enforce strict screening and govern supernumerary use of gametes and embryos

New 2027 law – ban anonymity



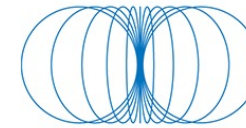
BSRM
Belgian Society for Reproductive Medicine

Articles 458 of the Penal Code and 57 of the Law of 6 July 2007 "relating to medically assisted reproduction and the disposition of surplus embryos and gametes" are contrary to the right to respect for private and family life

They absolutely prevent a child conceived through gamete donation from obtaining any identifying or non-identifying information about the donor from the fertility center.

The **Constitutional Court** considers that the current legislative framework gives absolute priority to the interests of the donor, **without taking into account the interest of the child conceived** to know their origins through the fertility center.

Why stop anonymity ?



BSRM

Belgian Society for Reproductive Medicine

Right to know your genetic background

Impossible to guarantee anonymity nowadays (DNA testing, genetic database online...)

Perspectives on sperm donor anonymity: insights from donor-conceived adults in Belgium

Phyline Casteels , Julie Nekkebroeck, Herman Tournaye

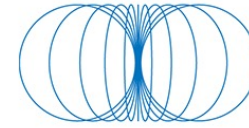
Human Reproduction, Volume 39, Issue 9, September 2024, Pages 2021–2031,



The earlier, the better ?

=> Less likely to lead to conflicts if revealed at adulthood or at specific team of life (divorce of parents, death, other issues)

1st point of discussion

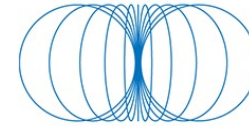


BSRM
Belgian Society for Reproductive Medicine

The disclosure of identifying data from the age of 12 :

- Rights of a child conceived through gamete donation covered by the new law to have access from 12 y.o and upon request, to the donor's identifying data (name-date of birth-nationality-country where donation took place-information whethere donor is deceased or not)
- Under age of 16 y.o, parents are informed of the data that the child has requested and received

1st point of discussion



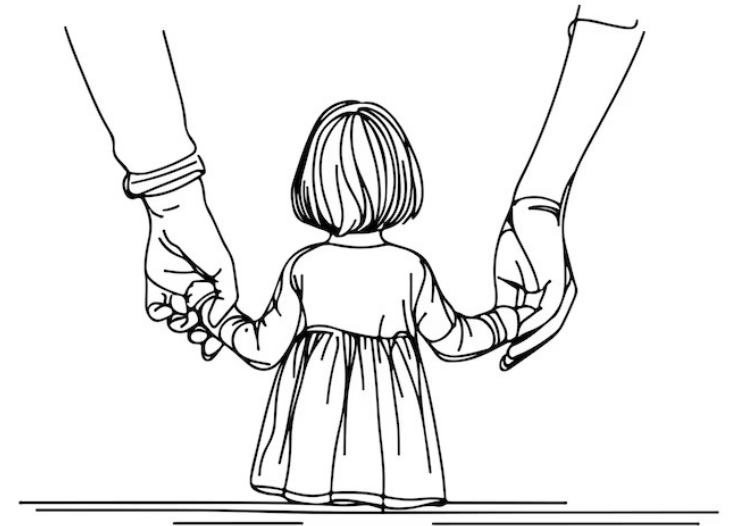
BSRM

Belgian Society for Reproductive Medicine

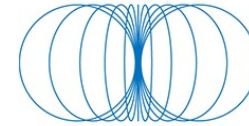
Adaptations :

- Age limits: 12 years for non-identifying data and 16 years for identifying data
- Access to non-identifying data: from age 12
- Access to identifying data: from age 16
- Furthermore, it is stipulated that:

The King may establish a limited list of exceptions, particularly in situations such as: a terminally ill child; children within the same family



2nd point of discussion

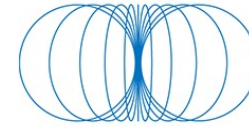


BSRM
Belgian Society for Reproductive Medicine

The disclosure of identifying data in the case of deceased donors :

- Article 65/9, §1 stipulates that identifying data is only disclosed:
 - at the request of the child conceived through donation, and after the explicit consent of the donor
- Article 65/9, §2 stipulates that, if the donor is deceased, consent is requested:
 - from the spouse or cohabiting partner who lived with the donor for the three years preceding the death;
 - failing that, from the donor's first-degree descendants who are still living

2nd point of discussion

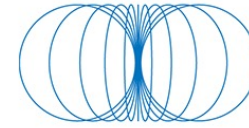


Adaptations :

- This only applies to donors who were anonymous in the past and have since passed away
- This only applies to cases where a child conceived through donation submits a disclosure request to the institute
- This only concerns available data
- Non-identifying data may be disclosed as part of this request



3rd point of discussion

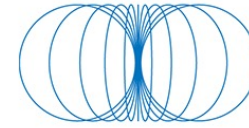


BSRM
Belgian Society for Reproductive Medicine

The transitional regime for the use of anonymously donated gametes :

- Article 65/11, § 1, stipulates that one year after the law's entry into force, no new treatment using anonymously donated gametic material may be initiated
- Article 65/11, § 2, stipulates that the use of anonymously donated gametic material is, in principle, no longer permitted three years after the law's entry into force
- Article 65/11, §3, provides that the authors of the parental plan who have already had a child before the entry into force of the law thanks to anonymously donated gametic material may continue to use gametic material from the same anonymous donor for a future child

3rd point of discussion



BSRM
Belgian Society for Reproductive Medicine

The transitional regime for the use of anonymously donated gametes :

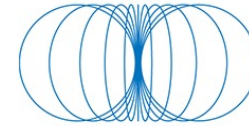
- Article 65/11, §4 provides that embryos already created from anonymously donated gametic material may be used as long as the legal storage period for these embryos has not expired
- These provisions introduce a phased transition regime, in which new routes are excluded after one year and existing use can be continued for a limited period and under specific conditions

Adaptations :

- Period for starting new courses is shortened to 6 months



Issues for the sector



BSRM

Belgian Society for Reproductive Medicine

Without planning a recruitment campaign in Belgium

- Reduced access to sperm donation for Belgian families
- Faster transition to IVF-D
- Priority given to patients with a good prognosis
- Promotes reproductive tourism
- Social inequality: further increases in costs, foreign sperm banks set the prices
- ART no longer accessible for every patient

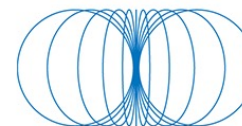


Latest updates

NL

FR

DE



BSRM

Belgian Society for Reproductive Medicine

Officiële informatie en diensten: www.belgium.be



Frank Vandenbroucke

[Nieuws](#)

[Biografie](#)

[Contact](#)

Goedkeuring ministerraad: Donorkind centraal door opheffing anonieme donors

27 februari 2026

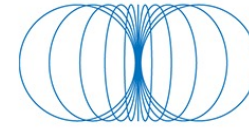
Accord au conseil des ministres : Levée de l'anonymat des donneurs : l'intérêt de l'enfant prime

27 février 2026

LE SOIR

Les dons de sperme et d'ovocytes ne seront plus anonymes

La mesure qui vise à permettre aux enfants nés par don de sperme de connaître leurs origines a été approuvée ce vendredi en conseil des ministres.



BSRM

Belgian Society for Reproductive Medicine

Dossier Donorschandaal

Federale regering schaft anonimiteit voor donoren ei- en zaadcellen af

vṛ nws

Dons de sperme et d'ovocytes : la BSRM alerte sur les effets d'un projet de loi

Le **SPÉCIALISTE**[®]
L'actualité des médecins spécialistes

🕒 05 mars 2026 👤 par Belga/PM

BSRM POSITION PAPER

Concerns & proposed amendments to the gamete and embryo donation bill

Belgian Society for Reproductive Medicine (BSRM) – March 2, 2026

We Support

Two-track model, Registry expansion & Donor Data Institute

Our Concern

Sector feedback has been insufficiently incorporated into the current draft

Our Ask

Five fundamental problems require urgent attention before enactment



Five fundamental problems at a glance

1

Donor & Parent Rights

Past donors and parents are insufficiently protected; no guidance or counselling is provided.

2

GDPR & Feasibility

Retroactive data submission to the Register likely violates GDPR and is practically unworkable.

3

Underestimated Workload

The Register and Institute are insufficiently developed, leading to a severely underestimated operational burden.

4

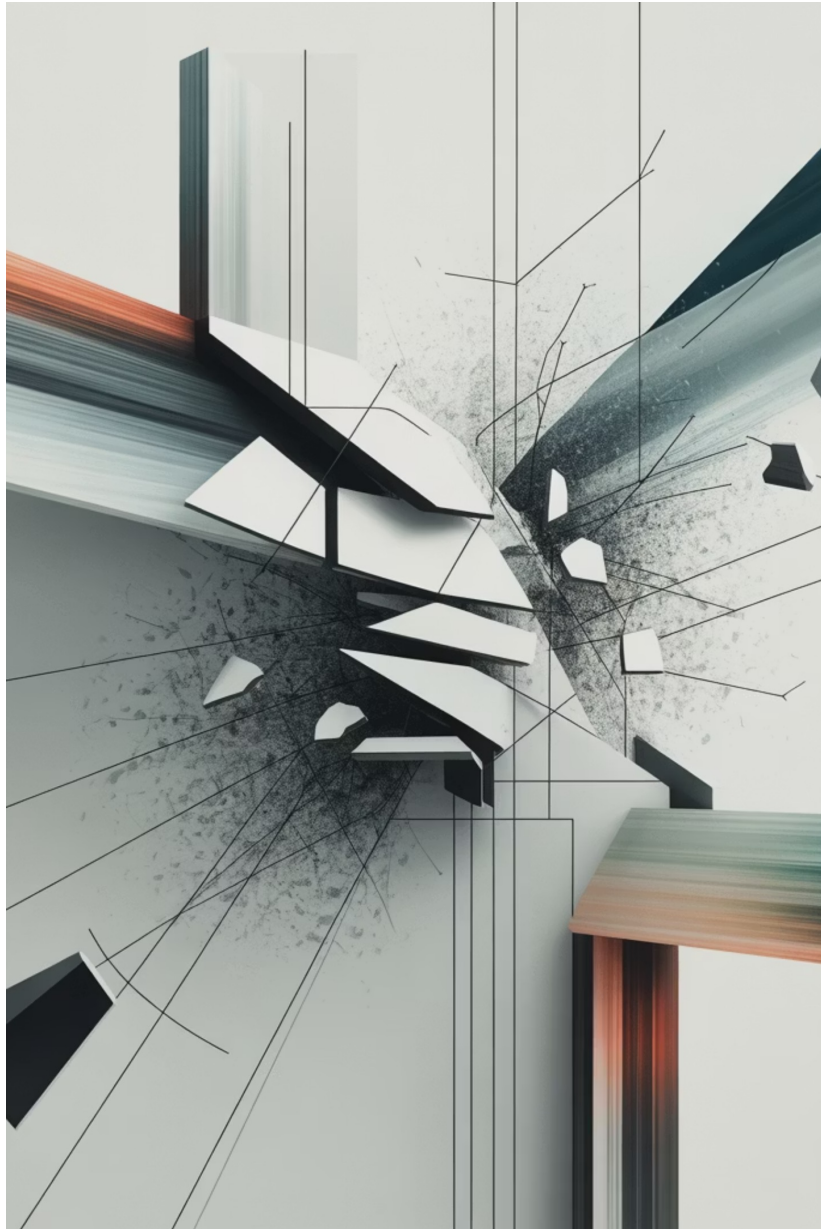
Transition Period

A fixed 6-month window is inadequate; the transition must be context-driven, not time-boxed.

5

Excessive Sanctions

Current obligations and criminal penalties will threaten programme accessibility.



PROBLEM 1

Rights of past donors & parents are not adequately protected

What the Bill proposes

Past donors are contacted to waive anonymity.

If deceased, their identity is released automatically – without consent.

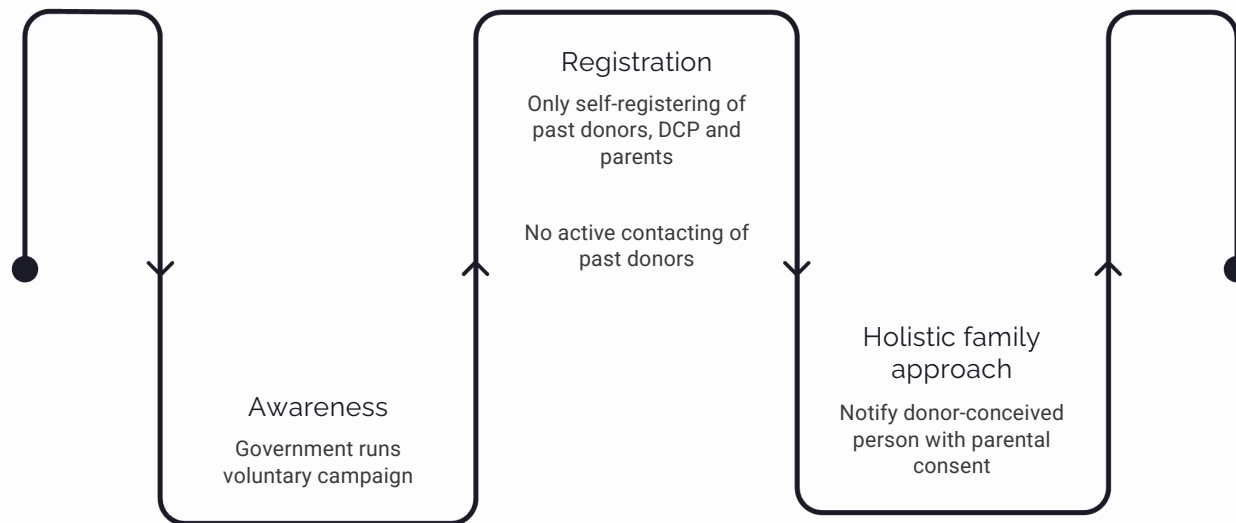
Fertility centres must submit national registry numbers of all past anonymous donors and patients.

Upon their request, DCP are informed of their conception method with parents involved only up to age 16.

Why this is challenged

- All past donor contracts **guaranteed anonymity**
- The 2024 Constitutional Court ruling requires a **fair balance** between all parties
- Releasing a deceased donor's identity without consent is a rights violation
- Foreign donors cannot be identified, creating **unequal treatment**
- Parents should be **actively involved**

Voluntary registration, not proactive disclosure



Centres are not required to submit ID numbers of past anonymous donors, nor parents.

If parents refuse disclosure, a structured mediation pathway must be available.

The law should not enter into force until this counselling framework is in place.

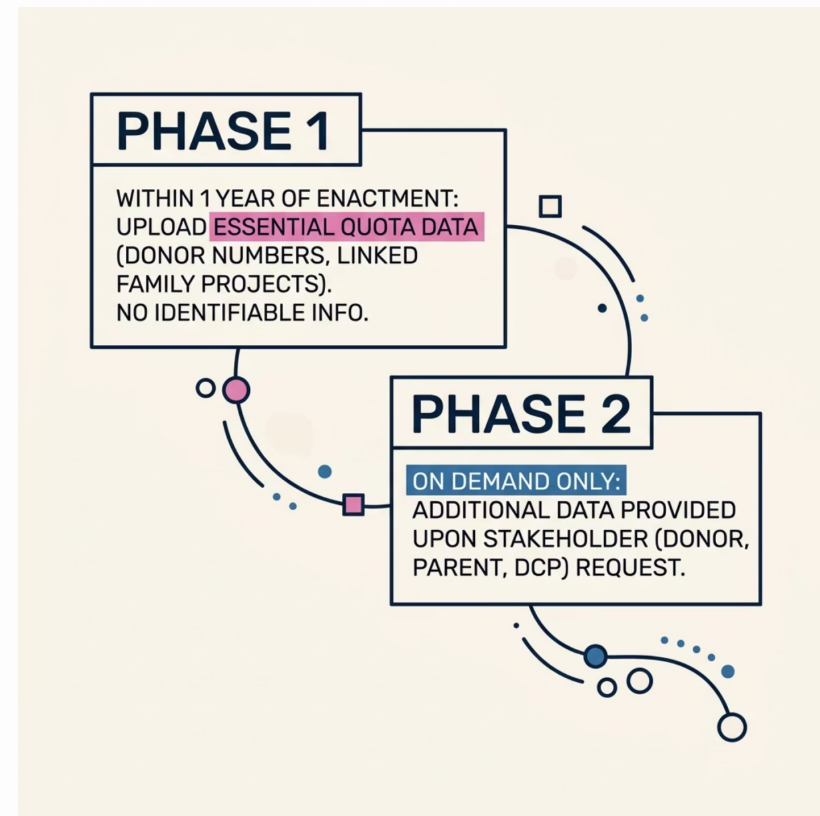
PROBLEM 2

Retroactive data upload: GDPR risk & operational infeasibility

The bill requires all treatment and donor data since the 2007 MBV Act to be uploaded to the Register by **1 September 2028**. This is both legally uncertain and practically impossible.

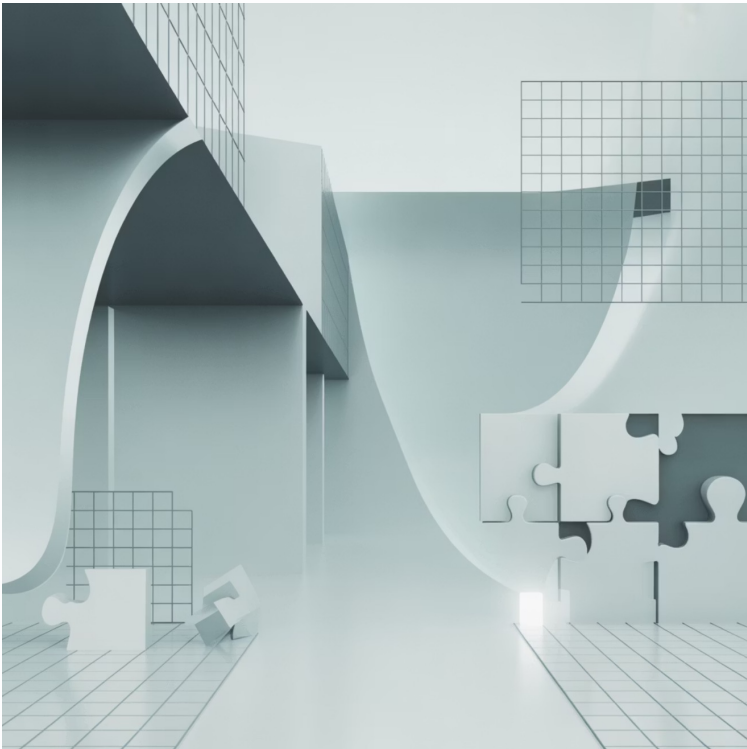
- No national register existed from 2007–2024
- Much data is non-digitised or spread across multiple systems
- Centres do not hold children's national registry numbers
- Bulk upload is disproportionate to the stated objective

□ BSRM requests formal advice from the Data Protection Authority and Council of State before any further work on data submission proceeds.



PROBLEM 3

The Register & Institute are structurally underprepared



Dedicated Administrative Staff

Moving beyond reliance on expert consultants to establish a core operational team.

Funding & Governance

Requirement for a fully transparent and sustainable operational plan.

Conditional Implementation

The law must not take effect until both the Register and the Institute are fully functional.

Psychological Support

Provision of essential community-level guidance for families with donor-conceived children.

PROBLEM 4

The transition period must be context-driven, not time-boxed



Current Proposal

A **6-month window** after enactment during which previously donated anonymous gametes may still be used.

Why This Falls Short

- Patients often pause treatment for medical or personal reasons – they should not lose already-assigned gametes
- Denying new anonymous material for a sibling born from the same donor **undermines family cohesion**

BSRM Proposal

From Day 1, no new anonymous gametes assigned to new patients. However, **all previously assigned gametes remain available without time limit**, and families may access matching anonymous material for a sibling, also without restriction.

PROBLEM 5

Excessive obligations & sanctions threaten the program

Liability for foreign sperm banks

Centres have no mandate or capacity to inspect foreign institutions. Contracts with foreign banks should be renewed pre-enactment, with Ministerial approval and oversight by national control agencies.

Criminal liability for donors, parents & children

Penalising parties for not reporting new health data contradicts all other medical privacy law.

Awareness campaigns and standardised informed consents are the better approach.

Mid-pregnancy data upload

Centres do not hold data at 24 weeks gestation – this obligation is factually unenforceable.

Level 3 sanctions & practice bans

Cannot apply unless centres receive an active notification when a donor is blocked in the Register (comparable to biovigilance alerts, max. 72h response time).

The accessibility risk: a real-world consequence

85% of all donor sperm treatments in Belgium rely on foreign banks. The current bill risks:

- **Wealthier patients** travelling abroad for treatment
- **Others** turning to unregulated social media donation

BSRM formally requests that the government's verbal commitment to **recurring donor recruitment campaigns** and a revision of the Royal Decree prohibiting clinic recruitment be put in writing in the law.



Conclusion & Call to Action

Legal Risk

As drafted, specific provisions – or the entire law – could be legally challenged, creating prolonged uncertainty for all parties.

Practical Risk

Implementation will be unworkable. BSRM fears a sharp decline in donation treatments, driving patients toward unregulated alternatives.

Our Commitment

BSRM has invested significant time to help build a workable, equitable law. We remain a willing and constructive partner in further dialogue.

- ❏ **The current proposal does not allow donation to be offered in a legally safe context.** BSRM strongly urges that the five amendments outlined in this paper be incorporated before the bill proceeds to a vote.