

# French woman asks court for dead husband's sperm

23 September 2009, by Deborah Claude

A 39-year-old widow asked a French court Wednesday to allow her to retrieve her late husband's frozen sperm so that she can be inseminated and have his child.

Fabienne Justel wants a [sperm bank](#) in the western city of Rennes to hand over several samples from her husband Dominique, who died from cancer just three months after their [marriage](#) in June 2008.

Justel, who has three children from a previous marriage, plans to undergo in vitro [insemination](#) in a foreign country because post-mortem [fertilisation](#) is illegal in France.

"I want to fight for this child. I will do all that I can. I am not going to give up," said Justel after the brief hearing in the Rennes high court.

Her case ran into opposition from public prosecutors who said the contract between Dominique Justel and the sperm bank specified that the sperm could only be used if he was present and gave his consent.

Justel maintains that her husband decided to have his sperm stored after learning that he was terminally ill, hoping that their dream of having a child together could come true even if he was gone.

"For us, having a [child](#) was the dream of a lifetime," said Justel earlier this year.

"When I was told by the sperm bank that it would be impossible for me to retrieve the samples, I was crushed because I was never told that this could happen," she added.

The woman has since become an advocate of "reproductive tourism", highlighting that countries elsewhere including neighbouring Spain have less restrictive laws.

During the hearing on Wednesday, Justel's lawyer made the case that the contract with the sperm bank was made on behalf of both Dominique and Fabienne Justel, who were legally married.

"When one of the spouses made a commitment, it was a commitment that applied to both of them," said lawyer Gilbert Collard.

The lawyer said however after the hearing that he did not hold out much hope of a ruling in Justel's favour. She is already considering ways of appealing, said Collard.

"We know that this is an emotional case but we must apply the law," said [lawyer](#) Michel Poignard, representing the CECOS sperm bank.

"The sperm can only be used for a patient who is present and consenting," he said.

The court is to rule in the case on October 15.

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APA citation: French woman asks court for dead husband's sperm (2009, September 23) retrieved 11 October 2022 from <https://medicalxpress.com/news/2009-09-french-woman-court-dead-husband.html>

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