



Statement on the new Italian Law against Surrogacy

On the 16th of October 2024, Italy approved a law on **surrogacy** that contains a serious but illegitimate threat to Italian citizens who may wish to legally access surrogacy abroad.

The law extends the punishability of the “crime” of surrogacy, already provided for by art. 12, paragraph 6, of law no. 40 of 2004, **even if committed abroad**, and even in a Country where it is regulated by law.

Starting from the beginning of December 2024 persons with Italian nationality who, in full compliance with the national legislation where the practice is accessed, upon their return to Italy may be punished with **imprisonment from 3 months to 2 years or a fine from 600,000 to one million euros**.

The ruling majority has introduced what they call a “universal crime” going against the international principle of legality and double criminality, and despite the fact that in some 70 jurisdictions around the world surrogacy - either altruistic or commercial - is legal and regulated by law. Moreover, the [European Court of Human Rights, in its decision of 10th April 2019](#) and subsequents, recognizes the intended mother as the legal mother, and requires that the countries-members take all the necessary measures to protect the children born through surrogacy. Also, the ECHR’s Mennesson decision since 2004 in France demonstrated that **“an act made by a territory where surrogacy is legal cannot be considered illegal in another country if all the process has been respected and made according to the local rules”**.

The analysis of the positions expressed by organizations of international or European nature, as well as international legislation on the subject, show an **evolution toward legal regulation aimed at preventing human rights violations rather than an absolute condemnation of surrogacy**. In this respect, the law promoted by Italy is illegal and against the European rules : Italy can ban surrogacy on its own territory, but not in other countries, and cannot qualify it as a “universal” crime.

For all these reasons, as a coalition of European surrogacy advocacy associations composed of representative groups from different countries, we do firmly condemn the new Italian law that poses several problems in relation to international human rights, highlighted at [this page](#). We therefore urge European countries and institutions to mediate to prevent member states from implementing legislation contrary to the best interest of the minority parties in question and the criteria of the European Court of Human Rights based on premises not supported by data evidence.

This statement is also supported by Irish Senator Mary Seery Kearney member of Seanad Éireann. Ireland is the latest European country to have approved a surrogacy regulation this summer of 2024.