

EN
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Answer given by Mr McGrath
on behalf of the European Commission
(31.7.2025)

Under the EU Treaties, family law, including rules on the definition of family or rules on surrogacy, falls under the competence of Member States.

Member States are already required by EU law on free movement to recognise parenthood established in another Member State for the purposes of children's rights under EU law¹, irrespective of how the child was conceived or born. Those rights that children derive from EU law include their right to reside in another Member State, their right to obtain travel documentation and their right to equal treatment with the nationals of the host Member State in matters covered by the Treaties.

The Commission will monitor the developments with the application of Italy's law on surrogacy as regards the situation of children born from surrogacy in view of their rights derived from EU law.

The Commission proposal on the recognition of parenthood between Member States² based on Art 81(3) TFEU does not affect the rules of the Member States on surrogacy.

The proposal would require the Member States to recognise parenthood as established in another Member State for all purposes, including children's rights derived from parenthood under national law, such as their right to inherit, obtain maintenance and be represented by either parent in another Member State on matters such as their schooling and health. The proposal would apply to all children irrespective of how they were conceived or born and irrespective of their type of family.

¹ Judgment of the CJEU in case C-490/20, VMA.

² COM(2022) 695 final, adopted on 7 December 2022.