

EN

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Answer given by Ms Lahbib

on behalf of the European Commission

(27.5.2026)

The Commission is committed to upholding children's and women's rights within the framework of its competences. The exploitation of surrogacy is included as a form of exploitation in the Anti-Trafficking Directive<sup>1</sup>. The Directive targets those who coerce or deceive women into acting as surrogate mothers, without prejudice to national rules on surrogacy, including criminal and family law.

Substantive family law, including rules on surrogacy, falls within the competence of the Member States. Each Member State thus decides its policy and legal position as regards surrogacy. However, the EU has competence under Article 81(3) TFEU to adopt measures of family law with cross-border implications. It is on this basis that the Commission adopted the proposal on the recognition of parenthood between Member States<sup>2</sup>.

Given that, under international law<sup>3</sup> and EU law (including the Treaties and the Charter of Fundamental Rights), all children without distinction have the same rights, the Commission proposal covers the recognition of parenthood established in a Member State irrespective of how the child was conceived or born and irrespective of the child's type of family. Under the control of the Court of Justice and within the limits of the Court's case law, Member States can invoke public policy to refuse the recognition of parenthood.

The recognition of parenthood established in a third country will continue to be governed by national law. However, in applying their national law on the recognition of parenthood, Member States must respect their human rights obligations under international law, in particular the case law of the European Court of Human Rights on the recognition of the parenthood of children born abroad through surrogacy.

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<sup>1</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (<https://eur-lex.europa.eu/eli/dir/2011/36/oj/eng>), amended by Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (<https://eur-lex.europa.eu/eli/dir/2024/1712/oj/eng>).

<sup>2</sup> COM(2022) 695 final.

<sup>3</sup> In particular, the UN Convention on the Rights of children and the European Convention of Human Rights.