



XXIII CLARCIEV MEETING HONDURAS 2026



PANEL 4 – SURROGACY AND CIVIL REGISTRATION

*From lawfulness to international
recognition of parentage – a European
perspective*

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OVERVIEW

1. THE ABSENCE OF A EUROPEAN MODEL
2. ECtHR's CASE LAW
3. APPLICATION OF ECtHR's CASE LAW IN STATES PARTIES
4. APPROACH OF THE CJEU

**PART ONE – THE
ABSENCE OF A
EUROPEAN MODEL**

01 Surrogacy is permitted and regulated
(ex. United Kingdom, Greece, Portugal, the Netherlands)

02 Surrogacy is tolerated but not regulated
(ex. Belgium, Czech Republic)

03 Surrogacy is prohibited
(ex. France, Germany, Italy, Spain)

PART TWO – ECtHR's CASE LAW

A UNIQUE SUPRANATIONAL JUDICIAL FRAMEWORK

01

Couple goes abroad for surrogacy

02

Refusal of recognition of parentage by national authorities -> report by the civil registrar -> case brought before the Court

03

No right to surrogacy BUT best interest of the child:
article 8 ECHR = right to respect for private and family life

RELEVANT CASE LAW



Menesson and Labassée v. France, 2014

Key takeaway:

biological link → mandatory
recognition of parentage



Paradiso and Campanelli v. Italy, 2017

Key takeaway:

absence of biological link →
States' margin of
appreciation



Advisory opinion, 2019

States have to provide an effective
possibility of recognizing the legal
relationship between the child and
the intended mother → ex.
adoption

PART THREE – APPLICATION OF ECtHR'S CASE LAW IN STATES PARTIES



FRANCE

Court of Cassation, 3 July 2026

Exequatur of Canadian decision establishing parentage between intended parents and child born of surrogacy.



ITALY

Law 169/2024, 3 December 2024

→ *extraterritorial* criminal liability of Italian citizens

PART FOUR – APPROACH OF THE CJEU

**Free movement of European
citizens**

**V.M.A. contre Stolichna
obshtina, “**Pancharevo**”, 14
December 2021:**

Right of the child to a travel or
residence document

CONCLUSIONS

- No uniform right to surrogacy in Europe
- The debate has shifted from the lawfulness of surrogacy to the recognition of family situations lawfully established abroad and the protection of the child's fundamental rights.



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THANK YOU!

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