



## SEIMAS OF THE REPUBLIC OF LITHUANIA

### RESOLUTION ON CONDEMNING ALL FORMS OF SURROGACY 25<sup>th</sup> of June 2020 No XIII-3160 Vilnius

The Seimas of the Republic of Lithuania,

*basing on* Article 1 of the United Nations Universal Declaration of Human Rights and being deeply convinced that all human beings are born free and equal in dignity and rights,

*having regard to* the fact that the Convention on the Rights of the Child of the United Nations calls for the prevention of the abduction of, the sale of or traffic in children for any purpose or in any form (Article 35),

*noting* that the United Nations Slavery Convention defines slavery as the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised (Article 1),

*stressing* that the Convention on Human Rights and Biomedicine prohibits financial gain and disposal of a part of the human body (Article 21),

*having regard to* the obligations arising from international treaties, including:

- the obligation under the United Nations Convention on the Elimination of All Forms of Discrimination against Women to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. (Article 6);
- the obligation under the United Nations Convention on the Rights of the Child to ensure such rights of the child as the right to know and be cared for by his or her biological parents (Article 7), the right to preserve his or her identity, including biological family relations (Article 8), the right of the child who is separated from one or both parents to maintain direct contact with both parents on a regular basis (Article 9), and the right to family reunification (Article 10),

*noting* that the United Nations Convention on the Rights of the Child calls for paying due regard to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background when considering solutions relating to alternative care of the child (Article 20),

*stressing* that the European Convention on the Legal Status of Children born out of Wedlock provides that maternal affiliation of every child born out of wedlock shall be based solely on the fact of the birth of the child (Article 2),

*observing* that Article 4(4)(4) of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption requires that the consent for adoption is not obtained by coercion or for the purpose of improper financial gain,

*noting* that the European Parliament resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women (2010/2209(INI)) requests Member States to acknowledge the serious problem of surrogacy which constitutes an exploitation of the female body and her reproductive organs,

*emphasising* therein that women and children are subject to the same forms of exploitation and both can be regarded as commodities on the international reproductive market, and that these new reproductive arrangements augment the trafficking of women and children and illegal adoption across national borders,

*noting* that the European Parliament resolution of 17 December 2015 on the Annual Report on Human Rights and Democracy in the World 2014 and the European Union's policy on the matter condemns the practice of surrogacy, which undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity; considers that the practice of surrogacy which involves reproductive exploitation and use of the human body for financial or other gain, in particular in the case of vulnerable women in developing countries, shall be prohibited and treated as a matter of urgency in Human Rights instruments (115),

*noting* that the report of 2018 of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material (A/73/174) and the thematic report on surrogacy (A/HRC/37/60) warn against the abuse of all forms of surrogacy,

*recalling:*

- the provision of Article 38 of the Constitution of the Republic of Lithuania establishing that the family shall be the basis of society and the State,
- the constitutional duty of the State to ensure protection of family, motherhood, fatherhood, and childhood (Article 38(1), Article 38(2),

*stressing* that, in their essence, surrogacy and adoption are distinct practices that reflect two fundamentally different approaches to the rights of the child, since adoption is linked to the specific needs of the already born child, and surrogacy is focused on adult desires with regard to a non-existing child,

*emphasising* that surrogacy involves deliberate termination of existing family relationships, while adoption is aimed at creating a family for *a de facto* abandoned child and, therefore,

*recommending* that couples unable to have children of their own should go for adoption rather than surrogacy, the former being in the best interests of the child,

*noting* that surrogacy techniques lead to a situation where parental rights with regard to the child are claimed on the genetic, biological or legal basis, thus creating a legal chaos in international and national practices,

*seeing* that the attempts by States to regulate surrogacy in law have only given rise to reproductive tourism and increased the exploitation of women and trafficking in children in poor countries,

*condemns* all forms of surrogacy as they entail instrumentalization of women and children;

*insists* that any form of surrogacy, both altruistic or commercial, is a modern form of slavery and trafficking in human beings;

*points out* that the European Parliament, which has condemned the practice of surrogacy on several occasions, has never distinguished between its altruistic and commercial aspects;

*notes* that commercial surrogacy violates a number of instruments under international law and the right of every person to be protected from becoming an object of trade or property;

*stresses* that there are no legal or ethical grounds to legitimise this practice humiliating women and children;

*expresses concern* that female nationals of less wealthy countries in the world are exploited for reproductive tourism purposes;

*points out* that such practices also happen on the European continent; and therefore

*states* that only full and definitive condemnation of any form of surrogacy represents the best way to eliminate the practice that violates human rights and undermines human dignity;

**calls on** the President of the Republic, the Government of the Republic of Lithuania, and the Ministry of Foreign Affairs of the Republic of Lithuania to:

- 1) condemn any form of surrogacy as a practice of exploitation of women's reproductive function;
- 2) condemn any form of reproductive tourism, particularly in the countries of the Council of Europe;
- 3) take active steps, at the international level and, in particular, among the European Union Member States, to ban surrogacy as a form of trafficking in human beings and women;
- 4) seek, at an international level, the recognition of the right of States to refuse to recognise adoption judgements and claims for parentage based on surrogacy agreements;
- 5) stress that States, in cases where there are claims to recognise the filiation of children falling within their jurisdiction on the basis of surrogacy agreements, have the right to decline the recognition of filiation and the right to apply adoption procedures under the Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption;
- 6) urge countries to impose heavy fines on those partaking in international surrogacy agreements, including mediation agencies, healthcare institutions, lawyers, and medical staff;
- 7) encourage EU Member States to incite to the practice of adoption rather than surrogacy in their social policies, the former being in the best interests of the child;

**proposes** that the Ministry of Foreign Affairs of the Republic of Lithuania should:

- 1) submit, to the Secretary-General of the UN, the amendment to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child

Pornography, whereby obtaining a child through surrogacy is recognised as a form of child trafficking, or an application for the revision of the UN Convention on the Elimination of All Forms of Discrimination against Women to include the obligation to take all measures, including legislation, to prohibit any form of surrogacy;

- 2) to submit a written inquiry to the Committee of Ministers of the Council of Europe regarding the fulfilment of the obligations by Member States under the European Convention on the Legal Status of Children born out of Wedlock.

Speaker of the Seimas

Viktoras Pranckietis

Submitted by the Members of the Seimas of the Republic of Lithuania:

Vilija Aleknaitė – Abramikienė  
Laurynas Kasčiūnas