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Presumed violation of the European Convention on the Legal Status of Children born out of Wedlock

Written question No. 750 to the Committee of Ministers

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The European Convention on the Legal Status of Children born out of Wedlock (ETS No. 085), open for signature on 15 October 1975, stipulates in its Article 2: "Maternal affiliation of every child born out of wedlock shall be based solely on the fact of the birth of the child." The provision precludes maternal affiliation to be established otherwise, or with a person who was not the one giving birth.

Ukraine ratified the Convention in 2009. However, Ukraine stipulates that maternal affiliation may also be established not on the birth of the child, but through a surrogacy agreement. The Family Code of Ukraine (Article 123) provides that the parentage of the child born through a surrogacy be established directly with the "intended parents", even in cases where the child was conceived with eggs offered by a third party. The woman giving birth to the child does not appear in the child's parentage. Such provisions violate the Convention.

Furthermore, because of the travel restrictions introduced following the COVID-19 crisis, hundreds of children born through surrogacy agreements are currently stateless as their "intended parents" are unable to take them in their care.

Mr Christiansson

To ask the Committee of Ministers:

What actions does the Committee of Ministers intend to take towards Ukraine for not respecting the Convention on the Legal Status of Children born out of Wedlock?

