

The Reporter

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LEGISLATIVE CHANGE IN RUSSIA PREVENTING SURROGACY FOR FOREIGN CITIZENS.



Since January 2021, we have been announcing the intention of the Russian Government to enact a law that would prevent foreign citizens from performing surrogacy in Russia. Behind this “intention” it was clear that the desire was to prevent single men, and especially homosexual men, from surrogacy in that country.

In July 2021, the draft law was presented, but it was delayed due to the fact that in September there were elections to the Duma, the Russian parliament. At the end of December 2021, the law was voted on, and surprisingly, the law was rejected, as many deputies did not like the extension of the ban to all foreigners.

At that time, we did not know whether the law would be parked forever, for a long time, or it was just a matter of making some amendment. But the war broke out, and all the reluctance of some deputies to prevent foreigners from accessing gestation in Russia, disappeared, since now everything “foreign”, especially if it is Western is vetoed.

Last May 24, the law was finally passed, prohibiting foreign parents, regardless of their sexual or marital status, from carrying out surrogacy procedures. Moreover, in line with its ideology, in Russia only Russian heterosexual couples and Russian single women will be able to access these processes.

We had been announcing this risk since the end of 2020, and some people called us alarmists, but the worst predictions have come true.

It is true that both the Russian Constitution and the law itself provide for the non-retroactivity of laws. This means that we cannot apply a law that comes out today to something that happened yesterday.

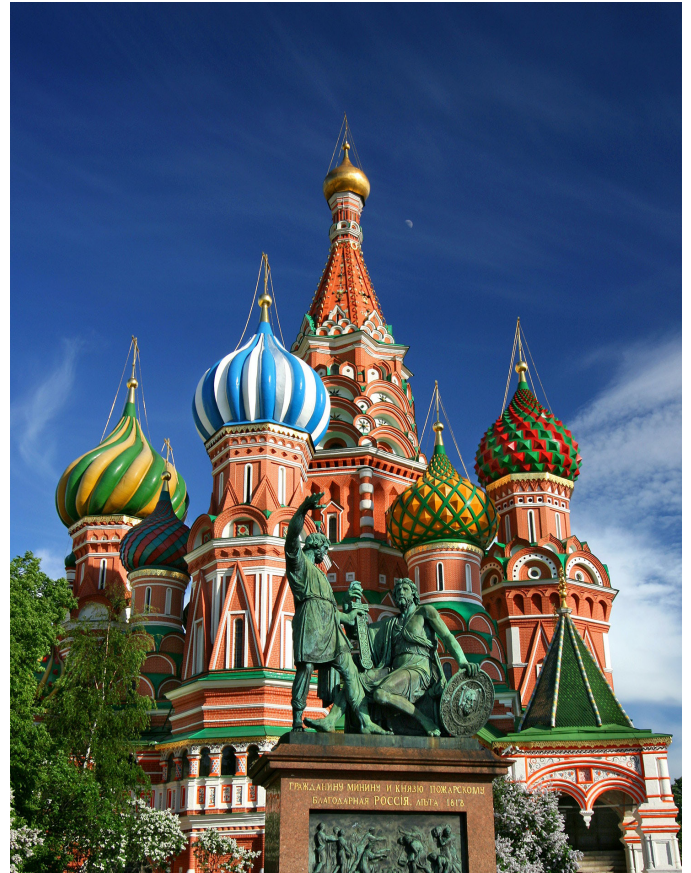


This has happened for example in the past in surrogacy processes in Thailand (with the added gravity of a military coup d'état), Laos, Cambodia, Nepal, or Mexico, where suddenly the state prohibits surrogacy, allowing logically to end the existing processes, but not being able to start new ones.

But we are talking about Russia, a country where democracy is too big a word, and where the laws are violated by the state itself. That is why for many months already before the bill was presented, we have recommended to our parents, to finish the processes they had in Russia, in another country like Albania, where they will have no problems.

Therefore, since last May, Russia has joined the list of countries where foreign citizens cannot carry out a pregnancy procedure. One more door that closes.

All this raises a question:



Where is surrogacy headed?



Is it here to stay or is it temporary?

GESTLIFE has 11 years of experience in the sector. We have a legal department in which two people are dedicated throughout the year to analyze, country by country, around the world, how surrogacy laws evolve worldwide, always looking for new destinations with all the guarantees.

Surrogacy, as you know, is a very controversial issue. There are radical groups against it, which make a lot of noise.

Curiously, the groups that defend abortion, and that have (rightly) defended the women's policy "we give birth, we decide", are those who are against surrogacy. In other words, a woman may have the power to take a life, but not to give it. Does she have to ask permission from these groups to give it?

Without wishing to enter into a dialectic, since there would not be enough pages to express what we think, the reality is that there is a wave of neoconservatism sweeping Europe. In spite of the fact that in most countries, the population approves surrogacy (in Spain more than 78% and in France more than 65%), the rulers, who govern by the people for the people but without the people, in the purest style of enlightened despotism, dedicate themselves to enacting two types of laws:

- a) Those prohibiting and punishing surrogacy
- b) Those that approve and regulate it, but in unrealistic terms.

We are not going to focus here on those who prohibit it. They are there and it is known to all. But several European countries (thus eradicating the false idea that surrogacy occurs only in third world countries), have legislated in favor of surrogacy: UNITED KINGDOM, PORTUGAL, GREECE, or more recently Gibraltar.

There are other countries where surrogacy is mentioned without being prohibited, but they do not have a developed law.

These laws are drafted by politicians, who most of the time have not lifted their asses from the seats that keep them, and make laws without having a clue, or consulting with those who deal with the problem every day.

Thus, laws are made where, for example (all of them), the surrogate must not receive a single euro so that there is no profit. She cannot charge anything. If she does, it is a crime, punishable by prison and heavy fines. In this way, a person must lend herself to carry a couple's child, without receiving anything in return, even though she does not know them at all.

The big argument is that otherwise they would be profiting, or selling. But let's think for a moment about egg donors. Spain is a fertility paradise. Hundreds of clinics, which receive hundreds of thousands ...of foreign citizens (especially French and Italians in whose countries egg donation to another couple is forbidden) who come to Spain to get pregnant and return pregnant to their country.

A big business for the clinics, about which we have nothing to say.

But our young women have become the egg bank of Europe. And they receive approximately 1500 euros for this, for "the trouble". Could we then say that they are "selling" their eggs?

If we were to say this, many would cry foul. Perhaps they would not. But some egg banks do. We have companies in Spain, egg banks that sell them, by packs of 8 oocytes, for prices ranging between 5000 and 8000 euros.

If this is not called selling oocytes, may God come down and see. If a donor legally receives 1500 euros for a hormone treatment that lasts 15 days and an ovarian puncture, how much should a gestational mother receive for carrying a baby for 9 months in her womb and giving birth to it?

The answer according to legislators and the most radical groups is: NOTHING. You must do it for free. And that is nothing but a great hypocrisy disguised as false moralizing.

Thus, all the legislation that is being created is along the same lines: that the surrogate mother cannot be paid anything. We can already imagine the queue of expectant mothers who will offer, for free, to carry a baby for nine months, and then give birth for a couple they do not know at all (obviously, this is an irony).

Then come the medical conditions. We think it is good that surrogacy is not allowed for people who could get pregnant, but do not do it for aesthetic or other reasons. Most countries have a list of medical reasons that allow access to surrogacy.



But here comes **Portugal**, and it demands:



a) The commissioning mother does not have a uterus. Either because she suffers from Rokintasky's syndrome, which affects only 1 in 5000 women in the world, or because it has been removed. Therefore, very few women can carry out a surrogacy in Portugal.

b) The surrogate must not be paid and be Portuguese.

c) Parents must be Portuguese or official residents.

d) The process goes through a committee, which in the three years that the law has been in force (in two stages) has authorized only one case.

In the **United Kingdom** and **Gibraltar**:



- a) The surrogate cannot be paid
- b) Parents must be British or resident

c) The surrogate has a period of 6 weeks after delivery to change her mind and keep the child.

What is the result of these laws: that both the British and the Portuguese do their surrogacy processes abroad.



In **Spain**, the most progressive party in relation to surrogacy, was the ill-fated CIUDADANOS party (which is practically disappearing from all institutions with each new electoral process), and which made a draft law, which did not fall short either:

- a) The surrogate could not charge
- b) The surrogate could not be a family member or a friend so that they would not feel “pressured” by the sterility of a friend or relative
- c) The surrogate had to be registered in a central registry, waiting for someone to ask for her.
- d) The parents had to apply to a court for permission, and the court had to ask the central registry for a surrogate.
- e) And the last pearl: the parents, as it happens in international adoption processes, should undergo a suitability certificate, (to see if they will be good parents, how is their home, how much they earn, what do their neighbors and social workers think, etc.) issued by the family councils of the CCAA, something more similar to the inquisition than to a social welfare department.) issued by the family councils of the CCAA, something more similar to the inquisition than to a department of social welfare.

If so, according to this criterion, all parents who go to a fertility clinic should also be asked for this certificate of suitability. Evidently it is an outrage in both cases, but here are the politicians, as always, far from the field on which they legislate, like the television talk show hosts, but unlike these who only speak from the pulpit of television, politicians without knowing much about this matter, dictate laws, which are born with little or dead.

What is the future of surrogacy?

More and more countries will legislate on it, since it is a clear reality that has come to stay. But all countries legislate along the same lines: altruistic gestation, with harsh biases that eliminate from the list the great majority, not to mention singles or gays, who are directly excluded in practically all legislative projects.

So, whether you are a couple, or you are a single man or woman, who wishes to become a parent in the future through surrogacy, do not rest on your laurels, because surrogacy, as we know it today, will disappear in a few years. As it happened with international adoptions. In 2004, there were 5541 international adoptions in Spain. In 2019, (year before the pandemic) ...370! because there are no parents who want to adopt? No. Because international adoption is very people cannot spend that money as a minister dared to assert? Obviously not. Any gestation process costs more than twice as much as an adoption, and yet the number of

gestations quadruples every year the number of international adoptions. It is simply because the administration forces the parents to go through entities called ECAI (international adoption collaboration entity), which are supposedly non-profit, but in which it is impossible to make an adoption process for less than 30,000 euros. to this we must add that you have to pass the filter of the CERTIFICATE OF SUITABILITY, making the process an obstacle course virtually impossible.

So, if you want or want to have a child through surrogacy, don't sleep too much. Time plays against us, not only because we get a year older every year, but also because every year, we get closer to the end of free surrogacy. It is never a good time to be parents... crises, pandemics, unemployment, wars... when has it ever been a good time? Our parents didn't think twice about having us, and that's why we are here.





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Call us if you want more information about our services.

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