



Press Office of the Constitutional Court

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*Press release of 21 October 2020*

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**CIVIL UNIONS: IT IS FOR THE LEGISLATOR TO ESTABLISH WHETHER TWO WOMEN CAN BE REGISTERED AS MOTHERS OF A CHILD BORN IN ITALY BUT CONCEIVED ABROAD VIA DONOR FERTILIZATION**

The Constitutional Court examined the questions of constitutionality raised by the Ordinary Court of Venice on the law on civil unions and the decree on certificates of civil status.

In the specific case before the Court, a woman who had formed a civil union with another woman had conceived abroad, via donor fertilization, a child who was then born in Italy.

According to the Ordinary Court, by excluding that the child could be registered as a child of both women on its birth certificate, the current legal framework infringes upon the rights of the so-called “intentional” mother and of the child, and gives rise to unreasonable discrimination on grounds of sexual orientation.

Pending filing of the judgment, the Press Office of the Constitutional Court informs the public that the questions have been declared inadmissible.

According to the Court, recognising the so-called intentional mother’s parental status – in the context of a civil union between two women – does not meet a constitutional precept. Rather, it entails a decision involving such a high degree of discretion that, for this very reason, it must be reserved to the Legislator, as the interpreter of the national sentiment.

It is for the Legislator – when such ethically sensitive topics are involved – to weigh the interests and values at play, taking into account the most common positions in the social fabric at the particular point in time.

The Court also held that protecting the best interests of the child in similar situations – a task that case law currently entrusts to the law on special cases of adoption – can

be guaranteed in various constitutionally compatible ways, that are, again, for the Legislator to identify.

The judgment will be filed in the coming weeks.

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