



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission

Minister Stephen Donnelly
Department of Health
Block 1
Miesian Plaza
50 – 58 Baggot Street
Dublin 2

11 April 2024

Sent via email: ministersoffice@health.gov.ie
CC: minister@justice.ie

RE: Revised EU Anti-Trafficking Directive Obligations to Prevent and Combat Exploitation of Surrogacy and Part 8 of the (Amended) Assisted Human Reproduction Bill - International Surrogacy.

Dear Minister Donnelly,

I write further to our correspondence of 31 January 2024 regarding proposed Committee Stage Amendments to the Health (Assisted Human Reproduction) Bill 2022 (AHR) to regulate international surrogacy arrangements, and their alignment to the State's efforts in combatting human trafficking. As you will be aware, the Irish Human Rights and Equality Commission is the National Anti-Human Trafficking Rapporteur, and as such has a role in monitoring the State's performance in combatting human trafficking under the EU Anti-Trafficking Directive.

In this capacity, I would like to draw your Department's attention to revisions to the EU Anti-Trafficking Directive recently adopted by the European Parliament and European Council, aimed at providing stronger protections against human trafficking. These revised rules will require Member States to explicitly criminalise exploitation of surrogacy, and to introduce mandatory penalties for users of services of trafficked victims.

According to Article 2, as modified by the agreed revised text of the Anti-Trafficking Directive (2024), human trafficking involves "the recruitment [...] of persons, including the exchange or transfer of control over those persons, by means of [...] the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control



over another person, for the purpose of exploitation [of surrogacy].” Article 18 is amended to include mandatory penalties to users who knowingly purchase services from victims of trafficking. Additionally, the Directive contains extra jurisdictional obligations. In this context, we draw particular attention to the provisions as set out in Part 8 of the Bill, as it is proposed to be amended, providing for the pre-authorisation of international surrogacy arrangements by the AHR Regulatory Authority.

The substantial amendments proposed at Committee Stage essentially have the scale and complexity of a stand-alone Bill. In light of this, the Commission is concerned that there is limited time for analysis and comprehensive legislative scrutiny of the Bill, including with reference to the matters raised here.

I would appreciate if you could advise, as a matter of urgency, what actions your Department has taken to ensure that this Bill is adequately aligned with the new obligations on the State relating to victims of trafficking for the purposes of surrogacy contained in the revised Anti-Human Trafficking Directive.

Yours sincerely,

Deirdre Malone

Director