

Updates: Family Law in Italy and in the World

The Italian Constitutional Court abolishes the prohibition of heterologous insemination for infertile couples in the Italian Legal System.

With its judgement on 9th April 2014, the Italian Constitutional Court abolishes the prohibition of heterologous artificial insemination contained in the Italian law n. 40 of 2004, for infertile couples.

The Court confirms the contrast of law n. 40/2004 with those articles of the Italian Constitution that guarantee the right to health, as the principle of self determination and equality.

Now, after the decision, heterologous artificial insemination is permitted to all infertile couples. The prohibition hasn't been abolished at all: it has been still provided for couples who are not infertile, but carrying genetic diseases (hereditary diseases). A next hearing of the Court is expected on the access to artificial reproduction techniques for fertile couples.

During the 2012 also the European Court of Human Right (Costa and Pavan v. Italy) considered that excluding couples with hereditary diseases and prohibiting pre-implantation genetic diagnosis constitute a violation of articles 8 and 14 of the European Convention of Human Rights (ECHR). The Court of Strasbourg underlined also that the Italian legal system on the issue is contradictory and against the settled principles on abortion as they are stated by the same Italian legal system.

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