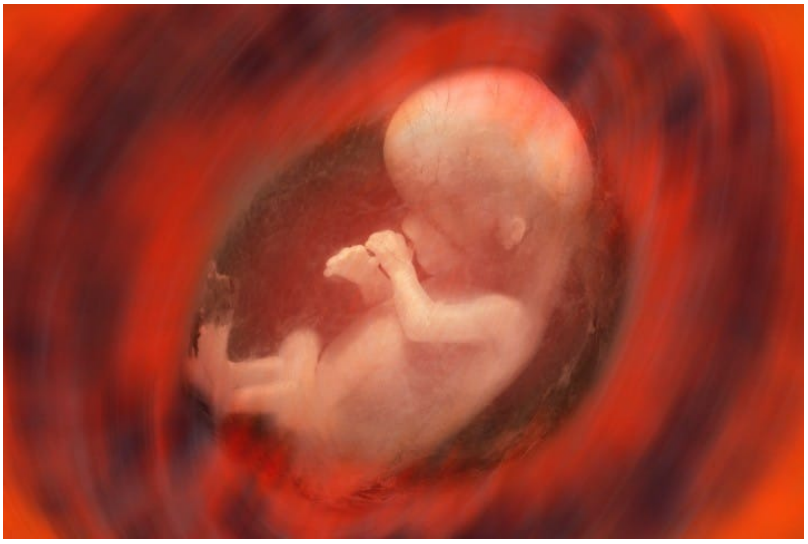
Written by **Angeline Tan** on September 14, 2023

EU Legislates for Sale of Human Embryos Amid Intense Backlash



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At a plenary session in Strasbourg on September 12, the European Parliament (EP) reinforced a common EU framework to permit the sale of human embryos and other bioproducts.

Parliament members (MEPs) overrode regulatory and ethical roadblocks to greenlight new rules on managing so-called substances of human origin (SoHO), with the measure passing 483 votes to 52, with 89 abstentions.

Touted as a regulatory building block for a broader "European Health Union," the SoHO measure reinforces the EU's centrality over the control and use of products such as blood plasma and embryos, and sets up frameworks to ensure that donors remain largely unpaid and donate on a voluntary basis. MEPs maintained that

> Donations of those substances must always be voluntary and unpaid, with donors able to receive compensation or reimbursement [only] for losses or expenses incurred during the donation process. They stress that compensation should not be used as an incentive to recruit donors, nor lead to the exploitation of vulnerable people.

Following the vote, rapporteur Nathalie Colin-Oesterlé of France, a member of the European People's Party (EPP), declared:

> This law is crucial to the safety of donors, the well-being of patients, the security of supply, and the development of innovative medical techniques in Europe. By improving the coordination and exchange of information, the flow of SoHO and associated medical expertise will be facilitated for the benefit of European patients. While Europe currently imports a portion of its SoHO needs, including 40% of the plasma we use, the compromise we reached commits the EU to securing its long-term supply.

Left-wing and centrist MEPs — significantly from the EPP — supported the SoHO report, and one Green policy advisor praised the European Parliament on social media for its false claim that a fetus was not offspring.

A spokesperson for the European Commission justified the new SoHO rules and alleged that the report facilitates "cross-border circulation of these critical health therapies" and gives member states ample

regulatory room to customize domestic legislation to circumstances.

Meanwhile, amendments by the more conservative Identity and Democracy Party (ID) and European Conservatives and Reformists Party (ECR) to stop the use of human fetuses for financial gain were voted against during the Strasbourg proceedings.

While supporters of the report lauded it as crucial for maintaining the security of supply and standardizing regulations across the EU, others criticized it for infringing on ethics as well as the right of EU member states to legislate on the matter.

The report, written by Colin-Oesterlé, with some amendments at the committee stage, has faced intense backlash from bioethicists and Catholic bishops, who cautioned against the new regulations as they would downplay the dignity and value of human life by commercializing and commodifying the sale of embryos.

In a statement published in response to the EU diktat, the Commission of the Bishops' Conferences of the European Union (COMECE) and the *Katholisches Büro* in Berlin have articulated worries about regulating SoHO.

The bishops proclaimed that "as the Catholic Church we are convinced, with many others and for many reasons, that human life from the beginning, including unborn life, possesses its own dignity, right, and independent right of protection."

Highlighting the Roman Catholic Church's stance, the COMECE statement hoped to bring attention to the adverse impacts that would emerge as byproducts of the proposed regulation.

Father Manuel Barrios Prieto, secretary-general of COMECE, warned: "The danger lies in the possibility that such a definition may degrade the dignity and value of human life, creating an unacceptable equivalence between embryos and fetuses and simple skin cells or blood plasma."

The same COMECE statement pointed out that the necessity of their stepping in was largely premised on the "unequivocal" fact that such EU regulations "will set the course for the future discussion regarding prenatal human life in European transplantation and pharmaceutical law and will thus influence the ongoing discussion on strengthening the EU Health Union and will raise numerous ethical and constitutional conflict issues in the EU Member States."

Moreover, the COMECE statement pointed out the necessity of admitting that "human life is not just a 'substance of human origin'," reiterating the necessity of differentiating between non-fertilized germ cells on the one hand, and embryos and fetuses on the other. Additional worries include distinctions in the suggested regulations and amendments between embryos, fetuses, and born children; as well as between children conceived naturally and those created through medical intervention, as in the case of in vitro fertilization (IVF).

COMECE also expressed grave fears that the SoHO regulations would equate unborn human life to cells or other human tissue, and the bishops pointed out the worrying prospect that SoHO regulations could circumvent national law in EU countries that value the defense of unborn human life.

The COMECE statement also expressed concern about the risk of forced genetic testing and the potential "selection" of children in the wake of genetic diseases, particularly from Article 58 of the new SoHO regulation.

Additionally, "The definition of 'SoHO' according to Article 3 No. 5 of the draft regulation not only refers to non-fertilized germ cells (sperm, oocytes, and degenerated oocytes) in the field of reproductive

medicine but also covers embryos and fetuses," the joint declaration read. "This is relevant, for example, to the removal and use of deceased or killed embryos and fetuses as well as the alternative use of in-vitro-produced supernumerary embryos that are deliberately not implanted in the woman's uterus."

"In all these cases," the bishops pointed out, "the SoHO regulation degrades unborn human life to a mere 'substance of human origin' or — depending on its origin — to a 'SoHO preparation' equating it [in the regulation] on the same level as skin cells or blood plasma without any sort of differentiation. Human subjects are thus subdued to be mere objects in disregard of their inherent dignity."

Such selection, the COMECE statement read, "violates human dignity," while compulsory genetic testing gives rise to ethical issues about the right of self-determination of donor and recipient.

The COMECE statement also called for the ethical decisions of EU member states to be respected. Member states, said the bishops, should be able to regulate life issues in line with their ethical principles, even if these principles differ from EU regulations.

Alluding to the issue in 2008, the Congregation [now Dicastery] for the Doctrine of the Faith of the Holy See, in its instruction *Dignitas Personae*, declared that "the dignity of a person must be recognized in every human being from conception to natural death. This fundamental principle expresses a great 'yes' to human life and must be at the center of ethical reflection on biomedical research, which has an ever-greater importance in today's world."

In an interview with *The European Conservative* after the vote, Laetitia Pouliquen from the Brussels-based think tank NBIC Ethics, lambasted the EPP for compromising on its key principles. She also cautioned against the emergence of a new "highest-bidder body and fertility market" across Europe following the European Parliament's decision.

Pouliquen also emphasized that this EU move could clash with national legislation, such as that of Germany, where embryo creation is unlawful. She also worried that the SoHO report supporters would abuse the EU's intent on the free flow of goods.

At the moment, the SoHO report is slated to head to the European Council for authorization before MEPs make their final insertions, probably in early 2024.