

## **EU proposal on cross-border recognition of parenthood**

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ERA seminar "Current Reflections on EU Anti-Discrimination Law" (22.-23. 6. 2023, Dublin)

1

**„If you are parent in one  
country, you are parent in  
every country.“**

- Ursula von der Leyen (State of the Union speech, 2020)

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2

## Non-recognition of parenthood as a problem

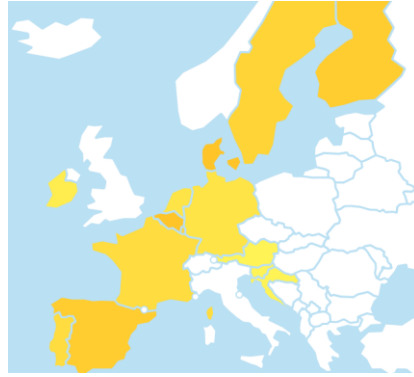
### ❖ social development

- various family models
  - cross-border movement
- +

### ❖ law

- different family law
- different private international law

➔ Negative consequences  
(non-recognition, practical problems, uncertainty, costs)



Joint adoption for same-sex couples in the EU (source: ILGA-Europe's Rainbow Map, <https://rainbow-europe.org/>)

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## Journey towards the proposal



European Court of Justice

- V.M.A./Pancharevo C-490/20
- K.S./Rzecznik Praw Obywatelskich C-2/21



European Parliament

- Resolution on LGBTIQ rights in the EU (2021)
- Resolution on children's rights (2021)



European Commission

- LGBTIQ Equality Strategy 2020-2025 (2020)
- Strategy on the Rights of the Child (2021)

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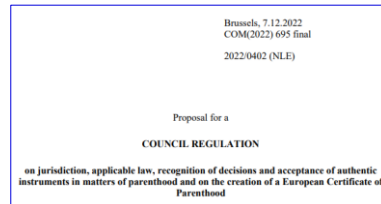
## The proposal

❖ regulation harmonising at EU level the rules on private international law relating to parenthood

❖ objectives:

- protection of the rights of children
- legal certainty
- reducing the legal costs and burden

❖ child-centered instrument



## Scope and content of the proposal

❖ all Member States except Denmark and possibly Ireland

❖ parenthood in cross-border situations

❖ all children (minors or adults) regardless of nationality and way they were born

❖ parenthood established in a Member State of the EU

❖ recognition for all purposes

❖ main elements:

- jurisdiction
- applicable law
- recognition of court decisions and authentic documents
- European Certificate of Parenthood

## The challenge of unanimity

- ❖ Art. 81(3) TFEU as the legal basis
- ❖ special legislative procedure – the Council shall act unanimously after consulting the European Parliament
- ❖ reaching unanimity will be very difficult
- ❖ no satisfactory alternatives (amendment, enhanced cooperation)
- ❖ in the best-case scenario a big success x in the worst-case scenario a counterproductive step

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## Conclusion

- ❖ positive step with uncertain results

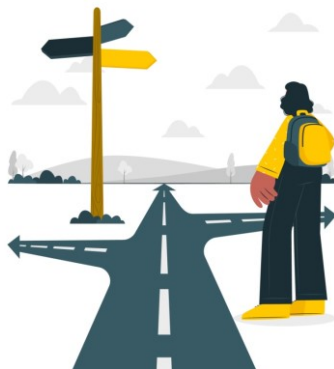


image: Freepik.com

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## Further reading

- ❖ EC's press release [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_7509](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7509)
- ❖ Tryfonidou, A. Cross-border recognition of parenthood in the EU: comments on the Commission proposal of 7 December. ERA Forum 2023. <https://link.springer.com/article/10.1007/s12027-023-00745-w>
- ❖ Tryfonidou, A. Cross-Border Legal Recognition of Parenthood in the EU. European Parliament's Committee on Petitions, 2023. [https://www.europarl.europa.eu/thinktank/en/document/IPOL\\_STU\(2023\)746632](https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2023)746632)
- ❖ The Marburg Group comments <https://eapil.org/2023/05/18/marburg-group-issues-comments-on-the-commissions-proposal-on-parenthood/>
- ❖ Kříčková, L. Same-sex families' rights and the European union: incompatible or promising relationship? International Journal of Law, Policy and the Family, 2023. <https://academic.oup.com/lawfam/article/37/1/ebad001/7023448>

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9

## Thank you for your attention!

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10