

Initiative on the recognition of parenthood between Member States

Fields marked with * are mandatory.

Introduction

Families are increasingly mobile as they move and travel between Member States. However, given the differences in Member States' laws on the establishment of parenthood, families may face obstacles in having the parenthood of their children recognised when crossing borders within the Union.

The non-recognition in a Member State of the parenthood established in another Member State can have significant adverse consequences for children when travelling or moving to another Member State.

Currently, there is no Union legislation governing the recognition of parenthood between Member States^[1].

The recognition of parenthood is thus at present governed by the national law of Member States.

Following the announcement by Commission President von der Leyen in her State of the European Union speech of 2020 that "If you are parent in one country, you are parent in every country", the European Commission is considering avenues to ensure the recognition of parenthood within the Union, in particular through the adoption of a legislative proposal on the recognition of parenthood between Member States.

The goal of this initiative will be to ensure that children maintain their rights in cross-border situations, in particular where families travel or move within the Union.

For further information, see the European Commission Inception Impact Assessment at: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12878-Recognition-of-parenthood->

This survey aims to identify the problems that may currently arise in cross-border situations in the Union where the parenthood of a child established in a Member State is not recognised in another Member State. The survey also aims to collect views on the adoption of a proposal on the recognition of parenthood between Member States and on its scope. This survey will also feed into the update of the 2009 guidelines on Free Movement aimed at improving legal certainty for EU citizens exercising their right to free movement.

This survey concerns parenthood of both children and adults.

This survey does not prejudice any action by the European Union or affect the remit of its competences.

When answering this survey, please reply to the questions that are applicable to you or which you know of based on your experience or the experience of your organisation.

[1] Regulation (EU) 2016/1191 introduces simplifications for the purposes of presenting in a Member State a public document issued in another Member State in certain areas, including parenthood, but its rules cover only the authenticity of public documents and not the recognition of their contents or effects.

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)

- Public authority
- Trade union
- Other

If you are a legal practitioner, please indicate where you work:

- Judicial authority
- Registry office
- Law firm
- Notary's office
- Other:

* First name

Tamas

* Surname

DOMBOS

* Email (this won't be published)

tdombos@hatter.hu

* Organisation name

255 character(s) maximum

Háttér Society

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

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* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
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- Bermuda
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname

- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom

- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena
Ascension and
Tristan da Cunha
- Saint Kitts and
Nevis
- Saint Lucia
- United States
- United States
Minor Outlying
Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and
Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

I. Current Situation and Problems relating to the Recognition of Parenthood

1. Do you think that the lack of EU harmonised rules on the recognition of parenthood in the Union poses a problem?

- Yes, it is a serious problem
- Yes, it is a somewhat serious problem
- Yes, but the problem is not serious
- No, there is no such problem
- I don't know / No reply

2. Are you aware of any instance(s) where the parenthood established in a Member State was not recognised in another Member State?

- Yes
- No
- I don't know / No reply

3. In the instances where parenthood was not recognised, which of the following documents were not recognised?

- Birth certificate of a child
- Adoption certificate of a child
- Judicial decision establishing parenthood

- I don't know / No reply
- Other acts establishing or attesting parenthood:

4. In the instances where parenthood was not recognised, did the case involve any of the following:

- Parenthood established by operation of law: for example, presumption of parenthood by marriage
- Adoption by two parents
- Second parent adoption by the partner of the biological parent
- Adoption by one single parent
- Child born out of Assisted Reproductive Technology (ART)[1]
- Child born out of surrogacy
- Establishment of parenthood over an adult: for example, adoption of an adult, voluntary acknowledgement of parenthood over an adult, establishment of parenthood over an adult by operation of law for refusing a DNA test
- I don't know / No reply
- None of the above:

5. In the instances where parenthood was not recognised, what were the reasons invoked by the national authorities for not recognising the parenthood established in another Member State?

- Recognition of parenthood contrary to the national law of the Member State where recognition of parenthood is sought
- Insufficient evidence of biological parenthood provided
- Insufficient evidence of parenthood by adoption provided
- Insufficient evidence of parenthood by operation of law provided
- Parenthood is being contested: for example, in a court of the Member State where recognition of parenthood is sought
- Other:

6. In the instances where parenthood was not recognised, which parenthood was not recognised?

- Of both parents, where both parents are biological
- Of both parents, where one is biological and the other is an adoptive parent
- Of both parents, where one is biological and the other is a parent by operation of law

- Of both parents, where both are non-biological but both are adoptive parents
- Of both parents, where both are non-biological but both are parents by operation of law
- Of the non-biological parent, where the parenthood of the biological parent was recognised
- Of a single, biological parent
- Of a single, non-biological but adoptive parent
- I don't know / No reply
- None of the above:

7. In the instances where parenthood was not recognised, which rights of the child and/or obligations derived from parenthood were denied to the child or the parents?

- Parental rights to act as the legal representative(s) of a child including: enrolling a child in school, opening a bank account on behalf of a child, giving a consent to medical treatment of a child
- Parental rights to travel alone with a child or to authorise a child to travel alone
- Issuance of documentation (for example, a birth certificate) by the Member State of nationality necessary for a child to obtain documentation proving nationality (for example, a passport)
- Issuance of passport or identity card for a child by the Member State of nationality
- Recognition of a surname of a child
- Residence rights
- Maintenance obligations
- The child's inheritance rights
- Visitation rights to a child by a parent
- Custody rights by a parent
- Social advantages such as: children and family allowances/benefits, parental leave rights
- Tax advantages
- Rights associated with having a sibling legal relationship (for example, the right to be enrolled in the same school)
- Other:

8. Has the possible non-recognition of parenthood dissuaded a family from travelling with their child within the Union or from moving with their child to another Member State?

- Yes
- No
- I don't know / No reply
- Other:

9. In the instances where parenthood was not recognised, has the non-recognition of parenthood hindered the exercise of the child's right to travel within the Union with his/her parent(s) or to move to another Member State with his/her parent(s)?

- Yes
- No
- I don't know / No reply
- Other:

10. Please provide here other relevant information about the problems referred to in Q1-9.

In particular:

- the Member State where the parenthood was initially established and the Member State where the recognition of that parenthood was refused;
- references to cases where these are publicly available, such as judgment identification numbers.

4000 character(s) maximum

In Hungary, registry of a child is denied if the child has two same-sex parents (both registered as parents in any other state). In these cases, children are either refused to be registered or are registered as having only one parent: the biological or adoptive parent. The reasoning is that Hungarian law precludes having two same-sex parents.

Registration is also denied if the child is born through surrogacy, a crime in Hungary. (Even in the case of heterosexual spouses.)

Hungary has also made steps to make adoption by individuals inaccessible for people living in a same-sex relationship. A bill that amended the Civil Code and the Child Protection Act (stipulating that only married couples will be allowed to adopt children and that any exceptions for individual adoptive parents can only be granted on a case-by-case basis by the Minister responsible for family policies) was adopted on 15 December and promulgated on 22 December 2020. The law came into force on 1 March 2021.

11. In the case(s) where parenthood was recognised, did any of the following problems occur in the recognition procedure?

- The recognition procedure before administrative authorities was excessively lengthy.
- The recognition procedure before administrative authorities was expensive.
- The recognition procedure before administrative authorities required legal advice.
- The recognition required bringing the case to a court.
- None of the above - the recognition procedure was fairly straightforward and efficient.
- None of the above - the recognition was automatic and no procedure was required.
- I don't know / No reply.
- Other :

II. Possible Union Instrument on the Recognition of Parenthood between Member States

16. In your opinion, should the Union adopt legislation to facilitate the cross-border recognition of parenthood, as opposed to leaving recognition to the national law of Member States as is currently the case?

- Fully agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Fully disagree
- I don't know / No reply

17. In your opinion, should the Union play any other role in facilitating the recognition of parenthood between Member States?

- Yes, in promoting cooperation on the matter between national authorities, for example by organising judicial trainings or thematic meetings in the framework of the European Judicial Network in Civil and Commercial matters
- Yes, in issuing guidance
- Yes, in raising citizens' awareness about the existing problems with the recognition of parenthood
- No role
- Other role:

18. In the case that the Union should legislate on the cross-border recognition of parenthood, which law do you think should determine the parenthood of a person, whether a child or an adult?

- the law of the habitual residence of his/her parents
- the law of the habitual residence of his/her parents provided the parents have lived in the Member State a minimum number of years
- the law of the habitual residence of the person
- the nationality of the person
- the law of the country where the person is born
- the person should be able to choose any of the above
- I don't know / No reply
- Other:

19. In the case that the Union should legislate on the cross-border recognition of parenthood, should the legislative instrument include rules on the recognition of judicial decisions?

- No opinion
- No, the legislative instrument should only set out rules on the recognition of parenthood as attested by a public document (such as a birth certificate)
- Yes, the legislative instrument should also include rules on the recognition of judicial decisions
- Other opinion:

20. Do you think it would be useful for the possible EU legislative instrument to provide for a European certificate of parenthood acceptable throughout the Union? *(Such European certificate of parenthood would be issued on request by national authorities)*

- No, the currently available national documentation is sufficient.
- Yes, a European certificate of parenthood would be useful.
- Yes, a European certificate of parenthood would be useful and including it in the possible EU legislative instrument should be a priority.
- No opinion

Please explain, if needed:

2000 character(s) maximum

21. In your opinion, to what extent a possible EU instrument facilitating the cross-border recognition of parenthood would impact the following:

	Very positive impact	Mildly positive impact	No impact	Negative impact	No answer
Children's fundamental rights, such as the right to a family life and the right to non-discrimination	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children's welfare, including their emotional and psychological wellbeing	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Facilitating the exercise of the right of children to travel and move within the Union with their families	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Legal certainty for families as regards the parenthood of their children in another Member State	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Legal certainty for national administrations and simplification of their procedures for the recognition of parenthood	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Costs, time and burden for citizens related to court proceedings on the recognition of parenthood	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Costs, time and burden for national judicial systems related to court proceedings on the recognition of parenthood	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please add here any other impact you consider relevant:

1000 character(s) maximum

Illustration: the example of LEGO, headquartered in Denmark and having a factory in Hungary

Example of Expatriation: A Danish LEGO employee working in Billund (DK) is offered a job in LEGO Hungary. The LEGO employee is married in Denmark to his (same-sex) partner and together they have adopted a child who is now 5 years old. Under the new legal instrument, the family can obtain Certificates of EU Marriage and Parenthood that must be recognised by Hungary as host Member State.

Example of Repatriation: A Hungarian LEGO employee working in Nyiregyháza (HU) is offered a management position based at LEGO headquarters in Billund (DK) and the employee moves there with her (same-sex) partner. While living in Denmark, the couple gets married and gives birth to a child through IVF under Danish social security. Later, they decide to move back to Hungary. Under the new legal instrument, the family can obtain Certificates of EU Marriage and Parenthood that must be recognised by Hunga

III. Other

22. Please provide here any comment or additional information you would like to share on the recognition of parenthood between Member States.

Please feel welcome to share views on specific aspects of the initiative and/or references to relevant research.

5000 character(s) maximum

Háttér welcomes the European Commission to adopt a legal instrument to ensure that rainbow families can fully exercise their fundamental freedoms guaranteed in the Treaty on the Functioning of the European Union (“TFEU”) and, in particular, Article 20.

Union Citizens that form part of rainbow families are prevented from fully exercising their freedoms as guaranteed under the TFEU as certain Member States refuse to recognise the family bonds established between members of the rainbow family in their domestic legal orders. Therefore, Háttér recommends the European Commission to adopt a legal instrument to remedy this problem and to do so based on the following principles.

- Recognition of family bonds based on EU Certificates

Rainbow families can only fully exercise their freedoms under the Treaty if the established family bonds are recognized in the host Member State. To this end, Háttér asks the Commission to provide access to a) a certificate of EU Marriage and b) a certificate of EU Parenthood – as explained below.

a) Certificate of EU Marriage, which can be obtained by Union Citizens who have entered into marriage in any Member State. The Certificate of EU Marriage should apply throughout the EU and must be recognised by all Member States. Providing for such a certificate would codify the Court of Justice of the EU’s findings in its judgment of 5 June 2018 in case C-673/16, *Coman & Others v. Romania* holding that the term ‘spouse’ includes spouses of the same sex for the purpose of Union Citizens’ residence rights when exercising free movement under the Treaty.

b) Certificate of EU Parenthood, which can be obtained by Union Citizens who are recognised as parents in any Member State. The Certificate of EU Parenthood should apply throughout the EU and must be recognised by all Member States.

- Principle of equivalence and non-discrimination

It is paramount that the Commission includes a requirement of ‘equivalence’ for holders of Certificates of EU Marriage and Parenthood relative to marriage and parenthood recognised in the domestic legal orders of the host Member State.

- Ensuring free movement at Repatriation as well as Expatriation

For the purpose of legal certainty, it is important that the legal instrument codifies the existing principle that Union Citizen’s rights are triggered in the event of Repatriation as well as Expatriation.

- Regulation (rather than Directive) as suitable instrument

Háttér asks the European Commission to adopt the legal instrument as a “Regulation” rather than a “Directive” under Article 288 TFEU. Adopting the legal instrument as a Regulation is necessary to ensure that 1) Union Citizens can rely on and invoke the legal instrument directly without the need for (and uncertainty of correct) Member State transposition, and that 2) the rights guaranteed by the legal instrument are applied across the EU in a uniform manner.

- Enforcement and advisory under the European Labour Authority

In 2019, the EU adopted Regulation (EU) 2019/1149 establishing a European Labour Authority (the “ELA”). The ELA was established to improve cross-border enforcement of Union law in the area of mobility and to help strengthen fairness and trust in the internal market. Hättér asks the European Commission to expressly include the new legal instrument as part of the competencies of ELA. Moreover, Hättér asks the European Commission to establish a unit within ELA that is dedicated to ensuring the well-functioning of the new legal instrument including a body to whom Union Citizens can submit complaints if they experience that a host Member State is failing to ensure the rights guaranteed.

- Legal basis for the new legal instrument

The purpose of the new legal instrument is to ensure that Union Citizens’ can fully exercise their freedoms as guaranteed under the Treaty including Article 21 (Union Citizens’ right to free movement), Article 46 (Free movement for workers), Article 49 (Freedom of establishment), and Article 56 (Freedom to provide services). Accordingly, the new legal instrument can – and should – be adopted under the ‘ordinary’ legislative procedure in Article 294 TFEU.

In particular, it is important to emphasize that the provision of EU Certificates on Marriage and Parenthood as well as a requirement of equivalence and non-discrimination do not in any way intrude on the areas falling within the exclusive competencies of each Member State. Within the boundaries of EU law, Member States can determine, as they see fit, what benefits and obligations are granted to and imposed upon individuals recognised as married/parents under domestic law in the areas of taxation, social benefits etc. All that recognition and equivalence means, is that individuals holding a Certificate of EU Marriage/Parenthood cannot be treated less favourably than those recognised as married/parent under national law.

Thank you very much for responding to this survey.

For any questions, please send an email to JUST-A1-CIVIL-JUSTICE@ec.europa.eu, marking clearly “Public consultation on the recognition of parenthood between Member States” in the e-mail subject line.

Contact

[Contact Form](#)