

Jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and creation of a European Certificate of Parenthood

2022/0402(CNS) - 21/11/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted, under a special legislative procedure (consultation), the report by Maria-Manuel LEITÃO-MARQUES (S&D, PT) on the proposal for a Council regulation on jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in the matters of parenthood and on the creation of a European Certificate of Parenthood.

The committee recommended that the European Parliament approve the Commission's proposal subject to amendments.

This Regulation concerns the recognition in a Member State of the parenthood of a child as established in another Member State. All Member States are bound to act in the **best interest of the child**, including by safeguarding the fundamental right of every child to family life and prohibiting the discrimination of the child on the basis of their parents' marital status or sexual orientation, or the way the child was conceived.

The non-recognition by a Member State of parenthood established in another Member State particularly affects rainbow families (LGBTIQ+ families) as well as other types of families that do not fit the nuclear family model. This is especially the case where there is no biological link between the parents and the child. This Regulation will ensure that children enjoy their rights and maintain their legal status in cross-border situations **irrespective of their family situation and without discrimination**.

Members noted that this Regulation cannot be interpreted as obliging a Member State to change their substantive family law in order to accept the **practice of surrogacy**. Member State competences must be respected in that regard.

Public policy

When the public policy exception has been raised by the courts or other competent authorities of the Member State, the decision of the court establishing the parenthood should stand until legal remedies at national and Union level has been exhausted and a final ruling has been delivered on the public policy exception.

Issuance of the Certificate

The issuing authority should issue the certificate without delay and no later than two weeks after receipt of an application. The Certificate should be available in both paper and electronic versions.

Certified copies of the Certificate

The issuing authority should keep the original of the Certificate and should issue one or more certified copies to the applicant or a legal representative, subject only to the condition that the applicant or, where applicable, the legal representative, submit documents to prove their identity, in accordance with the national law of the Member State issuing the Certificate.

Moreover, Members stated that electronic copies of the Certificate should be made available through the European electronic access point and through relevant existing national IT portals.

The issuing authority should inform without delay and at least within two weeks after its decision all persons to whom certified copies of the Certificate have been issued of any rectification, modification or withdrawal thereof.

Where the Certificate is rectified, modified or withdrawn, the original Certificate and all previous certified copies should lose their effects.

Use of videoconferencing or other distance communication technology

Members suggested that it should be possible to use videoconferencing or other distance communication technology for hearings. The courts of a Member State may allow on a case-by-case basis the hearing of child who is capable of forming their own views via videoconferencing or other distance communication technology. When deciding whether to hear a child through videoconferencing or other distance communication technology, the competent authority should be guided primarily by the best interests of the child.

Training

The report stated that Member States, with the support of the Commission and the European Judicial Training Network, should organise trainings for all relevant professionals, in particular judges, lawyers, and public administration officials on the application of this Regulation.