

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) - 14/12/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 366 votes to 145, with 23 abstentions, under a special legislative procedure (consultation), a legislative resolution on the proposal for a Council regulation on jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and on the creation of a European Certificate of Parenthood.

Parliament approved the Commission's proposal subject to amendments.

Recognition of parenthood established by a European country

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. Children should not lose the rights deriving from parenthood established in a Member State in a cross-border situation.

Guaranteeing children's rights regardless of their family situation

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.

Grounds for the refusal of recognition

Non-recognition will only be possible on strictly defined grounds and after individual assessment, to prevent any discrimination. Recognition of a court decision should be refused if it is manifestly contrary to **public order** in the Member State in which recognition is sought, having regard to the best interests of the child.

Members consider that public policy should not be used to circumvent the obligations laid down in the regulation and that the regulation should be interpreted in accordance with the case law of the Court of Justice of the European Union.

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.

European certificate of parenthood

Members approved the introduction of the European certificate of parenthood, which aims to cut red tape and make it easier to recognise parenthood in the EU. Although it does not replace national documents, it can be used in their place.

The issuing authority should issue the Certificate without delay and not later than **two weeks** following receipt of a request. The Certificate should be available in both paper and electronic versions.

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

Members 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.

The Commission should develop guidelines on the application and enforcement of this Regulation, which should be available by six months prior to the application date.