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*Plenary sitting*

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**A9-0368/2023**

20.11.2023

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## **REPORT**

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  
COM(2022)0695 – C9-0002/2023 – 2022/0402(CNS))

Committee on Legal Affairs

Rapporteur: Maria-Manuel Leitão-Marques()

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**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 (COM(2022)0695 – C9-0002/2023 – 2022/0402(CNS))**

**(Special legislative procedure – consultation)**

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2022)0695),
  - having regard to Article 81(3) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C9-0002/2023),
  - having regard to its resolution of 2 February 2017 with recommendations to the Commission on cross-border aspects of adoption<sup>1</sup>,
  - having regard to its resolution of 5 April 2022 on protection of the rights of the child in civil, administrative and family law proceedings<sup>2</sup>,
  - having regard to the decisions of the Committee on Petitions with regard to a number of petitions submitted by Union citizens relating to the need for a legal framework on cross-border recognition of parenthood between Member States;
  - having regard to Opinion 2/2023 of the European Data Protection Supervisor on the Proposal for a Council Regulation in matters of parenthood<sup>3</sup>,
  - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate and the Italian Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to Rule 82 of its Rules of Procedure,
  - having regard to the opinions of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women’s Rights and Gender Equality,
  - having regard to the report of the Committee on Legal Affairs (A9-0368/2023),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, in accordance with

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<sup>1</sup> OJ C 252, 18.7.2018, p. 14.

<sup>2</sup> OJ C 434, 15.11.2022, p. 11.

<sup>3</sup> [https://edps.europa.eu/system/files/2023-01/2022-1301\\_d0225\\_opinion\\_en.pdf](https://edps.europa.eu/system/files/2023-01/2022-1301_d0225_opinion_en.pdf)

Article 293(2) of the Treaty on the Functioning of the European Union;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

## Amendment 1

### Proposal for a regulation

#### Recital 1

*Text proposed by the Commission*

(1) The Union has set itself the objective of creating, maintaining and developing an area of freedom, security and justice in full respect of fundamental rights in which the free movement of persons and access to justice are ensured. For the gradual establishment of such an area, the Union is to adopt measures aimed at ensuring the mutual recognition between Member States of judgments and decisions in extrajudicial cases in civil matters and the compatibility of the rules applicable in the Member States concerning conflict of laws and jurisdiction in civil matters.

*Amendment*

(1) The Union has set itself the objective of creating, maintaining and developing an area of freedom, security and justice in full respect of fundamental rights in which the free movement of persons and access to justice are ensured, ***in accordance with the Treaties and Charter of Fundamental Rights of the European Union (the ‘Charter’)***. For the gradual establishment of such an area, the Union is to adopt measures aimed at ensuring the mutual recognition between Member States of judgments and decisions in extrajudicial cases in civil matters and the compatibility of the rules applicable in the Member States concerning conflict of laws and jurisdiction in civil matters.

## Amendment 2

### Proposal for a regulation

#### Recital 2

*Text proposed by the Commission*

(2) This Regulation concerns the

*Amendment*

(2) This Regulation concerns the

recognition in a Member State of the parenthood of a child as established in another Member State. *It* aims to protect the fundamental rights and other rights of children in matters concerning their parenthood in cross-border situations, including their right to an identity<sup>31</sup>, to non-discrimination<sup>32</sup> and to a private and family life<sup>33</sup>, taking the best interests of the child as a primary consideration<sup>34</sup>. This Regulation also aims to provide legal certainty and predictability and to reduce litigation costs and burden for families, national courts and other competent authorities in connection with proceedings for the recognition of parenthood in another Member State. To attain these aims, this Regulation should require Member States to recognise for all purposes the parenthood of a child as established in another Member State.

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<sup>31</sup> Article 8 of the UN Convention on the Rights of the Child.

<sup>32</sup> Article 2 of the UN Convention on the Rights of the Child, Article 21 of the Charter of Fundamental Rights of the European Union.

<sup>33</sup> Article 9 of the UN Convention on the Rights of the Child, Articles 7 and 24 of the Charter of Fundamental Rights of the European Union.

<sup>34</sup> Article 3 of the UN Convention on the Rights of the Child, Article 24 of the Charter of Fundamental Rights of 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. Therefore, this Regulation*** aims to protect the fundamental rights and other rights of children in matters concerning their parenthood in cross-border situations, including their right to an identity<sup>31</sup>, to non-discrimination<sup>32</sup> and to a private and family life<sup>33</sup>, taking ***into account the full respect of the principle of*** the best interests of the child as a primary consideration<sup>34</sup>. This Regulation also aims to provide legal certainty and predictability and to reduce litigation costs and burden for families, national courts and other competent authorities in connection with proceedings for the recognition of parenthood in another Member State ***so that the child does not lose the rights derived from parenthood established in one Member States in a cross-border situation.*** To attain these aims, this Regulation should require Member States to recognise for all purposes the parenthood of a child as established in another Member State.

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<sup>31</sup> Article 8 of the UN Convention on the Rights of the Child.

<sup>32</sup> Article 2 of the UN Convention on the Rights of the Child, Article 21 of the Charter of Fundamental Rights of the European Union.

<sup>33</sup> Article 9 of the UN Convention on the Rights of the Child, Articles 7 and 24 of the Charter of Fundamental Rights of the European Union.

<sup>34</sup> Article 3 of the UN Convention on the Rights of the Child, Article 24 of the Charter of Fundamental Rights of the

### Amendment 3

#### Proposal for a regulation

##### Recital 5

*Text proposed by the Commission*

(5) Under the Treaties, the competence to adopt substantive rules on family law, such as rules on the definition of family and rules on the establishment of the parenthood of a child, lies with the Member States. However, pursuant to Article 81(3) TFEU, the Union can adopt measures concerning family law with cross-border implications, in particular rules on international jurisdiction, on applicable law and on the recognition of parenthood.

*Amendment*

(5) ***Pursuant to Article 67(1) TFEU, the Union is to constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.*** Under the Treaties, the ***exclusive*** competence to adopt substantive rules on family law, such as rules on the definition of family and rules on the establishment of the parenthood of a child, lies with the Member States. However, pursuant to Article 81(3) TFEU, the Union can adopt measures concerning family law with cross-border implications, in particular rules on international jurisdiction, on applicable law and on the recognition of parenthood.

### Amendment 4

#### Proposal for a regulation

##### Recital 8

*Text proposed by the Commission*

(8) While the Union has competence to adopt measures on family law with cross-border implications such as rules on international jurisdiction, applicable law and the recognition of parenthood between Member States, to date the Union has not adopted provisions in those areas as regards parenthood. The Member States' provisions currently applicable in these areas differ.

*Amendment*

(8) While the Union has competence to adopt measures on family law with cross-border implications such as rules on international jurisdiction, applicable law and the recognition of parenthood between Member States, to date the Union has not adopted provisions in those areas as regards parenthood. The Member States' provisions currently applicable in these areas differ, ***thus leading to legal gaps and creating legal uncertainty for children exercising their rights in cross-border***



*situations which may lead in turn to discrimination and a failure to respect fundamental rights.*

## Amendment 5

### Proposal for a regulation Recital 10

*Text proposed by the Commission*

(10) As a result of the absence of Union provisions on international jurisdiction and applicable law for the establishment of parenthood in cross-border situations and on the recognition of parenthood between Member States, families *may* encounter difficulties in having the parenthood of their children recognised for all purposes within the Union, including when they move to another Member State or return to their Member State of origin.

*Amendment*

(10) As a result of the absence of Union provisions on international jurisdiction and applicable law for the establishment of parenthood in cross-border situations and on the recognition of parenthood between Member States, families encounter difficulties in having the parenthood of their children recognised for all purposes within the Union, including when they move to another Member State or return to their Member State of origin.

## Amendment 6

### Proposal for a regulation Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

***(11a) 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.***

## Amendment 7

## Proposal for a regulation

### Recital 13

*Text proposed by the Commission*

(13) This Regulation should not affect the rights that a child derives from Union law, in particular the rights that a child enjoys under Union law on free movement, including Directive 2004/38/EC. For instance, Member States must already today recognise a parent-child relationship for the purposes of permitting children to exercise, with ***each of*** their ***two*** parents, the right to move and reside freely within the territory of the Member States without impediment, and to exercise all the rights that the child derives from Union law. This Regulation does not provide for any additional conditions or requirements for the exercise of such rights.

*Amendment*

(13) This Regulation should not affect the rights that a child derives from Union law, in particular the rights that a child enjoys under Union law on free movement, including Directive 2004/38/EC. For instance, Member States must already today recognise a parent-child relationship for the purposes of permitting children to exercise, with their parents, the right to move and reside freely within the territory of the Member States without impediment, and to exercise all the rights that the child derives from Union law. This Regulation does not provide for any additional conditions or requirements for the exercise of such rights.

## Amendment 8

## Proposal for a regulation

### Recital 14

*Text proposed by the Commission*

(14) Under Article 21 TFEU and secondary legislation relating thereto as interpreted by the Court of Justice, the respect of a Member State's national identity under Article 4(2) TEU and a Member State's public policy cannot serve as justification to refuse to recognise a parent-child relationship between children and their same-sex parents for the purposes of exercising the rights that a child derives from Union law. In addition, for the purposes of exercising such rights, proof of parenthood can be presented by any means<sup>52</sup>. Therefore, a Member State is not entitled to require that a person presents either the attestations provided for in this Regulation accompanying a court decision or an authentic instrument on parenthood,

*Amendment*

(14) Under Article 21 TFEU and secondary legislation relating thereto as interpreted by the Court of Justice, the respect of a Member State's national identity under Article 4(2) TEU and a Member State's public policy cannot serve as justification to refuse to recognise a parent-child relationship between children and their same-sex parents for the purposes of exercising the rights that a child derives from Union law. ***To that end, it is crucial that Member States ensure that this Regulation is implemented correctly, that public policy is not used to circumvent the obligations laid down in this Regulation, and that this Regulation is interpreted in accordance with the case law of the Court of Justice of the European Union.*** In

or the European Certificate of Parenthood created by this Regulation, where the person invokes, in the context of the exercise of the right to free movement, rights that a child derives from Union law. This should not, however, prevent a person from choosing to present in such cases also the relevant attestation or the European Certificate of Parenthood provided for in this Regulation. To ensure that Union citizens and their family members are informed that the rights that a child derives from Union law are not affected by this Regulation, the forms of the attestations and of the European Certificate of Parenthood annexed to this Regulation should include a statement specifying that the relevant attestation or the European Certificate of Parenthood do not affect the rights that a child derives from Union law, in particular the rights that a child enjoys under Union law on free movement, and that, for the exercise of such rights, proof of the parent-child relationship can be presented by any means.

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<sup>52</sup> Judgments of the Court of Justice of 25 July 2002, C-459/99, MRAX, ECLI:EU:C:2002:461, paragraphs 61 and 62, and of 17 February 2005, C-215/03, Oulane, ECLI:EU:C:2005:95, paragraphs 23 to 26.

addition, for the purposes of exercising such rights, proof of parenthood can be presented by any means<sup>52</sup>. Therefore, a Member State is not entitled to require that a person presents either the attestations provided for in this Regulation accompanying a court decision or an authentic instrument on parenthood, or the European Certificate of Parenthood created by this Regulation, where the person invokes, in the context of the exercise of the right to free movement, rights that a child derives from Union law. This should not, however, prevent a person from choosing to present in such cases also the relevant attestation or the European Certificate of Parenthood provided for in this Regulation. To ensure that Union citizens and their family members are informed that the rights that a child derives from Union law are not affected by this Regulation, the forms of the attestations and of the European Certificate of Parenthood annexed to this Regulation should include a statement specifying that the relevant attestation or the European Certificate of Parenthood do not affect the rights that a child derives from Union law, in particular the rights that a child enjoys under Union law on free movement, and that, for the exercise of such rights, proof of the parent-child relationship can be presented by any means.

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<sup>52</sup> Judgments of the Court of Justice of 25 July 2002, C-459/99, MRAX, ECLI:EU:C:2002:461, paragraphs 61 and 62, and of 17 February 2005, C-215/03, Oulane, ECLI:EU:C:2005:95, paragraphs 23 to 26.

## **Amendment 9**

### **Proposal for a regulation Recital 14 a (new)**

*Text proposed by the Commission*

*Amendment*

***(14a) The Member States, supported by the Commission and the European Judicial Training Network, should organise training for judges, legal professionals and relevant state authorities to ensure that this Regulation is properly implemented and applied.***

## **Amendment 10**

### **Proposal for a regulation**

#### **Recital 16**

*Text proposed by the Commission*

*Amendment*

(16) Article 2 of the United Nations Convention on the Rights of the Child of 20 November 1989 ('UN Convention on the Rights of the Child') requires States Parties to respect and ensure the rights of children without discrimination of any kind, and to take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the circumstances of the child's parents. Under Article 3 of the said Convention, in all actions by, amongst others, courts and administrative authorities, the best interests of the child must be a primary consideration.

(16) Article 2 of the United Nations Convention on the Rights of the Child of 20 November 1989 ('UN Convention on the Rights of the Child') requires States Parties to respect and ensure the rights of children without discrimination of any kind, and to take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the circumstances of the child's parents. Under Article 3 of the said Convention, in all actions by, amongst others, courts and administrative authorities, the best interests of the child must be a primary consideration, ***and the child's rights must be respected in all situations and circumstances.***

## **Amendment 11**

### **Proposal for a regulation**

#### **Recital 17 a (new)**

*Text proposed by the Commission*

*Amendment*

***(17a) The best interests of the child should be the primary consideration. The European Court of Human Rights has***

*expressly stated that the best interests of the child reduce the margin of appreciation of the State Parties in the recognition of the child-parent relationship<sup>1a</sup>, and that the best interests of the child entail the legal identification of the persons responsible for raising them, meeting their needs and ensuring their welfare, and the possibility for the child to live and develop in a stable environment<sup>1b</sup>. Under the Charter and the European Convention for the protection of Human Rights and Fundamental Freedoms (the ‘European Convention on Human Rights’), children have the right to private and family life.*

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*<sup>1a</sup> ECtHR, Judgment 22.11.2022 [Section III], D.B. and Others v. Switzerland - 58252/15 and 58817/15*

*<sup>1b</sup> ECtHR, 10.4.2019 [GC], Advisory opinion requested by the French Court of Cassation*

## **Amendment 12**

### **Proposal for a regulation Recital 18**

#### *Text proposed by the Commission*

(18) Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (‘European Convention of Human Rights’) lays down the right to respect for private and family life, while Article 1 of Protocol No. 12 to the said Convention provides that the enjoyment of any right set forth by law must be secured without discrimination on any ground, including birth. The European Court of Human Rights has interpreted Article 8 of the Convention as requiring all States within its jurisdiction to recognise the legal parent-child relationship established abroad

#### *Amendment*

(18) Article 8 of the European Convention of Human Rights lays down the right to respect for private and family life, while Article 1 of Protocol No. 12 to the said Convention provides that the enjoyment of any right set forth by law must be secured without discrimination on any ground, including birth. The European Court of Human Rights has interpreted Article 8 of the Convention as requiring all States within its jurisdiction to recognise the legal parent-child relationship established abroad between a child born out of surrogacy and the biological intended parent, and to provide for a mechanism for the

between a child born out of surrogacy and the biological intended parent, and to provide for a mechanism for the recognition in law of the parent-child relationship with the non-biological intended parent (for example through the adoption of the child)<sup>24</sup>

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<sup>24</sup> For example, *Mennesson v. France* (Application no 65192/11, Council of Europe: European Court of Human Rights, 26 June 2014) and Advisory Opinion P16-2018-001 (Request no. P16-2018-001, Council of Europe: European Court of Human Rights, 10 April 2019).

recognition in law of the parent-child relationship with the non-biological intended parent (for example through the adoption of the child)<sup>24</sup>. ***While this Regulation builds on that case law and ensures that the child - parent relationship as established in one Member State should be recognised in all Member States, 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.***

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<sup>24</sup> For example, *Mennesson v. France* (Application no 65192/11, Council of Europe: European Court of Human Rights, 26 June 2014) and Advisory Opinion P16-2018-001 (Request no. P16-2018-001, Council of Europe: European Court of Human Rights, 10 April 2019).

## Amendment 13

### Proposal for a regulation

#### Recital 21

##### *Text proposed by the Commission*

(21) In conformity with the provisions of international conventions and Union law, this Regulation should ensure that children enjoy their rights and maintain their legal status in cross-border situations without discrimination. To that effect, and in the light of the case law of the Court of Justice, including on mutual trust between Member States, and of the European Court on Human Rights, this Regulation should cover the recognition in a Member State of the parenthood established in another Member State irrespective of how the child was conceived or born and irrespective of the child's type of family, and including domestic adoption. Therefore, subject to the application of the rules on applicable

##### *Amendment*

(21) In conformity with the provisions of international conventions and Union law, this Regulation should ensure that children enjoy their rights and maintain their legal status in cross-border situations without discrimination. To that effect, and in the light of the case law of the Court of Justice, including on mutual trust between Member States, and of the European Court on Human Rights, this Regulation should cover the recognition in a Member State of the parenthood established in another Member State irrespective of how the child was conceived or born and irrespective of the child's type of family, and including domestic adoption. Therefore, subject to the application of the rules on applicable

law of this Regulation, this Regulation should cover the recognition in a Member State of the parenthood established in another Member State of a child with same-sex parents. This Regulation should also cover the recognition in a Member State of the parenthood of a child adopted domestically in another Member State under the rules governing domestic adoption in that Member State.

law of this Regulation, this Regulation should cover the recognition in a Member State of the parenthood established in another Member State of a child with same-sex parents ***or of a child in another type of family that does not fit the nuclear family model***. This Regulation should also cover the recognition in a Member State of the parenthood of a child adopted domestically in another Member State under the rules governing domestic adoption in that Member State.

## Amendment 14

### Proposal for a regulation Recital 30

#### *Text proposed by the Commission*

(30) This Regulation should not apply to preliminary questions such as the existence, validity or recognition of a marriage or a relationship deemed by the law applicable to it as having comparable effects, which should continue to be governed by the national law of the Member States, including their rules of private international law and, where relevant, by the case law of the Court of Justice on free movement.

#### *Amendment*

(30) This Regulation should not apply to preliminary questions such as the existence, validity or recognition of a marriage or a relationship deemed by the ***national*** law applicable to it as having comparable effects, ***such as registered partnership***, which should continue to be governed by the national law of the Member States, including their rules of private international law and, where relevant, by the case law of the Court of Justice on free movement.

## Amendment 15

### Proposal for a regulation Recital 36

#### *Text proposed by the Commission*

(36) In order to facilitate the recognition of court decisions and authentic instruments on parenthood matters, this Regulation should lay down uniform jurisdiction rules for the establishment of parenthood with a cross-border element.

#### *Amendment*

(36) In order to facilitate the recognition of court decisions and authentic instruments on parenthood matters, this Regulation should lay down uniform jurisdiction rules for the establishment of parenthood with a cross-border element.

This Regulation should also clarify the right of children below the age of 18 years to be provided with an opportunity to express their views in proceedings to which they are subject.

This Regulation should also clarify the right of children below the age of 18 years to be provided with an opportunity to express their views in proceedings to which they are subject ***in accordance with the age and maturity of the child as laid down in Article 12 of the UN Convention on the Rights of the Child.***

## Amendment 16

### Proposal for a regulation Recital 42

#### *Text proposed by the Commission*

(42) Where jurisdiction cannot be established based on the general alternative jurisdiction grounds, the courts of the Member State where the child is present should have jurisdiction. This presence rule should, in particular, allow the courts of a Member State to exercise jurisdiction in respect of third-country national children, including applicants for or beneficiaries of international protection such as refugee children ***and*** children internationally displaced because of disturbances occurring in their State of habitual residence.

#### *Amendment*

(42) Where jurisdiction cannot be established based on the general alternative jurisdiction grounds, the courts of the Member State where the child is present should have jurisdiction. This presence rule should, in particular, allow the courts of a Member State to exercise jurisdiction in respect of third-country national children, including applicants for or beneficiaries of international protection such as refugee children, children internationally displaced ***and victims of trafficking in human beings*** because of disturbances occurring in their State of habitual residence.

## Amendment 17

### Proposal for a regulation Recital 44 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(44a) In order to facilitate the establishment of parenthood between a child and parent or parents in a cross-border situation and to facilitate recognition of court decisions and authentic instruments relating to filiation, and in order to contribute to the implementation of this Regulation, it is***



*appropriate that Member States, in full respect of their national court structure, consider concentrating jurisdiction for such proceedings in as limited a number of courts as possible.*

## Amendment 18

### Proposal for a regulation Recital 49

*Text proposed by the Commission*

(49) Proceedings *on the establishment of parenthood* under this Regulation *should*, as a basic principle, *provide children below the age of 18 years who are* subject to *those* proceedings and who *are* capable of forming their own views, *in accordance with the case law of the Court of Justice*, with a genuine and effective opportunity to express their views and, when assessing the best interests of the child, due weight should be given to those views. This Regulation should, however, leave the question of who will hear the child and how the child will be heard to be determined by the national law and procedure of the Member States. In addition, while remaining a right of the child, hearing the child should not constitute an absolute obligation although it should be assessed taking into account the best interests of the child.

*Amendment*

(49) *In accordance with Article 12 of the UN Convention on the Rights of the Child and Article 24(1) of the Charter, all children have the right to express their views in all matters affecting them, and to have them considered and taken seriously. A child should be provided with the opportunity to be heard in any judicial or administrative proceedings affecting that child. Thus, during proceedings* under this Regulation, as a basic principle *and where applicable, a child who is* subject to *such* proceedings and who *is* capable of forming their own views, *should be provided* with a genuine and effective opportunity to express their views, *which should include their feelings and wishes*, and, when assessing the best interests of the child, due weight should be given to those views. This Regulation should, however, leave the question of who will hear the child and how the child will be heard to be determined by the national law and procedure of the Member States. In addition, while remaining a right of the child, hearing the child should not constitute an absolute obligation, *especially if considered to be against the best interests of the child*, although it should be assessed taking into account the best interests of the child.

## Amendment 19

**Proposal for a regulation**  
**Recital 56**

*Text proposed by the Commission*

(56) Considerations of public interest should allow courts and other competent authorities establishing parenthood in the Member States to disregard, in exceptional circumstances, certain provisions of a foreign law where, in a given case, applying such provisions would be manifestly incompatible with the public policy (*ordre public*) of the Member State concerned. However, the courts or other competent authorities should not be able to apply the public policy exception in order to set aside the law of another State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination.

*Amendment*

(56) Considerations of public interest should allow courts and other competent authorities establishing parenthood in the Member States to disregard, in exceptional circumstances, certain provisions of a foreign law where, in a given case, applying such provisions would be manifestly incompatible with the public policy (*ordre public*) of the Member State concerned. However, the courts or other competent authorities should not be able to apply the public policy exception in order to set aside the law of another State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination. ***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.***

**Amendment 20**

**Proposal for a regulation**  
**Recital 66**

*Text proposed by the Commission*

(66) ***Although the obligation to provide children below the age of 18 years with the opportunity to express their views under this Regulation should not apply to authentic instruments with binding legal effect, the right of children to express their views should however be taken into consideration pursuant to Article 24 of the Charter and in the light of Article 12 of the UN Convention on the Rights of the Child***

*Amendment*

(66) The right of ***the child*** to express their views should be taken into consideration pursuant to Article 24 of the Charter and in the light of Article 12 of the UN Convention on the Rights of the Child as implemented by national law and procedure ***also in respect of authentic instruments with binding legal effect. However, the fact that the child who is below the age of 18 years was not given***

as implemented by national law and procedure. The fact that *children were* not given the opportunity to express their views should not automatically be a ground for refusal of recognition of authentic instruments with binding legal effect.

the opportunity to express their views should not automatically be a ground for refusal of recognition of authentic instruments with binding legal effect.

## Amendment 21

### Proposal for a regulation Recital 75

#### *Text proposed by the Commission*

(75) Considerations of public interest should allow Member State courts or other competent authorities to refuse, in exceptional circumstances, to recognise or, as the case may be, accept a court decision or authentic instrument on the parenthood established in another Member State where, in a given case, such recognition or acceptance would be manifestly incompatible with the public policy (ordre public) of the Member State concerned. However, the courts or other competent authorities should not be able to refuse to recognise or, as the case may be, accept a court decision or an authentic instrument issued in another Member State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination.

#### *Amendment*

(75) Considerations of public interest should allow Member State courts or other competent authorities to refuse, in exceptional circumstances, to recognise or, as the case may be, accept a court decision or authentic instrument on the parenthood established in another Member State where, in a given case, such recognition or acceptance would be manifestly incompatible with the public policy (ordre public) of the Member State concerned. However, the courts or other competent authorities should not be able to refuse to recognise or, as the case may be, accept a court decision or an authentic instrument issued in another Member State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination. ***When the public policy exception policy has been raised by the courts or competent authorities of the Member States, the decision of the court establishing the parenthood should stand until legal remedies at national and Union level have been exhausted and a final ruling has been delivered on the public policy exception.***

## Amendment 22

### Proposal for a regulation Recital 76

*Text proposed by the Commission*

(76) In order for the recognition of the parenthood established in a Member State to be settled speedily, smoothly and efficiently, children or their parent(s) should be able to demonstrate easily the children's status in another Member State. To enable them to do so, this Regulation should provide for the creation of a uniform certificate, the European Certificate of Parenthood, to be issued for use in another Member State. In order to respect the principle of subsidiarity, the European Certificate of Parenthood should not take the place of internal documents which may exist for similar purposes in the Member States.

*Amendment*

(76) In order for the recognition of the parenthood established in a Member State to be settled speedily, smoothly and efficiently, children or their parent(s) should be able to demonstrate easily the children's status in another Member State. ***That is an important step to take in order to reduce bureaucracy and increase access to free movement in the Union as a means of promoting equality.*** To enable them to do so, this Regulation should provide for the creation of a uniform certificate, the European Certificate of Parenthood, to be issued for use in another Member State. In order to respect the principle of subsidiarity, the European Certificate of Parenthood should not take the place of internal documents which may exist for similar purposes in the Member States.

**Amendment 23**

**Proposal for a regulation**

**Recital 81**

*Text proposed by the Commission*

(81) The court or other competent authority should issue the European Certificate of Parenthood upon request. The original of the European Certificate of Parenthood should remain with the issuing authority, which should issue one or more certified copies of the European Certificate of Parenthood to the applicant or a legal representative. Given the stability of parenthood status in the vast majority of cases, the validity of the copies of the European Certificate of Parenthood should not be limited in time, without prejudice to the possibility to rectify, modify, suspend or withdraw the European Certificate of Parenthood as necessary. This Regulation should provide for redress against

*Amendment*

(81) The court or other competent authority should issue the European Certificate of Parenthood upon request ***of the child (the "applicant") or, where applicable, a legal representative.*** The original of the European Certificate of Parenthood should remain with the issuing authority, which should issue one or more certified copies of the European Certificate of Parenthood to the applicant or a legal representative. Given the stability of parenthood status in the vast majority of cases, the validity of the copies of the European Certificate of Parenthood should not be limited in time, without prejudice to the possibility to rectify, modify, suspend or withdraw the European Certificate of

decisions of the issuing authority, including decisions to refuse to issue a European Certificate of Parenthood. Where the European Certificate of Parenthood is rectified, modified, suspended or withdrawn, the issuing authority should inform the persons to whom certified copies have been issued so as to avoid a wrongful use of such copies.

Parenthood as necessary. This Regulation should provide for redress against decisions of the issuing authority, including decisions to refuse to issue a European Certificate of Parenthood. Where the European Certificate of Parenthood is rectified, modified, suspended or withdrawn, the issuing authority should inform the persons to whom certified copies have been issued so as to avoid a wrongful use of such copies.

## Amendment 24

### Proposal for a regulation Recital 83

#### *Text proposed by the Commission*

(83) The European electronic access point should allow ***natural persons*** or their legal representatives to launch a request for a European Certificate of Parenthood and to receive and send that Certificate electronically. It should also allow them to communicate electronically with Member State courts or other competent authorities in proceedings ***for a decision that there are no grounds for the refusal of recognition of a court decision or an authentic instrument on parenthood, or proceedings for the refusal of recognition of a court decision or an authentic instrument on parenthood.*** Member State courts or other competent authorities should communicate with citizens through the European electronic access point only where the citizen has given prior express consent to the use of this means of communication.

#### *Amendment*

(83) The European electronic access point should allow ***applicants*** or their legal representatives to launch a request for a European Certificate of Parenthood and to receive and send that Certificate electronically. It should also allow them to communicate electronically with Member State courts or other competent authorities in proceedings ***governed by this Regulation.*** Member State courts or other competent authorities should communicate with citizens through the European electronic access point only where the citizen has given prior express consent to the use of this means of communication.

## Amendment 25

### Proposal for a regulation Recital 89 a (new)

*Text proposed by the Commission*

*Amendment*

**(89a) Whenever there is doubt as regards the interpretation of a provision of this Regulation, it is important that national judges use the preliminary ruling mechanism under the Treaties in order to obtain a uniformly applicable interpretation from the Court of Justice of the European Union.**

## **Amendment 26**

### **Proposal for a regulation Article 1 – paragraph 1**

*Text proposed by the Commission*

This Regulation lays down common rules on jurisdiction and applicable law for the establishment of parenthood in a Member State in cross-border situations; common rules for the recognition or, as the case may be, acceptance in a Member State of court decisions on parenthood given, and authentic instruments on parenthood drawn up or registered, in another Member State; and creates a European Certificate of Parenthood.

*Amendment*

This Regulation lays down common rules on jurisdiction and applicable law for the establishment of parenthood in a Member State in cross-border situations; common rules for the **mutual** recognition or, as the case may be, acceptance in a Member State of court decisions on parenthood given, and authentic instruments on parenthood drawn up or registered, in another Member State; and creates a European Certificate of Parenthood.

## **Amendment 27**

### **Proposal for a regulation Article 4 – paragraph 1 – point 1**

*Text proposed by the Commission*

1. ‘parenthood’ means the **parent-child** relationship established in law. It includes the legal status of being the child of a particular parent or parents;

*Amendment*

1. ‘parenthood’ means the **child-parent** relationship established in law. It includes the legal status of being the child of a particular parent or parents;

*(This amendment, "parent-child" to "child-parent", applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

## Amendment 28

### Proposal for a regulation

#### Article 4 – paragraph 1 – point 4

*Text proposed by the Commission*

4. 'court' means ***an*** authority ***in*** a Member State ***that exercises judicial functions*** in matters of parenthood;

*Amendment*

4. 'court' means ***any judicial*** authority ***and all other authorities of*** a Member State ***with jurisdiction*** in matters of parenthood ***which exercise judicial functions or act pursuant to a delegation of power by a judicial authority or act under the control of a judicial authority, provided that such other authorities offer guarantees with regard to the impartiality and the right of all parties to be heard and provided that their decisions under the law of the Member State in which they operate:***

## Amendment 29

### Proposal for a regulation

#### Article 4 – paragraph 1 – point 4 – point a (new)

*Text proposed by the Commission*

*Amendment*

***(a) may be made the subject of an appeal to or review by a judicial authority; and***

## Amendment 30

### Proposal for a regulation

#### Article 4 – paragraph 1 – point 4 – point b (new)

*Text proposed by the Commission*

*Amendment*

***(b) have a similar force and effect as a decision of a judicial authority on the same matter.***

## Amendment 31

### Proposal for a regulation Article 4 – paragraph 1 – point 9 a (new)

*Text proposed by the Commission*

*Amendment*

**9a. ‘videoconferencing’ means using audiovisual transmission technology tools enabling persons in a cross-border judicial procedure to participate remotely.**

## Amendment 32

### Proposal for a regulation Article 5 – paragraph 1

*Text proposed by the Commission*

*Amendment*

This Regulation shall not affect the competence of the authorities of the Member States to deal with parenthood matters.

This Regulation shall not affect the competence of the authorities of the Member States to deal with parenthood matters ***without any cross-border dimension.***

## Amendment 33

### Proposal for a regulation Article 15 – title

*Text proposed by the Commission*

*Amendment*

Right of ***children*** to express their views

Right of ***the child*** to express their views ***and be heard***

## Amendment 34

### Proposal for a regulation Article 15 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. When exercising their jurisdiction under this Regulation, the courts of the Member States shall, in accordance with

1. When exercising their jurisdiction under this Regulation, the courts of the Member States shall, in accordance with



national law and procedure, provide **children** below the age of 18 years whose parenthood is to be established and who **are** capable of forming their own views, with a genuine and effective opportunity to express their views, either directly or through a representative or an appropriate body.

national law and procedure, **support and** provide **a child** below the age of 18 years whose parenthood is to be established and who **is** capable of forming their own views, with a genuine and effective opportunity to express their views, either directly or through a representative or an appropriate body **in proceedings covered by this Regulation**.

## Amendment 35

### Proposal for a regulation Article 15 – paragraph 2

*Text proposed by the Commission*

2. Where the court, in accordance with national law and procedure, gives **children** below the age of 18 years an opportunity to express their views in accordance with this Article, the court shall give due weight to the views of the **children** in accordance with their age and maturity.

*Amendment*

2. Where the court, in accordance with national law and procedure, gives **a child** below the age of 18 years an opportunity to express their views in accordance with this Article, the court shall give due weight to the views of the **child** in accordance with their age and maturity.

## Amendment 36

### Proposal for a regulation Article 18 – paragraph 1 – point a

*Text proposed by the Commission*

(a) the procedures to establish or contest parenthood;

*Amendment*

(a) the procedures **and conditions** to establish or contest parenthood;

## Amendment 37

### Proposal for a regulation Article 22 – paragraph 1

*Text proposed by the Commission*

1. The application of a provision of the law of any State specified by this

*Amendment*

1. The application of a provision of the law of any State specified by this

Regulation may be refused only if such application is manifestly incompatible with the public policy (ordre public) of the forum.

Regulation may be refused only if such application is manifestly incompatible with the public policy (ordre public) of the forum, ***taking into account the best interests of the child.***

## **Amendment 38**

### **Proposal for a regulation Article 22 – paragraph 2**

*Text proposed by the Commission*

2. Paragraph 1 shall be applied by the courts and other competent authorities of the Member States in ***observance of*** the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.

*Amendment*

2. Paragraph 1 shall be applied by the courts and other competent authorities of the Member States in ***accordance with*** the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.

## **Amendment 39**

### **Proposal for a regulation Article 22 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. When an appeal against the application of paragraph 1 is brought by an applicant who is seeking recognition of a parenthood already established in another Member State, the decision of the court establishing the parenthood shall stand until legal remedies at national and Union level have been exhausted and a final ruling has been delivered on the public policy exception.***

## **Amendment 40**

### **Proposal for a regulation Article 29 – paragraph 2**

*Text proposed by the Commission*

2. The attestation shall be completed and issued in the language of the court decision. The attestation **may** also be issued in another official language of the institutions of the European Union requested by the party. ***This does not create any obligation for the court issuing the attestation to provide a translation or transliteration of the translatable content of the free text fields.***

**Amendment 41**

**Proposal for a regulation  
Article 31 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, taking into account the ***child's*** interests;

**Amendment 42**

**Proposal for a regulation  
Article 31 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) upon application by any person claiming that the court decision infringes ***his fatherhood or her motherhood*** over the child if it was given without such person having been given an opportunity to be heard;

**Amendment 43**

*Amendment*

2. The attestation shall be completed and issued in the language of the court decision. The attestation **shall** also be issued in another official language of the institutions of the European Union requested by the party. ***Member States are to decide whether such a translation or transliteration is to be provided by the court and/or a public administration body.***

*Amendment*

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, taking into account the ***best interests of the child;***

*Amendment*

(c) upon application ***and presentation of evidence*** by any person ***with a legitimate interest under the procedural law of the Member State in which the proceedings are brought*** claiming that the court decision infringes ***their parenthood*** over the child if it was given without such person having been given an opportunity to be heard ***and present evidence;***

**Proposal for a regulation**  
**Article 31 – paragraph 2**

*Text proposed by the Commission*

2. Point (a) of paragraph 1 shall be applied by the courts and other competent authorities of the Member States ***in observance of*** the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.

*Amendment*

2. Point (a) of paragraph 1 shall be applied by the courts and other competent authorities of the Member States ***in accordance with*** the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.

**Amendment 44**

**Proposal for a regulation**  
**Article 31 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. When an appeal against the application of paragraph 1, point (a), is brought by an applicant, who is seeking recognition of a parenthood already established in another Member State, the decision of the court establishing the parenthood shall stand until legal remedies at national and Union level have been exhausted and a final ruling has been delivered on the public policy exception.***

**Amendment 45**

**Proposal for a regulation**  
**Article 33 – paragraph 1**

*Text proposed by the Commission*

1. Any party may challenge or appeal against a court decision on the application for refusal of recognition.

*Amendment*

1. Any party ***with an established legitimate interest*** may challenge or appeal against a court decision on the application for refusal of recognition.

## Amendment 46

### Proposal for a regulation Article 37 – paragraph 3

*Text proposed by the Commission*

3. The attestation shall be completed in the language of the authentic instrument. It *may* also be issued in another official language of the institutions of the European Union requested by the party. ***This does not create any obligation for the competent authority issuing the attestation to provide a translation or transliteration of the translatable content of the free text fields.***

*Amendment*

3. The attestation shall be completed in the language of the authentic instrument. It ***shall*** also be issued in another official language of the institutions of the European Union requested by the party. ***Member States are to decide whether such a translation or transliteration is to be provided by the court and/or a public administration body.***

## Amendment 47

### Proposal for a regulation Article 39 – paragraph 1 – point a

*Text proposed by the Commission*

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, taking into account the ***child's*** interests;

*Amendment*

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, taking into account the ***best*** interests ***of the child***;

## Amendment 48

### Proposal for a regulation Article 39 – paragraph 1 – point b

*Text proposed by the Commission*

(b) upon application by any person claiming that the authentic instrument infringes ***his fatherhood or her motherhood*** over the child, if the authentic instrument was formally drawn up or registered without that person having been involved;

*Amendment*

(b) upon application by any person claiming that the authentic instrument infringes ***their parenthood*** over the child, if the authentic instrument was formally drawn up or registered without that person having been involved;

## Amendment 49

### Proposal for a regulation Article 39 – paragraph 2

*Text proposed by the Commission*

2. Point (a) of paragraph 1 shall be applied by the courts and other competent authorities of the Member States in ***observance of*** the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.

*Amendment*

2. Point (a) of paragraph 1 shall be applied by the courts and other competent authorities of the Member States in ***accordance with*** the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.

## Amendment 50

### Proposal for a regulation Article 39 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. When an appeal against the application of paragraph 1, point (a), is brought by an applicant, who is seeking recognition of a parenthood already established in another Member State, the recognition of the authentic instrument and the rights derived from it shall stand until legal remedies at national and Union level have been exhausted and a final ruling has been delivered.***

## Amendment 51

### Proposal for a regulation Article 39 – paragraph 3

*Text proposed by the Commission*

3. The recognition of an authentic instrument establishing parenthood with binding legal effect may be refused if it was formally drawn up or registered without ***children*** having been given an opportunity to express their views. ***Where***

*Amendment*

3. The recognition of an authentic instrument establishing parenthood with binding legal effect may ***in exceptional circumstances*** be refused if it was formally drawn up or registered without ***the child*** having been given an opportunity to

*the children were below the age of 18 years, this provision shall apply where the children were capable of forming their views.*

express their views *pursuant to Article 15.*

## Amendment 52

### Proposal for a regulation Article 43 – paragraph 2

#### *Text proposed by the Commission*

2. An applicant who, in the Member State of origin, has benefited from free proceedings before an administrative authority communicated to the Commission pursuant to Article 71 shall be entitled, in any procedures provided for in Articles 25(1) and 32, to benefit from legal aid in accordance with paragraph 1 of this Article. To that end, that party shall present a statement from the competent authority in the Member State of origin to the effect that he or she fulfils the financial requirements to qualify for the grant of complete or partial legal aid or exemption from costs or expenses.

#### *Amendment*

2. An applicant who, in the Member State of origin, has benefited from free proceedings before an administrative authority communicated to the Commission pursuant to Article 71 shall be entitled, in any procedures provided for in Articles 25(1) and 32, to benefit from legal aid in accordance with paragraph 1 of this Article. To that end, that party shall present a statement from the competent authority in the Member State of origin to the effect that he or she fulfils the financial requirements to qualify for the grant of complete or partial legal aid or exemption from costs or expenses. ***The competent authority in the Member State of origin shall provide such statement free of cost and within two weeks after receiving a request from the party.***

## Amendment 53

### Proposal for a regulation Article 45 – paragraph 2

#### *Text proposed by the Commission*

2. The public policy (ordre public) referred to in paragraph 1 shall be applied by the courts and other competent authorities of the Member States in ***observance of*** the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to

#### *Amendment*

2. The public policy (ordre public) referred to in paragraph 1 shall be applied by the courts and other competent authorities of the Member States in ***accordance with*** the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to

non-discrimination.

non-discrimination.

#### **Amendment 54**

##### **Proposal for a regulation**

##### **Article 45 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. When an appeal against the application of paragraph 1 is brought by an applicant, who is seeking recognition of a parenthood already established in another Member State, the evidentiary effect of the authentic instrument and the rights derived from it shall stand until legal remedies at national and Union level have been exhausted and a final ruling has been delivered.**

#### **Amendment 55**

##### **Proposal for a regulation**

##### **Article 49 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. For the purposes of submitting an application, the applicant **may** use the form established in Annex IV.

2. For the purposes of submitting an application, the applicant **shall** use the form established in Annex IV.

#### **Amendment 56**

##### **Proposal for a regulation**

##### **Article 49 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. Where a Member State provides digital access to the information referred to in paragraph 3, the applicant shall be provided with access to a digital version of the form established in Annex IV, which shall be automatically completed by the competent authorities in its entirety or**



*partially, depending on the information available. The applicant or, where applicable, the legal representative of the applicant shall be able to add any missing information to the form before submitting the application.*

## Amendment 57

### Proposal for a regulation Article 50 – paragraph 1

*Text proposed by the Commission*

1. Upon receipt of the application, the issuing authority shall verify the information and declarations and the documents and other evidence provided by the applicant. It shall carry out the enquiries necessary for that verification of its own motion where this is provided for or authorised by its national law, or shall invite the applicant to provide any *further evidence which it deems necessary*.

*Amendment*

1. Upon receipt of the application, the issuing authority shall verify the information and declarations and the documents and other evidence provided by the applicant. It shall carry out the enquiries necessary for that verification of its own motion where this is provided for or authorised by its national law, or shall invite the applicant to provide any *information that the authority considers to be missing in order to issue a Certificate*.

## Amendment 58

### Proposal for a regulation Article 51 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

The issuing authority shall issue the Certificate without delay in accordance with the procedure laid down in this Chapter when the elements to be certified have been established under the law applicable to the establishment of parenthood. It shall use the form in Annex V.

*Amendment*

The issuing authority shall issue the Certificate without delay *and not later than two weeks following receipt of a request*, in accordance with the procedure laid down in this Chapter when the elements to be certified have been established under the law applicable to the establishment of parenthood. It shall use the form in Annex V.

## Amendment 59

**Proposal for a regulation**  
**Article 51 – paragraph 2**

*Text proposed by the Commission*

2. The fee collected for issuing a Certificate shall not be higher than the fee collected for issuing a certificate under national law providing evidence of the parenthood of the applicant.

*Amendment*

2. The fee collected for issuing a Certificate shall not be higher than the fee collected for issuing a **birth certificate nor a** certificate under national law providing evidence of the parenthood of the applicant.

**Amendment 60**

**Proposal for a regulation**  
**Article 51 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. The Certificate shall be available in both paper and electronic versions.**

**Amendment 61**

**Proposal for a regulation**  
**Article 54 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The issuing authority shall keep the original of the Certificate and shall issue one or more certified copies to the applicant or a legal representative.

1. The issuing authority shall keep the original of the Certificate and shall 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.**

**Amendment 62**

**Proposal for a regulation**  
**Article 54 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**1a.** *Electronic copies of the Certificate shall be made available through the European electronic access point established on the European e-Justice Portal pursuant to Article 4 of Regulation (EU) ..../... [the Digitalisation Regulation] and through relevant existing national IT portals.*

### **Amendment 63**

#### **Proposal for a regulation Article 55 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The issuing authority shall, at the request of any person demonstrating a legitimate interest or of its own motion, rectify the Certificate in the event of a clerical error.

1. The issuing authority shall, at the request of any person demonstrating a legitimate interest or of its own motion, ***immediately*** rectify the Certificate in the event of a clerical error.

### **Amendment 64**

#### **Proposal for a regulation Article 55 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The issuing authority shall, at the request of any person demonstrating a legitimate interest or, where this is possible under national law, of its own motion, modify or withdraw the Certificate where it has been established that the Certificate or individual elements thereof are not accurate.

2. The issuing authority shall, at the request of any person demonstrating a legitimate interest or, where this is possible under national law, of its own motion, ***without any delay*** modify or withdraw the Certificate where it has been established that the Certificate or individual elements thereof are not accurate.

### **Amendment 65**

#### **Proposal for a regulation Article 55 – paragraph 3**

*Text proposed by the Commission*

3. The issuing authority shall inform without delay all persons to whom certified copies of the Certificate have been issued pursuant to Article 54(1) of any rectification, modification or withdrawal thereof.

*Amendment*

3. The issuing authority shall inform without delay ***and at least within two weeks after its decision*** all persons to whom certified copies of the Certificate have been issued pursuant to Article 54(1) of any rectification, modification or withdrawal thereof.

**Amendment 66**

**Proposal for a regulation  
Article 55 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Where the Certificate is rectified, modified or withdrawn, the original Certificate and all previous certified copies shall lose their effects.***

**Amendment 67**

**Proposal for a regulation  
Article 56 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

If, as a result of a challenge as referred to in paragraph 1, it is established that the Certificate issued is not accurate, the competent court shall rectify, modify or withdraw the Certificate or ensure that it is rectified, modified or withdrawn by the issuing authority.

If, as a result of a challenge as referred to in paragraph 1, it is established that the Certificate issued is not accurate, the competent court shall rectify, modify or withdraw the Certificate or ensure that it is rectified, modified or withdrawn by the issuing authority ***without delay***.

**Amendment 68**

**Proposal for a regulation  
Article 56 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

If, as a result of a challenge as referred to in paragraph 1, it is established that the refusal to issue the Certificate was unjustified, the competent court shall issue the Certificate or ensure that the issuing authority re-assesses the case and makes a fresh decision.

*Amendment*

If, as a result of a challenge as referred to in paragraph 1, it is established that the refusal to issue the Certificate was unjustified, the competent court shall issue the Certificate or ensure that the issuing authority re-assesses the case and makes a fresh decision ***at least within two weeks after its decision.***

**Amendment 69**

**Proposal for a regulation**

**Article 57 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

During the suspension of the effects of the Certificate no further certified copies of the Certificate may be issued.

*Amendment*

During the suspension of the effects of the Certificate no further certified copies of the Certificate may be issued. ***The certified copies of the Certificate already issued shall have no effects during the suspension of the effect of the Certificate.***

**Amendment 70**

**Proposal for a regulation**

**Article 58 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. The European electronic access point established on the European e-Justice Portal pursuant to Article 4 of [the Digitalisation Regulation] ***may be used*** for electronic communication between ***natural persons*** or their ***legal*** representatives and Member State courts or other competent authorities in connection with ***the following:***

*Amendment*

1. ***It shall be possible to use*** the European electronic access point established on the European e-Justice Portal pursuant to Article 4 of [the Digitalisation Regulation] for electronic communication between ***applicants*** or their representatives and Member State courts or other competent authorities in connection with ***proceedings covered by this Regulation.***

**Amendment 71**

**Proposal for a regulation**  
**Article 58 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

**(a) proceedings for a decision that there are no grounds for the refusal of recognition of a court decision or an authentic instrument on parenthood, or proceedings for the refusal of recognition of a court decision or an authentic instrument on parenthood;**

**deleted**

**Amendment 72**

**Proposal for a regulation**  
**Article 58 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) the application for, issuance, rectification, modification, withdrawal, suspension or redress procedures of the European Certificate of Parenthood.**

**deleted**

**Amendment 73**

**Proposal for a regulation**  
**Article 58 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**1a. The European electronic access point established on the European e-Justice Portal pursuant to Article 4 of [the Digitalisation Regulation] shall be used for electronic communication between competent authorities in connection with the following:**

**(a) all proceedings and applications referred in paragraph 1;**

**(b) *lis pendens*.**

## Amendment 74

### Proposal for a regulation Article 58 – paragraph 2

*Text proposed by the Commission*

2. Articles 4(3), 5(2) and (3), 6, 9(1) and 3, and 10 of [the Digitalisation Regulation] shall apply to electronic communications pursuant to paragraph 1.

*Amendment*

2. Articles 4(3), 5(2) and (3), 6, 9(1) and 3, and 10 of [the Digitalisation Regulation] shall apply to electronic communications pursuant to paragraph 1 **and 1a.**

## Amendment 75

### Proposal for a regulation Article 58 a (new)

*Text proposed by the Commission*

*Amendment*

#### **Article 58a**

***Use of videoconferencing or other distance communication technology***

***1. It shall be possible to use videoconferencing or other distance communication technology for hearings related to the proceedings covered by this Regulation in accordance with Regulation (EU) ..../... [the Digitalisation Regulation].***

***2. Pursuant to Article 15, 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 shall be guided primarily by the best interests of the child.***

## Amendment 76

### Proposal for a regulation Article 63 – paragraph 1

*Text proposed by the Commission*

The Commission is empowered to adopt delegated acts in accordance with Article 64 concerning the amendment of Annexes I to V in order to update or make technical changes to those Annexes.

*Amendment*

The Commission is empowered to adopt delegated acts in accordance with Article 64 concerning the amendment of Annexes I to V in order to update or make technical changes to those Annexes. ***The preparation and drawing-up of delegated acts shall be preceded by and take into account consultations with stakeholders, including relevant civil society organisations and academic experts.***

**Amendment 77**

**Proposal for a regulation  
Article 67 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 67a***

***Supportive measures***

- 1. The Commission shall develop guidelines on the application and enforcement of this Regulation, which shall be available by ... [six months prior to the application date referred to in article 72].***
- 2. Member States shall complement the Commission guidelines where relevant with guidelines for all relevant professionals as well as for children and parents concerned, taking into account the specificities of their national administrative and legal systems. These guidelines shall be available at the latest by ... [the application date referred to in article 72].***
- 3. The Commission and Member States shall regularly review the guidelines referred to in paragraph 1 and 2, and update them whenever relevant.***
- 4. Member States shall provide easily accessible and user-friendly information***



*about the procedures covered by this Regulation, including via a public website.*

**5. Member States, with the support of the Commission and the European Judicial Training Network, shall organise trainings for all relevant professionals, in particular judges, lawyers, and public administration officials on the application of this Regulation.**

## **Amendment 78**

### **Proposal for a regulation Article 70 – paragraph 1**

*Text proposed by the Commission*

1. By [5 years from date of application of this Regulation], the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation, including an evaluation of any practical problems encountered, supported by information supplied by the Member States. The report shall be accompanied, where necessary, by a legislative proposal.

*Amendment*

1. By ... [3 years from date of application of this Regulation] **and every 5 years thereafter**, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation, including an evaluation of **convergences and divergences between Member States and** any practical problems encountered, supported by information supplied by the Member States. The report shall be accompanied, where necessary, by a legislative proposal.

## **Amendment 79**

### **Proposal for a regulation Article 70 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. The Member States shall provide the Commission **upon request, where available**, with information relevant for the evaluation of the operation and application of this Regulation, **in particular on:**

*Amendment*

2. The Member States shall provide the Commission with information relevant for the evaluation of the operation and application of this Regulation, **at least on:**

## **Amendment 80**

### **Proposal for a regulation**

#### **Article 70 – paragraph 2 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) the number of applications for the recognition of parenthood submitted under this Regulation and the number of applications that were rejected accompanied by an overview of the reasons for rejection;***

## **Amendment 81**

### **Proposal for a regulation**

#### **Article 70 – paragraph 2 – point a b (new)**

*Text proposed by the Commission*

*Amendment*

***(ab) for cases of refusal to apply provisions of this Regulation due to their incompatibility with the public policy of a Member State, an explanation of the rationale for each case as well as information on any appeals brought against its use;***

## **Amendment 82**

### **Proposal for a regulation**

#### **Article 70 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) the number of applications for the recognition of a court decision or of an authentic instrument establishing parenthood with binding legal effect in the Member State of origin pursuant to Article 32, and the number of cases in which the recognition was granted;***

## **Amendment 83**

### **Proposal for a regulation Article 70 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. The Commission shall establish a dialogue with relevant stakeholders to contribute to the preparation of the evaluation report referred to in paragraph 1.**

## EXPLANATORY STATEMENT

The Rapporteur considers that the Commission's proposal comes at a very timely moment. She fully agrees with its aim, which is to ensure that every child's rights are guaranteed and protected as enshrined in the UN Convention of the Rights of the Child and EU Charter. The Regulation, therefore, establishes that if you are parent in one Member State, you are parent in every Member State.

Currently, the same family in different Member States might be subject to different laws to determine the parenthood of a child.

This means that children may lose their parents, legally speaking, when they enter another Member State.

This puts them at significant risk, as they do not have guaranteed access to certain rights such those related to succession, maintenance or schooling and education.

This is an unacceptable *status quo* and is comparable to the legal status of children born outside of marriage in previous centuries, concerning the lack of recognition of their rights.

The current legal landscape particularly affects rainbow families as well as other types of families that do not fit the nuclear family model. This is especially the case where there is not a biological link between the parents and the child.

This Regulation comes to address the issue of non-recognition of parenthood status by assuring that if a child-parent relation has been established in one Member State all other Member States shall be obliged to recognise it.

The Rapporteur would like to stress that this Regulation does not change the substantive family law of Member States. The EU can harmonise rules that apply in cross-border situations where there is an international element. However, given the lack of any provisions transferring competence to the EU in the sphere of domestic family law, the latter falls within the exclusive competence of Member States. Hence, Member States remain free to decide what they consider to be a family and how parenthood should be established.

In addition, the specific case of surrogacy has been raised in various debates in the context of this proposal. As surrogacy remains a matter of domestic law, the decisions on whether and how to legislate on it are for each Member State to make.

Furthermore, the Rapporteur would like to remind that according to the case law of the European Court of Human Rights<sup>4</sup>, all States within its jurisdiction are already required to recognise the relationship between a child born out of surrogacy and the biological intended parent, established abroad. Moreover, all States need to provide for a mechanism for the recognition of the relationship between the child and the non-biological intended parent, for example through adoption. This means that the adoption of this Regulation does not change

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<sup>4</sup> For example, *Mennesson v. France* (Application no 65192/11, Council of Europe: European Court of Human Rights, 26 June 2014) and *Advisory Opinion P16-2018-001* (Request no. P16-2018-001, Council of Europe: European Court of Human Rights, 10 April 2019).

the situation of children born out of surrogacy in the EU.

This proposal also does not apply to parenthood established in a third country. Member States will not be obliged to recognise parenthood established in a country outside the EU even if another Member States recognises it.

Taking all the above into consideration, the Rapporteur will aim to make sure that there are no loopholes in the proposal, to make recognition as easy and straightforward as possible and to strengthen the digital elements of the proposal, among other aspects.

All children should have the same rights in the EU. This proposal comes to assure that no child is discriminated because of the way they were born or the type of family they were born into.

## **MINORITY POSITION**

### **under Rule 55(4) Rules of procedure**

**MEPs Alessandra BASSO, Gilles LEBRETON, Raffaele STANCANELLI, Angel DZHAMBAZKI**

The Regulation does not directly cover family law, but has a major impact on it. Therefore, to comply with the principles of proportionality and subsidiarity, a disapplication clause should be foreseen, allowing Member States already having a legislation in place ensuring the full respect of children's rights, to disregard the rules on the recognition of parenthood.

Furthermore, the scope of the public policy limit should be clarified, as it must be considered always applicable against the recognition of parenthood violating the fundamental principles laid down in national laws and constitutions. It is hence concerning and legally questionable not to have a clear reference to its enforceability, as a general clause of private international law, with regard to the acceptance of the European Certificate of Parenthood.

The public policy safeguard becomes particularly relevant where surrogate pregnancy has been resorted. This practice should be excluded from the scope of the Regulation, being deemed illegal in several European national legal systems.

Whether remunerated or not, surrogacy should be prohibited in all Member States, as it violates the dignity and the integrity of the woman, breaching the prohibition on making the human body and its parts as such a source of financial gain.

**ANNEX: LIST OF ENTITIES OR PERSONS  
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

The following list is drawn up under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the report, until the adoption thereof in committee:

<b>Entity and/or person</b>
ILGA Europe
Europe for Family
Eurochild
European Women's Lobby
European Commission
Network of European LGBTIQ* Families Associations

10.10.2023

## **OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

for the Committee on Legal Affairs

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  
(COM(2022)0695 – C9-0002/2023 – 2022/0402(CNS))

Rapporteur for opinion: Malin Björk

### **SHORT JUSTIFICATION**

Today, there is no EU mechanism for mutual recognition of legal parenthood in cross-border situations in the EU, and some parents and children can see their legal bonds dissolved if they move to another EU country. This disproportionately affects rainbow families.

#### *Legal and emotional consequences*

The non-recognition of an established parenthood can lead to a parent losing parental rights to act, as the legal representative of their child in matters such as healthcare and education. It can also lead to problems with maintenance, inheritance, and ultimately, to children not being granted any citizenship.

The emotional consequences of losing familial ties should not be downplayed. It sends the message to children that they might lose their parents, legally speaking, when they enter another Member State. This is not acceptable.

#### *Fundamental rights, freedom of movement and other rights*

The lack of EU measures to facilitate recognition of parenthood between Member States leads to situations that infringe upon the fundamental rights and other rights of children and families in cross-border situations.

Depriving children of their legal status and of the parenthood established in another Member State goes against the child's right to an identity, the principle of non-discrimination, the respect for private and family life, as well as against the best interests of the child.

The lack of recognition obstructs the right to free movement. The fear of losing an established parenthood limits families travelling within the EU or taking up residence in another member state.



### *Recognising LGBTQI parents*

The effects of the refusal to recognise parenthood in cross-border situations are particularly severe for rainbow families. About 100,000 parents and their children are currently facing problems - a vast majority of which are children in rainbow families. The number of children affected is probably even much higher, since families in risk of not being recognised might choose not to exercise their right to free movement due to the fear of losing their legal family connections.

This is not an acceptable situation. All children and parents should, without discrimination, have the same rights. For same-sex couples with children, cross-border recognition of parenthood would make all the difference as the parent-child relationship would have to be upheld at all times in the EU.

### *Recognition of family ties, including partnership and marriage - in the best interests of the child*

Just as a parent is a parent no matter what the Member States' legal framework states, a family is a family even in countries where the legal status for same-sex couples is still missing.

Therefore, in order to fully respect children's right to a family and the best interests of the child, it is important to respect and recognise not only the child-parent legal ties but also their parents' partnership and marriage. Bearing this in mind, the proposed regulation on the recognition of parenthood between Member States should be expanded to also include rules on the recognition of partnership and marriage.

### *Respect and recognition for different kinds of families*

There are also other families falling outside the traditional nuclear family norm, which have more difficulties in being recognised. This is particularly true for families with more than two parents. Although at the moment only a few Member States have opened up for the legal possibility of multiple parenthood, this will surely be the case in the future. It is therefore important that the regulation, already at the outset, is flexible and allows for non-traditional family constellations, including to ensure that the European parenthood certificate includes the possibility for more than two parents.

### *Third countries and the issue of the surrogacy industry*

The proposed regulation does not regulate or set up any safeguards to guarantee that the fundamental rights of women, parents and children are respected when parenthood is established in a third country. As a necessary precaution to ensure the respect of fundamental rights, it is therefore coherent that this regulation does not open up for recognition of parenthood established in third countries.

As regards the specific question of surrogacy, it is clear that the surrogacy industry established in some third countries commercialises and commodifies women. The surrogacy industry thrives in a system where economically privileged people use under-privileged women from other parts of the world. This constitutes a form of exploitation of women's rights and reproductive organs. Also from this perspective, it is important that the regulation

is limited to recognition of parenthood within the EU, and not from a third country.

EU Member States are already required, according to ECtHR jurisprudence, in certain circumstances, to recognise the relationship between surrogate-born children and their intended parents. While simplifying the recognition of parenthood between Member States, it is necessary to make sure not to create incentives for the surrogacy market. However, this regulation is not regulating surrogacy, which falls under Member States' competence.

## AMENDMENT

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Legal Affairs, as the committee responsible, to take the following into account:

### **Amendment 1** **Proposal for a regulation** **Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) Pursuant to the second subparagraph of Article 81(3) TFEU, the Council, on a proposal from the Commission, may adopt a decision establishing that aspects of family law having cross-border implications may be adopted in accordance with the ordinary legislative procedure. In this regard, the European Parliament underlined the importance of moving to the ordinary legislative procedure and to qualified majority voting in areas related to the protection of fundamental rights in the Union, including through the activation of the sectoral passerelle clause on family law with cross-border implications (Article 81(3), second subparagraph, TFEU)<sup>1a</sup>***

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***<sup>1a</sup> European Parliament resolution of 11 July 2023 on the implementation of the passerelle clauses in the EU Treaties (2022/2142(INI))***

### **Amendment 2** **Proposal for a regulation**

## Recital 8

*Text proposed by the Commission*

(8) While the Union has competence to adopt measures on family law with cross-border implications such as rules on international jurisdiction, applicable law and the recognition of parenthood between Member States, to date the Union has not adopted provisions in those areas as regards parenthood. The Member States' provisions currently applicable in these areas differ.

*Amendment*

(8) While the Union has competence to adopt measures on family law with cross-border implications such as rules on international jurisdiction, applicable law and the recognition of parenthood between Member States, to date the Union has not adopted provisions in those areas as regards parenthood. The Member States' provisions currently applicable in these areas differ. ***In order to increase the safety of children and to make it easier for families to live in the EU, it is important that the Union adopt regulations that make parenthood legal across national borders as a prerequisite for equality.***

## Amendment 3 Proposal for a regulation Recital 14

*Text proposed by the Commission*

(14) Under Article 21 TFEU and secondary legislation relating thereto as interpreted by the Court of Justice, the respect of a Member State's national identity under Article 4(2) TEU and a Member State's public policy cannot serve as justification to refuse to recognise a parent-child relationship ***between children and their*** same-sex parents for the purposes of exercising the rights that a child derives from Union law. In addition, for the purposes of exercising such rights, proof of parenthood can be presented by any means<sup>52</sup>. Therefore, a Member State is not entitled to require that a person presents either the attestations provided for in this Regulation accompanying a court decision or an authentic instrument on parenthood, or the European Certificate of Parenthood created by this Regulation, where the person invokes, in the context of the exercise of the right to free movement,

*Amendment*

(14) Under Article 21 TFEU and secondary legislation relating thereto as interpreted by the Court of Justice, the respect of a Member State's national identity under Article 4(2) TEU and a Member State's public policy cannot serve as justification to refuse to recognise a parent-child relationship ***whether it concerns*** same-sex parents, ***transgender parents, a single parent or multiparents,*** for the purposes of exercising the rights that a child derives from Union law. ***The protection of the interests of the child should prevail over considerations of national identity and public policy, so that the child can live in a stable and recognised family free from any stigma, including from a legal point of view.*** In addition, for the purposes of exercising such rights, proof of parenthood can be presented by any means<sup>52</sup>. Therefore, a Member State is not entitled to require that

rights that a child derives from Union law. This should not, however, prevent a person from choosing to present in such cases also the relevant attestation or the European Certificate of Parenthood provided for in this Regulation. To ensure that Union citizens and their family members are informed that the rights that a child derives from Union law are not affected by this Regulation, the forms of the attestations and of the European Certificate of Parenthood annexed to this Regulation should include a statement specifying that the relevant attestation or the European Certificate of Parenthood do not affect the rights that a child derives from Union law, in particular the rights that a child enjoys under Union law on free movement, and that, for the exercise of such rights, proof of the parent-child relationship can be presented by any means.

a person presents either the attestations provided for in this Regulation accompanying a court decision or an authentic instrument on parenthood, or the European Certificate of Parenthood created by this Regulation, where the person invokes, in the context of the exercise of the right to free movement, rights that a child derives from Union law. This should not, however, prevent a person from choosing to present in such cases also the relevant attestation or the European Certificate of Parenthood provided for in this Regulation. To ensure that Union citizens and their family members are informed that the rights that a child derives from Union law are not affected by this Regulation, the forms of the attestations and of the European Certificate of Parenthood annexed to this Regulation should include a statement specifying that the relevant attestation or the European Certificate of Parenthood do not affect the rights that a child derives from Union law, in particular the rights that a child enjoys under Union law on free movement, and that, for the exercise of such rights, proof of the parent-child relationship can be presented by any means.

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<sup>52</sup> Judgments of the Court of Justice of 25 July 2002, C-459/99, MRAX, ECLI:EU:C:2002:461, paragraphs 61 and 62, and of 17 February 2005, C-215/03, Oulane, ECLI:EU:C:2005:95, paragraphs 23 to 26.

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<sup>52</sup> Judgments of the Court of Justice of 25 July 2002, C-459/99, MRAX, ECLI:EU:C:2002:461, paragraphs 61 and 62, and of 17 February 2005, C-215/03, Oulane, ECLI:EU:C:2005:95, paragraphs 23 to 26.

**Amendment 4**  
**Proposal for a regulation**  
**Recital 17 a (new)**

*Text proposed by the Commission*

*Amendment*

***(17a) The best interests of the child should always prevail. The European Court of Human Rights has expressly stated that the best interests of the child***

*reduces the margin of appreciation of the State Parties in the recognition of the child-parent relationship<sup>1a</sup>, and that it entails the legal identification of the persons responsible for raising them, meeting their needs and ensuring their welfare, as well as the possibility for the child to live and develop in a stable environment<sup>2a</sup>. According to the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights, children have the right to private and family life. In order to fully respect a child's right to private and family life, and the best interests of the child, it is important to respect and recognise not only the child-parent legal ties but also the parents' partnership and marriage, thus guaranteeing the right to respect for private and family life. Therefore, the European Certificate of Parenthood should include, upon request of the legally recognised parents, the relationship between them, including registered partnership and marriage.*

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<sup>1a</sup> ECtHR, Judgment 22.11.2022 [Section III], *D.B. and Others v. Switzerland - 58252/15 and 58817/15*

<sup>2a</sup> ECtHR, 10.4.2019 [GC], *Advisory opinion requested by the French Court of Cassation.*

**Amendment 5**  
**Proposal for a regulation**  
**Recital 21**

*Text proposed by the Commission*

(21) In conformity with the provisions of international conventions and Union law, this Regulation should ensure that children enjoy their rights and maintain their legal status in cross-border situations without discrimination. To that effect, and in the light of the case law of the Court of

*Amendment*

(21) In conformity with the provisions of international conventions and Union law, this Regulation should ensure that children enjoy their rights and maintain their legal status in cross-border situations without discrimination ***based, among others, on the formation of their family.***

Justice, including on mutual trust between Member States, and of the European Court on Human Rights, this Regulation should cover the recognition in a Member State of the parenthood established in another Member State irrespective of how the child was conceived or born and irrespective of the child's type of family, and including domestic adoption. Therefore, subject to the application of the rules on applicable law of this Regulation, this Regulation should cover the recognition in a Member State of the parenthood established in another Member State of a child with same-sex parents. This Regulation should also cover the recognition in a Member State of the parenthood of a child adopted domestically in another Member State under the rules governing domestic adoption in that Member State.

To that effect, and in the light of the case law of the Court of Justice, including on mutual trust between Member States, and of the European Court on Human Rights, this Regulation should cover the recognition in a Member State of the parenthood established in another Member State irrespective of how the child was conceived or born and irrespective of the child's type of family, and including domestic *or international* adoption. Therefore, subject to the application of the rules on applicable law of this Regulation, this Regulation should cover the recognition in a Member State of the parenthood established in another Member State of a child with same-sex parents, *of a child with a transgender parent, of a child with a single parent and of a child with multiparents*. This Regulation should also cover the recognition in a Member State of the parenthood of a child adopted domestically in another Member State under the rules governing domestic adoption in that Member State.

**Amendment 6**  
**Proposal for a regulation**  
**Recital 24**

*Text proposed by the Commission*

(24) For the purposes of this Regulation, parenthood, also referred to as filiation, may be biologic, genetic, by adoption or by operation of law. Also for the purposes of this Regulation, parenthood should mean the *parent-child* relationship established in law, and should cover the legal status of being the child of a particular parent or parents. This Regulation should cover the parenthood established in a Member State of both minors and adults, including a deceased child and a child not yet born, whether to a single parent, a de facto couple, a married couple or a couple in a relationship which, under the law applicable to such relationship, has

*Amendment*

(24) For the purposes of this Regulation, parenthood, also referred to as filiation, may be biologic, genetic, by adoption or by operation of law. Also for the purposes of this Regulation, parenthood should mean the *child-parent* relationship established in law, and should cover the legal status of being the child of a particular parent or parents. This Regulation should cover the parenthood established in a Member State of both minors and adults, including a deceased child and a child not yet born, whether to a single parent, *multiparents*, a de facto couple, a married couple or a couple in a relationship, which, under the law applicable to such relationship, has

comparable effects, such as a registered partnership. This Regulation should apply regardless of the nationality of the child whose parenthood is to be established, and regardless of the nationality of the parents of the child. The term ‘parent’ in this Regulation should be understood, as applicable, as referring to the legal parent, the intended parent, the person who claims to be a parent or the person in respect of whom the child claims parenthood.

comparable effects, such as a registered partnership. This Regulation should apply regardless of the nationality of the child whose parenthood is to be established, and regardless of the nationality of the parents of the child. ***This regulation should apply regardless of how and in which type of family the child was born.*** The term ‘parent’ in this Regulation should be understood, as applicable, as referring to the legal parent, the intended parent, the person who claims to be a parent or the person in respect of whom the child claims parenthood.

**Amendment 7**  
**Proposal for a regulation**  
**Recital 24 a (new)**

*Text proposed by the Commission*

*Amendment*

***(24a) This Regulation paves the way for the legal recognition of all types of families, regardless of their formation. The non-recognition of families that do not fit the traditional family model does not respect the best interests of the child, as it discriminates children on grounds of birth, is contrary to the dignity of the child, is detrimental to the child's harmonious development and prevents the effective enjoyment of the fundamental rights by children. Therefore, the Commission should issue a proposal that would guarantee the mutual recognition of marriages and registered partnerships.***

**Amendment 8**  
**Proposal for a regulation**  
**Recital 30**

*Text proposed by the Commission*

*Amendment*

(30) This Regulation should ***not*** apply to ***preliminary*** questions such as the existence, validity or recognition of a marriage or a relationship deemed by the

(30) This Regulation should apply to ***incidental*** questions such as the existence, validity or recognition of a marriage or a relationship deemed by the law applicable

law applicable to it as having comparable effects, *which should continue to be governed by the national law of the Member States, including their rules of private international law and, where relevant, by the case law of the Court of Justice on free movement.*

**Amendment 9**  
**Proposal for a regulation**  
**Recital 45 a (new)**

*Text proposed by the Commission*

to it as having comparable effects, *such as registered partnership.*

*Amendment*

*(45a) If the establishment of parenthood depends on the determination of an incidental question concerning, for instance, the existence of a registered partnership or marriage, courts and other competent authorities of the Member States should respect the fundamental rights and principles laid down in the Charter, in particular the right to non-discrimination and the right to a private and family life, as well as the case law of the Court of Justice on free movement, in particular its ‘The Coman case’ judgment (C-673/16), followed by European Parliament’s resolution 2021/2679(RSP), which state that all Member States should recognise same-sex marriages or registered partnerships formed in another Member State in order to respect freedom of movement and residence of EU citizens.*

**Amendment 10**  
**Proposal for a regulation**  
**Recital 49**

*Text proposed by the Commission*

(49) Proceedings *on the establishment of parenthood* under this Regulation *should*, as a basic principle, *provide children below the age of 18 years who are* subject to those proceedings and who

*Amendment*

(49) *In accordance with Article 12 of the UN Convention on the Rights of the Child and Article 24(1) of the Charter, all children have the right to express their views in all matters affecting them, and to*



are capable of forming *their* own views, *in accordance with the case law of the Court of Justice*, with a genuine and effective opportunity to express *their* views and, when assessing the best interests of the child, due weight should be given to those views. This Regulation should, however, leave the question of who will hear the child and how the child will be heard to be determined by the national law and procedure of the Member States. In addition, while remaining a right of the child, hearing the child should not constitute an absolute obligation although it should be assessed taking into account the best interests of the child.

*have their views, physical signs, statements or behaviour considered and taken into account. In the* proceedings under this Regulation, as a basic principle *and where applicable, a child who is* subject to those proceedings and who *is* capable of forming *its* own views, *should be provided* with a genuine and effective opportunity to express *its* views and, when assessing the best interests of the child, due weight should be given to those views. This Regulation should, however, leave the question of who will hear the child and how the child will be heard to be determined by the national law and procedure of the Member States. In addition, while remaining a right of the child, hearing the child should not constitute an absolute obligation although it should be assessed taking into account the best interests of the child.

**Amendment 11**  
**Proposal for a regulation**  
**Recital 56**

*Text proposed by the Commission*

(56) *Considerations of public interest should allow courts and other competent authorities establishing parenthood in the Member States to disregard, in exceptional circumstances, certain provisions of a foreign law where, in a given case, applying such provisions would be manifestly incompatible with the public policy (ordre public) of the Member State concerned. However, the courts or other competent authorities should not be able to apply the public policy exception in order to set aside the law of another State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination.*

*Amendment*

(56) *The* courts or other competent authorities should not be able to apply the *a* public policy exception in order to set aside the law of another State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination.

**Amendment 12**  
**Proposal for a regulation**  
**Recital 66**

*Text proposed by the Commission*

(66) *Although the obligation to provide children below the age of 18 years with the opportunity to express their views under this Regulation should not apply to authentic instruments with binding legal effect, the right of children to express their views should however be taken into consideration pursuant to Article 24 of the Charter and in the light of Article 12 of the UN Convention on the Rights of the Child as implemented by national law and procedure. The fact that children were not given the opportunity to express their views should not automatically be a ground for refusal of recognition of authentic instruments with binding legal effect.*

**Amendment 13**  
**Proposal for a regulation**  
**Recital 67**

*Text proposed by the Commission*

(67) *The recognition in a Member State under this Regulation of a court decision establishing parenthood given in another Member State, or of an authentic instrument establishing parenthood with binding legal effect drawn up or registered in another Member State, should not imply the recognition of the possible marriage or registered partnership of the parents of the child whose parenthood has been or is to be established.*

**Amendment 14**  
**Proposal for a regulation**  
**Recital 75**

*Amendment*

(66) The right of *a child* to express their views should be taken into consideration pursuant to Article 24 of the Charter and in the light of Article 12 of the UN Convention on the Rights of the Child as implemented by national law and procedure *also in respect of authentic instruments with binding legal effect. However, the fact that a child who is below the age of 18 years is not given the opportunity to express its views should not automatically be a ground for refusal of recognition of authentic instruments with binding legal effect.*

*Amendment*

*deleted*

*Text proposed by the Commission*

(75) ***Considerations of public interest should allow Member State courts or other competent authorities to refuse, in exceptional circumstances, to recognise or, as the case may be, accept a court decision or authentic instrument on the parenthood established in another Member State where, in a given case, such recognition or acceptance would be manifestly incompatible with the public policy (ordre public) of the Member State concerned. However, the courts or other competent authorities should not be able to refuse to recognise or, as the case may be, accept a court decision or an authentic instrument issued in another Member State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination.***

**Amendment 15**  
**Proposal for a regulation**  
**Recital 76**

*Text proposed by the Commission*

(76) In order for the recognition of the parenthood established in a Member State to be settled speedily, smoothly and efficiently, children or their parent(s) should be able to demonstrate easily the children's status in another Member State. To enable them to do so, this Regulation should provide for the creation of a uniform certificate, the European Certificate of Parenthood, to be issued for use in another Member State. In order to respect the principle of subsidiarity, the European Certificate of Parenthood should not **take** the place of internal documents which may exist for similar purposes in the Member States.

*Amendment*

(75) **The courts or other competent authorities should not be able to refuse to recognise or, as the case may be, accept a court decision or an authentic instrument issued in another Member State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination.**

*Amendment*

(76) In order for the recognition of the parenthood established in a Member State to be settled speedily, smoothly and efficiently, children or their parent(s) should be able to demonstrate easily the children's status in another Member State. ***It is an important step to reduce bureaucracy and increase access to free movement in the European Union as a means of promoting equality.*** To enable them to do so, this Regulation should provide for the creation of a uniform certificate, the European Certificate of Parenthood, to be issued for use in another Member State. In order to respect the principle of subsidiarity, the European Certificate of Parenthood should not **replace** the place of internal documents which may exist for similar purposes in the

**Amendment 16**  
**Proposal for a regulation**  
**Recital 81**

*Text proposed by the Commission*

(81) The court or other competent authority should issue the European Certificate of Parenthood **upon** request. The original of the European Certificate of Parenthood should remain with the issuing authority, which should issue one or more certified copies of the European Certificate of Parenthood to the applicant or a legal representative. Given the stability of parenthood status in the vast majority of cases, the validity of the copies of the European Certificate of Parenthood should not be limited in time, without prejudice to the possibility to rectify, modify, suspend or withdraw the European Certificate of Parenthood as necessary. This Regulation should provide for redress against decisions of the issuing authority, including decisions to refuse to issue a European Certificate of Parenthood. Where the European Certificate of Parenthood is rectified, modified, suspended or withdrawn, the issuing authority should inform the persons to whom certified copies have been issued so as to avoid a wrongful use of such copies.

**Amendment 17**  
**Proposal for a regulation**  
**Recital 83**

*Text proposed by the Commission*

(83) The European electronic access point should allow **natural persons** or their legal representatives to launch a request for a European Certificate of Parenthood and

*Amendment*

(81) The court or other competent authority should issue the European Certificate of Parenthood **at the request of the applicant or, where applicable, a legal representative of the applicant**. The original of the European Certificate of Parenthood should remain with the issuing authority, which should issue one or more certified copies of the European Certificate of Parenthood to the applicant or a legal representative. Given the stability of parenthood status in the vast majority of cases, the validity of the copies of the European Certificate of Parenthood should not be limited in time, without prejudice to the possibility to rectify, modify, suspend or withdraw the European Certificate of Parenthood as necessary. This Regulation should provide for redress against decisions of the issuing authority, including decisions to refuse to issue a European Certificate of Parenthood. Where the European Certificate of Parenthood is rectified, modified, suspended or withdrawn, the issuing authority should inform the persons to whom certified copies have been issued so as to avoid a wrongful use of such copies.

*Amendment*

(83) The European electronic access point should allow **applicants** or their legal representatives to launch a request for a European Certificate of Parenthood and to

to receive and send that Certificate electronically. It should also allow them to communicate electronically with Member State courts or other competent authorities in proceedings ***for a decision that there are no grounds for the refusal of recognition of a court decision or an authentic instrument on parenthood, or proceedings for the refusal of recognition of a court decision or an authentic instrument on parenthood.*** Member State courts or other competent authorities should communicate with citizens through the European electronic access point only where the citizen has given prior express consent to the use of this means of communication.

**Amendment 18**  
**Proposal for a regulation**  
**Recital 89 a (new)**

*Text proposed by the Commission*

receive and send that Certificate electronically. It should also allow them to communicate electronically with Member State courts or other competent authorities in proceedings ***under this Regulation.*** Member State courts or other competent authorities should communicate with citizens through the European electronic access point only where the citizen has given prior express consent to the use of this means of communication.

*Amendment*

***(89a) In order to improve the clarity of the instrument and the predictability of the outcome of cases and scenarios where it will apply, the Commission should develop guidelines on the application and enforcement of this Regulation, issued in simple language in order to make the instrument more accessible to families and generally to the public with no special legal knowledge.***

**Amendment 19**  
**Proposal for a regulation**  
**Recital 89 b (new)**

*Text proposed by the Commission*

*Amendment*

***(89b) In order to improve the clarity of the instrument and the predictability of the outcome of cases and scenarios where it will apply, the Member States, supported by the Commission and the European Judicial Training Network,***

*should organise training for judges and relevant state authorities to ensure the proper implementation of this Regulation.*

**Amendment 20**  
**Proposal for a regulation**  
**Recital 99 a (new)**

*Text proposed by the Commission*

*Amendment*

*(99a) Given that the current legal landscape particularly affects rainbow families as well as other types of families that do not fit the traditional nuclear family model, there is an urgent need for this Regulation to enter into force. Therefore, in the event of not achieving an agreement, the Commission should consider proposing legislation on the basis of Article 21(2) TFEU, or else, other possibilities, such as enhanced cooperation, should be developed.*

**Amendment 21**  
**Proposal for a regulation**  
**Article 1 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

This Regulation lays down common rules on jurisdiction and applicable law for the establishment of parenthood in a Member State in cross-border situations; common rules for the recognition or, as the case may be, acceptance in a Member State of court decisions on parenthood given, and authentic instruments on parenthood drawn up or registered, in another Member State; and creates a European Certificate of Parenthood.

This Regulation lays down common rules on jurisdiction and applicable law for the establishment of parenthood in a Member State in cross-border situations; common rules for the **mutual** recognition or, as the case may be, acceptance in a Member State of court decisions on parenthood given, and authentic instruments on parenthood drawn up or registered, in another Member State; and creates a European Certificate of Parenthood, **in particular to promote free movement, non-discrimination, the respect for a private and family life, the best interests of the child, as well as the principle of proportionality.**

Amendment 22  
Proposal for a regulation  
Article 2 – paragraph 1

*Text proposed by the Commission*

1. This Regulation shall not affect the rights *that a child derives from Union law, in particular the rights that a child enjoys under* Union law on free movement, including Directive 2004/38/EC. In particular, *this Regulation shall not affect the limitations relating to the use of public policy as a justification to refuse the recognition of parenthood where, under Union law on free movement, Member States are obliged to recognise a document establishing a parent-child relationship issued by the authorities of another Member State for the purposes of rights derived from Union law.*

Amendment 23  
Proposal for a regulation  
Article 3 – paragraph 1 a (new)

*Text proposed by the Commission*

Amendment 24  
Proposal for a regulation  
Article 3 – paragraph 2 – point a

*Text proposed by the Commission*

(a) *the existence, validity or recognition of a marriage or of a relationship deemed by the law applicable to such relationship to have comparable effects, such as a registered partnership;*

*Amendment*

1. This Regulation shall not affect the rights *derived from* Union law on free movement, including Directive 2004/38/EC, in particular *the rights of the child.*

*Amendment*

*Member States shall respect the rights arising from the relationship between the legally recognised parents, including registered partnership and marriage, within the scope of application of this Regulation.*

*Amendment*

*deleted*

**Amendment 25**  
**Proposal for a regulation**  
**Article 3 – paragraph 2 – point h**

*Text proposed by the Commission*

*Amendment*

**(h) nationality;**

**deleted**

**Amendment 26**

**Proposal for a regulation**  
**Article 3 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. This Regulation shall not apply to the recognition of court decisions establishing parenthood given in a third State, or to the recognition or, as the case may be, acceptance of authentic instruments establishing or proving parenthood drawn up or registered in a third State.**

**deleted**

**Amendment 27**  
**Proposal for a regulation**  
**Article 4 – paragraph 1 – point 1**

*Text proposed by the Commission*

*Amendment*

1. ‘parenthood’ means the **parent-child** relationship established in law. It includes the legal status of being the child of a particular parent or parents;

1. ‘parenthood’ means the **child-parent** relationship established in law. It includes the legal status of being the child of a particular parent or parents;

**Amendment 28**  
**Proposal for a regulation**  
**Article 5 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

This Regulation shall not affect the competence of the authorities of the Member States to deal with parenthood matters.

This Regulation shall not affect the competence of the authorities of the Member states to deal with parenthood matters **without any cross-border dimension.**



**Amendment 29**  
**Proposal for a regulation**  
**Article 10 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. If the establishment of parenthood depends on the determination of an incidental question, courts and other competent authorities of the Member States shall respect the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination, including positive and negative obligations under Article 7 of the Charter on respect for private and family life.**

**Amendment 30**  
**Proposal for a regulation**  
**Article 15 – title**

*Text proposed by the Commission*

*Amendment*

Right of *children* to express *their* views

Right of *the child* to express *its* views

**Amendment 31**  
**Proposal for a regulation**  
**Article 15 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. When exercising their jurisdiction under this Regulation, the courts of the Member States shall, in accordance with national law and procedure, provide *children* below the age of 18 years *whose parenthood is to be established and who are* capable of forming *their* own views, with a genuine and effective opportunity to express *their* views, either directly or through a representative or an appropriate body.

1. When exercising their jurisdiction under this Regulation, the courts of the Member States shall, in accordance with national law and procedure, provide *the child* below the age of 18 years *who is* capable of forming *its* own views, with a genuine and effective opportunity to express *its* views, either directly or through a representative or an appropriate body.

**Amendment 32**  
**Proposal for a regulation**

## Article 15 – paragraph 2

*Text proposed by the Commission*

2. Where the court, in accordance with national law and procedure, gives **children** below the age of 18 years an opportunity to express **their** views in accordance with this Article, the court shall give due weight to the views of the **children** in accordance with **their** age and maturity.

*Amendment*

2. Where the court, in accordance with national law and procedure, gives **the child** below the age of 18 years an opportunity to express **its** views in accordance with this Article, the court shall give due weight to the views, **physical signs, statements or behaviour** of the **child** in accordance with **its** age and maturity.

## Amendment 33

### Proposal for a regulation

#### Article 22 – title

*Text proposed by the Commission*

**Public policy (ordre public)**

*Amendment*

**Respect for fundamental rights**

## Amendment 34

### Proposal for a regulation

#### Article 22 – paragraph 1

*Text proposed by the Commission*

1. The **application of a provision** of the **law of any State specified by this Regulation may be refused only if such application is manifestly incompatible** with the **public policy (ordre public)** of the **forum**.

*Amendment*

1. The **courts and other competent authorities** of the **Member States shall issue all decisions pursuant to this Regulation in accordance with the fundamental rights and principles laid down in the Charter, in particular Articles 21 on the right to non-discrimination and 7 on respect for private and family life thereof, taking into account the best interests of the child, as well as the principle of proportionality**.

## Amendment 35

### Proposal for a regulation

#### Article 22 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. *Paragraph 1 shall be applied by the courts and other competent authorities of the Member States in observance of the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.*

*deleted*

**Amendment 36**  
**Proposal for a regulation**  
**Article 29 – paragraph 2**

*Text proposed by the Commission*

2. The attestation shall be completed and issued in the language of the court decision. The attestation *may* also be issued in *another* official *language* of the institutions of the European Union requested by the party. *This does not create any obligation for the court issuing the attestation to provide a translation or transliteration of the translatable content of the free text fields.*

*Amendment*

2. The attestation shall be completed and issued in the language of the court decision. *Upon request of a party*, the attestation *shall* also be issued in *one or several other* official *languages* of the institutions of the European Union requested by the party.

**Amendment 37**  
**Proposal for a regulation**  
**Article 31 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) *if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, taking into account the child's interests;*

*Amendment*

*deleted*

**Amendment 38**  
**Proposal for a regulation**  
**Article 31 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) upon application by any person claiming that the court decision infringes *his fatherhood or her motherhood* over

*Amendment*

(c) upon application by any person claiming that the court decision infringes *their parenthood* over the child if it was

the child if it was given without such person having been given an opportunity to be heard;

given without such person having been given an opportunity to be heard **and to present evidence**;

**Amendment 39**  
**Proposal for a regulation**  
**Article 31 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. ***Point (a) of paragraph 1 shall be applied by the courts and other competent authorities of the Member States in observance of the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.***

***deleted***

**Amendment 40**  
**Proposal for a regulation**  
**Article 32 – paragraph 7 – introductory part**

*Text proposed by the Commission*

*Amendment*

7. The court ***may*** dispense with the production of the documents referred to in paragraph 4 if:

7. The court ***shall*** dispense with the production of the documents referred to in paragraph 4 if:

**Amendment 41**  
**Proposal for a regulation**  
**Article 37 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The attestation shall be completed in the language of the authentic instrument. ***It may*** also be issued in ***another*** official ***language*** of the institutions of the European Union requested by the party. ***This does not create any obligation for the competent authority issuing the attestation to provide a translation or transliteration of the translatable content of the free text fields.***

3. The attestation shall be completed in the language of the authentic instrument. ***Upon a request of a party, the attestation shall*** also be issued in ***one or several*** official ***languages*** of the institutions of the European Union requested by the party.

**Amendment 42**  
**Proposal for a regulation**  
**Article 39 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

**(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, taking into account the child's interests;**

**deleted**

**Amendment 43**  
**Proposal for a regulation**  
**Article 39 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) upon application by any person claiming that the authentic instrument infringes *his fatherhood or her motherhood* over the child, if the authentic instrument was formally drawn up or registered without that person having been involved;**

**(b) upon application by any person claiming that the authentic instrument infringes *their parenthood* over the child, if the authentic instrument was formally drawn up or registered without that person having been involved;**

**Amendment 44**  
**Proposal for a regulation**  
**Article 39 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. Point (a) of paragraph 1 shall be applied by the courts and other competent authorities of the Member States in observance of the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.**

**deleted**

**Amendment 45**  
**Proposal for a regulation**  
**Article 39 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The recognition of an authentic instrument establishing parenthood with binding legal effect may be refused if it was formally drawn up or registered without *children* having been given an opportunity to express their views. ***Where the children were below the age of 18 years, this provision shall apply where the children were capable of forming their views.***

**Amendment 46**  
**Proposal for a regulation**  
**Article 40 – paragraph 1**

*Text proposed by the Commission*

The jurisdiction of the court of the Member State of origin establishing parenthood may not be reviewed. ***The test of public policy referred to in point (a) of Article 31(1) may not be applied to the rules relating to jurisdiction set out in Articles 6 to 9.***

**Amendment 47**  
**Proposal for a regulation**  
**Article 45 – paragraph 1**

*Text proposed by the Commission*

1. An authentic instrument which has no binding legal effect in the Member State of origin shall have the same evidentiary effects in another Member State as it has in the Member State of origin, or the most comparable effects, ***provided that this is not manifestly contrary to public policy (ordre public) in the Member State where it is presented.***

**Amendment 48**  
**Proposal for a regulation**  
**Article 45 – paragraph 2**

*Text proposed by the Commission*

3. The recognition of an authentic instrument establishing parenthood with binding legal effect may be refused if it was formally drawn up or registered without *the child* having been given an opportunity to express their views ***pursuant to Article 15.***

*Amendment*

The jurisdiction of the court of the Member State of origin establishing parenthood may not be reviewed.

*Amendment*

1. An authentic instrument which has no binding legal effect in the Member State of origin shall have the same evidentiary effects in another Member State as it has in the Member State of origin, or the most comparable effects.

*Amendment*

2. *The public policy (ordre public) referred to in paragraph 1 shall be applied by the courts and other competent authorities of the Member States in observance of the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.*

*deleted*

**Amendment 49**  
**Proposal for a regulation**  
**Article 47 – paragraph 1**

*Text proposed by the Commission*

The Certificate is for use by a child or a legal representative who, *in another Member State*, needs to invoke the child's parenthood status.

*Amendment*

The Certificate is for use by a child or a legal representative who needs to invoke the child's parenthood status.

**Amendment 50**  
**Proposal for a regulation**  
**Article 47 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*Member States shall, upon request of the legally recognised parents, also include the relationship between the parents in the European Parenthood Certificate, including the categories registered partnership and marriage.*

**Amendment 51**  
**Proposal for a regulation**  
**Article 49 – paragraph 3 – point c**

*Text proposed by the Commission*

(c) details concerning *each* parent: surname(s) (if applicable, surname(s) at birth), given name(s), date and place of birth, nationality, identification number (if applicable), address;

*Amendment*

(c) details concerning *one* parent *and, where applicable, the other parent(s)*: surname(s) (if applicable, surname(s) at birth), given name(s), date and place of birth, nationality, identification number (if applicable), address;

**Amendment 52**  
**Proposal for a regulation**  
**Article 49 – paragraph 3 – point e**

*Text proposed by the Commission*

(e) the elements on which the applicant finds parenthood, appending the original or a copy of the document(s) establishing parenthood ***with binding legal effect*** or providing evidence of the parenthood;

*Amendment*

(e) the elements on which the applicant finds parenthood, appending the original or a copy of the document(s) establishing parenthood or providing evidence of the parenthood;

**Amendment 53**  
**Proposal for a regulation**  
**Article 49 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Where a Member State provides digital access to the information referred to in paragraph 3, the applicant shall be provided with access to a digital version of the form established in Annex IV.***

**Amendment 54**  
**Proposal for a regulation**  
**Article 50 – paragraph 1**

*Text proposed by the Commission*

1. Upon receipt of the application, the issuing authority shall verify the information and declarations and the documents and other evidence provided by the applicant. It shall carry out the enquiries necessary for that verification of its own motion where this is provided for or authorised by its national law, or shall invite the applicant to provide any further evidence which it deems necessary.

*Amendment*

1. Upon receipt of the application, the issuing authority shall verify the information and declarations and the documents and other evidence provided by the applicant. It shall carry out the enquiries necessary for that verification of its own motion where this is provided for or authorised by its national law, or shall invite the applicant to provide any further evidence which it deems necessary ***for the purpose of issuing the Certificate.***

**Amendment 55**  
**Proposal for a regulation**  
**Article 51 – paragraph 1 – subparagraph 1**



*Text proposed by the Commission*

The issuing authority shall issue the Certificate without delay in accordance with the procedure laid down in this Chapter when the elements to be certified have been established under the law applicable to the establishment of parenthood. It shall use the form in Annex V.

*Amendment*

The issuing authority shall issue the Certificate without delay ***and not later than 10 days following receipt of the request*** in accordance with the procedure laid down in this Chapter when the elements to be certified have been established under the law applicable to the establishment of parenthood. It shall use the form in Annex V.

**Amendment 56**  
**Proposal for a regulation**  
**Article 51 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. The Certificate shall be available in paper and electronic versions.**

**Amendment 57**  
**Proposal for a regulation**  
**Article 52 – paragraph 1 – point h**

*Text proposed by the Commission*

*Amendment*

(h) details concerning ***each*** parent: surname(s) (if applicable, surname(s) at birth), given name(s), date and place of birth, nationality, identification number (if applicable), address;

(h) details concerning ***one*** parent ***and, where applicable, the other parent(s)***: surname(s) (if applicable, surname(s) at birth), given name(s), date and place of birth, nationality, identification number (if applicable), address;

**Amendment 58**  
**Proposal for a regulation**  
**Article 52 – paragraph 1 – point h a (new)**

*Text proposed by the Commission*

*Amendment*

**(ha) upon request of the legally recognised parents, the relationship between the parents, including the categories registered partnership and**

*marriage.*

**Amendment 59**  
**Proposal for a regulation**  
**Article 56 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

The challenge shall be lodged before a court in the Member State of the issuing authority in accordance with the law of that Member State.

*Amendment*

The challenge shall be lodged before a court in the Member State of the issuing authority in accordance with the law of that Member State ***and where applicable in cooperation with national equality bodies.***

**Amendment 60**  
**Proposal for a regulation**  
**Article 56 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

If, as a result of a challenge as referred to in paragraph 1, it is established that the refusal to issue the Certificate was unjustified, the competent court shall issue the Certificate or ensure that the issuing authority re-assesses the case and makes a fresh decision.

*Amendment*

If, as a result of a challenge as referred to in paragraph 1, it is established that the refusal to issue the Certificate was unjustified, the competent court shall, ***without delay and within 10 days after its decision,*** issue the Certificate or ensure that the issuing authority re-assesses the case and makes a fresh decision.

**Amendment 61**  
**Proposal for a regulation**  
**Article 58 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. The European electronic access point established on the European e-Justice Portal pursuant to Article 4 of [the Digitalisation Regulation] may be used for electronic communication between natural persons or their legal representatives and Member State courts or other competent authorities in connection with the ***following:***

*Amendment*

1. The European electronic access point established on the European e-Justice Portal pursuant to Article 4 of [the Digitalisation Regulation] may be used for electronic communication between natural persons or their legal representatives and Member State courts or other competent authorities in connection with the ***proceedings under this Regulation:***

**Amendment 62**  
**Proposal for a regulation**  
**Article 63 – paragraph 1**

*Text proposed by the Commission*

The Commission is empowered to adopt delegated acts in accordance with Article 64 concerning the amendment of Annexes I to V in order to update or make technical changes to those Annexes.

*Amendment*

The Commission is empowered to adopt delegated acts in accordance with Article 64 concerning the amendment of Annexes I to V in order to update or make technical changes to those Annexes. ***Before adopting delegated acts, the Commission shall conduct a public consultation and shall take into account the recommendations of other relevant stakeholders.***

**Amendment 63**  
**Proposal for a regulation**  
**Article 67 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 67a***

***Supportive measures***

- 1. The Commission shall develop guidelines on the application and enforcement of this Regulation which shall be available six months prior to the application date referred to in article 72.***
- 2. The Commission shall review and update every two years the guidelines referred to in paragraph 1 taking into account, inter alia, the experience that has been gained in the application and enforcement of this Regulation, the practice developed by national administrative and legal systems in their specificities and any relevant case law of the Court of Justice.***
- 3. Member States shall provide easily accessible and user-friendly information about the procedures covered by this Regulation, including via a public website.***

***4. Member States, with the support of the Commission and the European Judicial Training Network, shall organise training for all relevant professionals, in particular judges, lawyers, and public administration officials.***

**Amendment 64**  
**Proposal for a regulation**  
**Article 69 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

Notwithstanding paragraph 1, Member States shall accept an authentic instrument which has no binding legal effect in the Member State of origin but which has evidentiary effects in that Member State, ***provided that this is not manifestly contrary to the public policy (ordre public) of the Member State in which acceptance is sought.***

*Amendment*

Notwithstanding paragraph 1, Member States shall accept an authentic instrument which has no binding legal effect in the Member State of origin but which has evidentiary effects in that Member State.

**Amendment 65**  
**Proposal for a regulation**  
**Article 70 – paragraph 1**

*Text proposed by the Commission*

1. By [5 years from date of application of this Regulation], the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation, including an evaluation of any practical problems encountered, supported by information supplied by the Member States. The report shall be accompanied, where necessary, by a legislative proposal.

*Amendment*

1. By [3 years from date of application of this Regulation] ***and every 4 years thereafter***, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation, including an evaluation of ***convergences and divergences between Member States and*** any practical problems encountered, supported by information supplied by the Member States. The report shall ***assess the implementation of this Regulation by, in particular, analysing the respect or non-respect of the non-discrimination principle. The report shall*** be accompanied, where necessary, by a legislative proposal, ***including considering***

*on the legal basis of Article 21(2) TFEU.*

**Amendment 66**  
**Proposal for a regulation**  
**Article 70 – paragraph 2 – point -a (new)**

*Text proposed by the Commission*

*Amendment*

**(-a) the number of requests for the recognition of parenthood submitted pursuant to this Regulation**

**Amendment 67**  
**Proposal for a regulation**  
**Article 70 – paragraph 2 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) the number of cases in which the refusal of recognition of a court decision or of an authentic instrument establishing parenthood was granted on grounds of the formation of the family, in particular families with same-sex parents, transgender parent, single parent or multiparents**

**Amendment 68**  
**Proposal for a regulation**  
**Article 70 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

**(c) the number of applications challenging the contents of an authentic instrument which has *no binding legal effect* in the Member State of origin *but which has evidentiary effects in that Member State*, and the number of cases in which the challenge was successful;**

**(c) the number of applications challenging the contents of an authentic instrument which has *evidentiary effects* in the Member State of origin and the number of cases in which the challenge was successful;**

**Amendment 69**  
**Proposal for a regulation**  
**Article 70 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. The Commission shall establish a structured dialogue with relevant stakeholders, in particular with civil society organisations, to contribute to the preparation of the evaluation report referred to in paragraph 1.**

**Amendment 70  
Proposal for a regulation  
Annex I – box 7**

*Text proposed by the Commission*

*Amendment*

7. The Other Parent

7. The Other Parent(s), *where applicable*

7.1.  
Surname(s)\*:.....  
.....  
.....

7.1.  
Surname(s)\*:.....  
.....  
.....

7.2. Given  
name(s)\*:.....  
.....  
.....

7.2. Given  
name(s)\*:.....  
.....  
.....

7.3. Date of birth (dd/mm/yyyy)\*:  
.....  
.....

7.3. Date of birth (dd/mm/yyyy)\*:  
.....  
.....

7.4. Place of birth (if available):  
.....  
.....

7.4. Place of birth (if available):  
.....  
.....

7.5. Identity number or social security  
number (if applicable and  
available):.....

7.5. Identity number or social security  
number (if applicable and  
available):.....

7.6. Address\* (if available)

7.6. Address\* (if available)

7.6.1. Street and number/PO box\*:  
.....  
.....  
.....

7.6.1. Street and number/PO box\*:  
.....  
.....  
.....

7.6.2. Place and postcode\*:  
.....  
.....  
.....

7.6.2. Place and postcode\*:  
.....  
.....  
.....

7.6.3. Country\*

7.6.3. Country\*

Belgium  Bulgaria  Czech Republic  Germany  Estonia  Ireland  Greece  Spain  France

Belgium  Bulgaria  Czech Republic  Germany  Estonia  Ireland  Greece  Spain  France

Croatia  Italy  Cyprus  Latvia  Lithuania  Luxembourg  Hungary  Malta  Netherlands

Croatia  Italy  Cyprus  Latvia  Lithuania  Luxembourg  Hungary  Malta  Netherlands

Austria  Poland  Portugal  Romania  Slovenia  Slovakia  Finland  Sweden

Austria  Poland  Portugal  Romania  Slovenia  Slovakia  Finland  Sweden

Other (please specify ISO-code):.....  
.....

Other (please specify ISO-code):.....  
.....

*Justification*

*Horizontal amendment. If adopted, the wording will be adapted throughout the annexes*

**Amendment 71  
Proposal for a regulation  
Annex II – Box 8**

*Text proposed by the Commission*

*Amendment*

8. The Other Parent  
8.1.  
Surname(s)\*:.....  
.....  
.....  
8.2. Given  
name(s)\*:.....  
.....  
.....  
8.3. Date of birth (dd/mm/yyyy)\*:  
.....  
.....  
.....

8. The Other Parent(s), **when applicable**  
8.1.  
Surname(s)\*:.....  
.....  
.....  
8.2. Given  
name(s)\*:.....  
.....  
.....  
8.3. Date of birth (dd/mm/yyyy)\*:  
.....  
.....  
.....  
8.4. Place of birth (if available):  
.....  
.....

8.4. Place of birth (if available):  
 .....  
 .....  
 8.5. Identity number or social security number (if applicable and available):.....  
 8.6. Address\* (if available)  
 8.6.1. Street and number/PO box\*:  
 .....  
 .....  
 ..... 8.6.2. Place and postcode\*:  
 .....  
 .....  
 .....  
 8.6.3. Country\*  Belgium  Bulgaria  Czech Republic  Germany  Estonia  Ireland  Greece  Spain  France  Croatia  Italy  Cyprus  Latvia  Lithuania  Luxembourg  Hungary  Malta  Netherlands  Austria  Poland  Portugal  Romania  Slovenia  Slovakia  Finland  Sweden   
 Other (please specify ISO-code):.....  
 .....

.....  
 8.5. Identity number or social security number (if applicable and available):.....  
 8.6. Address\* (if available)  
 8.6.1. Street and number/PO box\*:  
 .....  
 ..... 8.6.2. Place and postcode\*:  
 .....  
 .....  
 8.6.3. Country\*  Belgium  Bulgaria  Czech Republic  Germany  Estonia  Ireland  Greece  Spain  France  Croatia  Italy  Cyprus  Latvia  Lithuania  Luxembourg  Hungary  Malta  Netherlands  Austria  Poland  Portugal  Romania  Slovenia  Slovakia  Finland  Sweden   
 Other (please specify ISO-code):.....  
 .....

*Justification*

*Horizontal amendment. If adopted, the wording will be adapted throughout the annexes*

**Amendment 72**  
**Proposal for a regulation**  
**Annex III – box 3**

*Text proposed by the Commission*

*Amendment*

3. Authentic instrument  
 3.1. Details of the authentic instrument

3. Authentic instrument  
 3.1. Details of the authentic instrument



3.1.1 Date (dd/mm/yyyy) on which the authentic instrument was drawn up in the Member State of origin\*:

.....  
.....  
.....

3.1.2. Date (dd/mm/yyyy) on which the authentic instrument was registered in the Member State of origin, where applicable\*:

.....  
.....  
.....

3.1.3. Reference number of the authentic instrument\*:

.....  
.....  
.....

3.1.4. Reference number in the register, where applicable:

.....  
.....  
.....

3.2. The authentic instrument provides evidence of\*:

3.2.1.  Parenthood

3.2.1.1.  By One Parent

3.2.1.2.  By the Other Parent

3.2.1.3.  By **both** Parents

3.2.2.  Acknowledgment of paternity

3.2.3.  Acknowledgment of maternity

3.2.4.  Consent

3.2.4.1.  By child

3.1.1 Date (dd/mm/yyyy) on which the authentic instrument was drawn up in the Member State of origin\*:

.....  
.....  
.....

3.1.2. Date (dd/mm/yyyy) on which the authentic instrument was registered in the Member State of origin, where applicable\*:

.....  
.....  
.....

3.1.3. Reference number of the authentic instrument\*:

.....  
.....  
.....

3.1.4. Reference number in the register, where applicable:

.....  
.....  
.....

3.2. The authentic instrument provides evidence of\*:

3.2.1.  Parenthood

3.2.1.1.  By One Parent

3.2.1.2.  By the Other Parent(s), **when applicable**

3.2.1.3.  By **the** Parents

3.2.2.  Acknowledgment of paternity

3.2.3.  Acknowledgment of maternity

3.2.4.  Consent

3.2.4.1.  By child

3.2.4.2.  By mother

3.2.4.3.  By father

3.2.4.4.  By spouse

3.2.4.5.  By registered partner

3.2.4.6.  By de facto partner

3.2.4.7.  Other: please specify

3.2.5.  Other (please specify)\*:.....

.....

.....

3.2.4.2.  By mother

3.2.4.3.  By father

3.2.4.4.  By spouse

3.2.4.5.  By registered partner

3.2.4.6.  By de facto partner

3.2.4.7.  Other: please specify

3.2.5.  Other (please specify)\*:.....

.....

.....

*Justification*

*Horizontal amendment. If adopted, the wording will be adapted throughout the annexes*

**Amendment 73**  
**Proposal for a regulation**  
**Annex IV – box 6**

*Text proposed by the Commission*

*Amendment*

6. Details of the Other Parent

6.1. Surname(s) and given name(s)\*:.....

.....

.....6.2.

Surname(s) at birth (if different from point 6.1.):.....

.....

.....

6.3. Date (dd/mm/yyyy) and place of birth\*:.....

.....

.....

6.4. Nationality\* Belgium  Bulgaria  Czech Republic  Germany  Estonia  Greece  Spain  France  Croatia  Italy  Cyprus  Latvia  Lithuania  Luxembourg  Hungary  Malta  Netherlands  Austria  Poland

6. Details of the Other Parent(s), **when applicable**

6.1. Surname(s) and given name(s)\*:.....

.....

.....6.2.

Surname(s) at birth (if different from point 6.1.):.....

.....

.....

6.3. Date (dd/mm/yyyy) and place of birth\*:.....

.....

.....

6.4. Nationality\* Belgium  Bulgaria  Czech Republic  Germany  Estonia  Greece  Spain  France  Croatia  Italy  Cyprus  Latvia  Lithuania  Luxembourg  Hungary  Malta  Netherlands  Austria  Poland

Portugal [ ] Romania [ ] Slovenia [ ]  
Slovakia [ ] Finland [ ] Sweden [ ] Other  
(please specify ISO-  
code):.....[ ]

Unknown

6.5. Identification number<sup>84</sup> :

6.5.1. National identity number:

6.5.2. Social security number:

6.5.3. Tax number:

6.5.4. Other (please specify):

6.6. Address

6.6.1. Street and number/PO  
box\*:

6.6.2. Place and postcode\*:

6.6.3. Country\* [ ] Belgium [ ] Bulgaria [ ]  
Czech Republic [ ] Germany [ ] Estonia [ ]  
Greece [ ] Spain [ ] France [ ] Croatia [ ]  
Italy [ ] Cyprus [ ] Latvia [ ] Lithuania [ ]  
Luxembourg [ ] Hungary [ ] Malta [ ]  
Netherlands [ ] Austria [ ] Poland [ ]  
Portugal [ ] Romania [ ] Slovenia [ ]  
Slovakia [ ] Finland [ ] Sweden [ ] Other  
(please specify ISO-code):

6.7. Contact details\*

6.7.1. Telephone:

] Portugal [ ] Romania [ ] Slovenia [ ]  
] Slovakia [ ] Finland [ ] Sweden [ ] Other  
(please specify ISO-  
code):.....[ ]

] Unknown

6.5. Identification number<sup>84</sup> :

6.5.1. National identity number:

6.5.2. Social security number:

6.5.3. Tax number:

6.5.4. Other (please specify):

6.6. Address

6.6.1. Street and number/PO  
box\*:

6.6.2. Place and postcode\*:

6.6.3. Country\* [ ] Belgium [ ] Bulgaria [ ]  
] Czech Republic [ ] Germany [ ] Estonia [ ]  
] Greece [ ] Spain [ ] France [ ] Croatia [ ]  
] Italy [ ] Cyprus [ ] Latvia [ ] Lithuania [ ]  
] Luxembourg [ ] Hungary [ ] Malta [ ]  
] Netherlands [ ] Austria [ ] Poland [ ]  
] Portugal [ ] Romania [ ] Slovenia [ ]  
] Slovakia [ ] Finland [ ] Sweden [ ] Other  
(please specify ISO-code):

6.7. Contact details\*

6.7.1. Telephone:

6.7.2. E-mail:

.....  
.....  
6.7.2. E-mail:  
.....  
.....  
.....

*Justification*

*Horizontal amendment. If adopted, the wording will be adapted throughout the annexes*

**Amendment 74**  
**Proposal for a regulation**  
**Annex V – Box 6**

*Text proposed by the Commission*

*Amendment*

6.2 Details concerning the Other Parent  
6.2.1. Surname(s) and given name(s)\*:.....  
.....  
6.2.2. Surname(s) at birth (if different from point 6.2.1.):  
.....  
.....  
6.2.3. Date (dd/mm/yyyy) and place of birth (town/country (ISO-code))\*:.....  
.....  
6.2.4. Nationality\* Belgium  Bulgaria  Czech Republic  Germany  Estonia  Ireland  Greece  Spain  France  Croatia  Italy  Cyprus  Latvia  Lithuania  Luxembourg  Hungary  Malta  Netherlands  Austria  Poland  Portugal  Romania  Slovenia  Slovakia  Finland  Sweden  Other (please specify ISO-code):.....  
..... Unknown  
6.2.5. Identification number\*

6.2 Details concerning the Other Parent(s), **when applicable**  
6.2.1. Surname(s) and given name(s)\*:.....  
.....  
6.2.2. Surname(s) at birth (if different from point 6.2.1.):  
.....  
.....  
6.2.3. Date (dd/mm/yyyy) and place of birth (town/country (ISO-code))\*:.....  
.....  
6.2.4. Nationality\* Belgium  Bulgaria  Czech Republic  Germany  Estonia  Ireland  Greece  Spain  France  Croatia  Italy  Cyprus  Latvia  Lithuania  Luxembourg  Hungary  Malta  Netherlands  Austria  Poland  Portugal  Romania  Slovenia  Slovakia  Finland  Sweden  Other (please specify ISO-code):.....  
..... Unknown  
6.2.5. Identification number\*  
6.2.5.1. National identity number:

6.2.5.1. National identity number:  
.....  
.....  
.....

6.2.5.2. Social security number:  
.....  
.....  
.....

6.2.5.3. Tax number:  
.....  
.....  
.....

6.2.5.4. Birth certificate number:  
.....  
.....  
.....

6.2.5.5. Other (please specify):  
.....  
.....  
.....

6.2.6. Current address\*6.2.6.1. Street and number/PO box\*:  
.....  
.....  
.....

6.2.6.2. Place and postcode\*:  
.....  
.....  
.....

6.2.6.3. Country\* Belgium  Bulgaria   
 Czech Republic  Germany  Estonia   
 Ireland  Greece  Spain  France   
 Croatia  Italy  Cyprus  Latvia   
 Lithuania  Luxembourg  Hungary   
 Malta  Netherlands  Austria  Poland   
 Portugal  Romania  Slovenia   
 Slovakia  Finland  Sweden  Other  
(please specify ISO-  
code):.....  
.....

6.2.7. Applicable law to the establishment of parenthood as regards the Other Parent\*6.2.7.1. Country\* Belgium   
 Bulgaria  Czech Republic  Germany   
 Estonia  Ireland  Greece  Spain   
 France  Croatia  Italy  Cyprus   
 Latvia  Lithuania  Luxembourg   
 Hungary  Malta  Netherlands   
 Austria  Poland  Portugal   
 Romania  Slovenia  Slovakia

.....  
.....

6.2.5.2. Social security number:  
.....  
.....

6.2.5.3. Tax number:  
.....  
.....

6.2.5.4. Birth certificate number:  
.....  
.....

6.2.5.5. Other (please specify):  
.....  
.....

6.2.6. Current address\*6.2.6.1. Street and number/PO box\*:  
.....  
.....

6.2.6.2. Place and postcode\*:  
.....  
.....

6.2.6.3. Country\* Belgium  Bulgaria   
 Czech Republic  Germany  Estonia   
 Ireland  Greece  Spain  France   
 Croatia  Italy  Cyprus  Latvia   
 Lithuania  Luxembourg  Hungary   
 Malta  Netherlands  Austria  Poland   
 Portugal  Romania  Slovenia   
 Slovakia  Finland  Sweden  Other  
(please specify ISO-  
code):.....  
.....

6.2.7. Applicable law to the establishment of parenthood as regards the Other Parent\*6.2.7.1. Country\* Belgium   
 Bulgaria  Czech Republic  Germany   
 Estonia  Ireland  Greece  Spain   
 France  Croatia  Italy  Cyprus   
 Latvia  Lithuania  Luxembourg   
 Hungary  Malta  Netherlands   
 Austria  Poland  Portugal   
 Romania  Slovenia  Slovakia

France  Croatia  Italy  Cyprus   
 Latvia  Lithuania  Luxembourg   
 Hungary  Malta  Netherlands   
 Austria  Poland  Portugal  Romania  
 Slovenia  Slovakia  Finland   
 Sweden  Other (please specify ISO-  
 code):.....  
 .....

6.2.7.2. Connecting factor used to determine the applicable law\*

6.2.7.2.1.  Article 17(1) of Regulation (EU) No 20XX/X (law of the State of the habitual residence of the person giving birth at the time of birth)

6.2.7.2.2.  Article 17(1) of Regulation (EU) No 20XX/X (law of the State of birth of the child)

6.2.7.2.3.  Article 17(2) of Regulation (EU) No 20XX/X (law of the State of the nationality of any one of the Parents)

6.2.7.2.4.  Article 17(2) of Regulation (EU) No 20XX/X (law of the State of birth of the child)

6.2.7.3.  The law applicable is that of a State with more than one legal system (Article 23 of Regulation (EU) No 20XX/X). Please specify the territorial unit as the case may be:.....  
 .....  
 .....

Finland  Sweden  Other (please specify ISO-code):.....  
 .....

6.2.7.2. Connecting factor used to determine the applicable law\*

6.2.7.2.1.  Article 17(1) of Regulation (EU) No 20XX/X (law of the State of the habitual residence of the person giving birth at the time of birth)

6.2.7.2.2.  Article 17(1) of Regulation (EU) No 20XX/X (law of the State of birth of the child)

6.2.7.2.3.  Article 17(2) of Regulation (EU) No 20XX/X (law of the State of the nationality of any one of the Parents)

6.2.7.2.4.  Article 17(2) of Regulation (EU) No 20XX/X (law of the State of birth of the child)

6.2.7.3.  The law applicable is that of a State with more than one legal system (Article 23 of Regulation (EU) No 20XX/X). Please specify the territorial unit as the case may be:.....  
 .....  
 .....

*Justification*

*Horizontal amendment. If adopted, the wording will be adapted throughout the annexes*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	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
<b>References</b>	COM(2022)0695 – C9-0002/2023 – 2022/0402(CNS)
<b>Committee responsible</b> Date announced in plenary	JURI 16.1.2023
<b>Opinion by</b> Date announced in plenary	LIBE 16.1.2023
<b>Rapporteur for the opinion</b> Date appointed	Malin Björk 5.6.2023
<b>Discussed in committee</b>	4.9.2023
<b>Date adopted</b>	9.10.2023
<b>Result of final vote</b>	+: 30 –: 6 0: 0
<b>Members present for the final vote</b>	Abir Al-Sahlani, Malik Azmani, Pietro Bartolo, Theresa Bielowski, Malin Björk, Patrick Breyer, Saskia Bricmont, Jorge Buxadé Villalba, Patricia Chagnon, Lena Düpont, Lucia Ďuriš Nicholsonová, Nicolaus Fest, Sophia in 't Veld, Assita Kanko, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Erik Marquardt, Javier Moreno Sánchez, Maite Pagazaurtundúa, Pina Picierno, Diana Riba i Giner, Birgit Sippel, Tineke Strik, Ramona Strugariu, Yana Toom, Milan Uhrík, Tom Vandendriessche, Javier Zarzalejos
<b>Substitutes present for the final vote</b>	Cyrus Engerer, José Gusmão, Dragoș Tudorache, Maria Walsh
<b>Substitutes under Rule 209(7) present for the final vote</b>	Petros Kokkalis, Ljudmila Novak, Thomas Rudner

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

30	+
PPE	Lena Düpont, Jeroen Lenaers, Ljudmila Novak, Maria Walsh, Javier Zarzalejos
Renew	Abir Al-Sahlani, Malik Azmani, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Maite Pagazaurtundúa, Ramona Strugariu, Yana Toom, Dragoș Tudorache
S&D	Pietro Bartolo, Theresa Bielowski, Cyrus Engerer, Juan Fernando López Aguilar, Javier Moreno Sánchez, Pina Picierno, Thomas Rudner, Birgit Sippel
The Left	Malin Björk, José Gusmão, Petros Kokkalis
Verts/ALE	Patrick Breyer, Saskia Bricmont, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

6	-
ECR	Jorge Buxadé Villalba, Assita Kanko
ID	Patricia Chagnon, Nicolaus Fest, Tom Vandendriessche
NI	Milan Uhrík

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention



28.9.2023

## **OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND GENDER EQUALITY**

for the Committee on Committee on Legal Affairs

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  
(COM(2022)695 final – C9-0002/2023 – 2022/0402(CNS))

Rapporteur for opinion: Robert Biedroń

### **SHORT JUSTIFICATION**

On 8 December 2022, the Commission submitted to the Council a 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 (2022/0402 (CNS)). The Council decided on 9 January 2023 to consult the European Parliament on this proposal (COM(2022) 695 final).

The objective of the proposal is to strengthen the protection of the fundamental rights and other rights of children in cross-border situations, including their right to an identity, to non-discrimination and to a private and family life, and to succession and maintenance rights in another Member State, taking the best interests of the child as a primary consideration.

To address the problems with the recognition of parenthood for all purposes and close the existing gap in Union law, the Commission is proposing the adoption of Union rules on international jurisdiction on parenthood (determining which Member State's courts are competent to deal with parenthood matters, including to establish parenthood, in cross-border situations) and applicable law (designating the national law that should apply to parenthood matters, including to the establishment of parenthood, in cross-border situations), so as to then facilitate the recognition in a Member State of the parenthood established in another Member State. The Commission is also proposing the creation of a European Certificate of Parenthood that children (or their legal representatives) can request and use to provide evidence of their parenthood in another Member State.

Having in mind the aforementioned objectives, as well as the numerous obstacles and the existing gaps in Union law, the European Parliament's Committee on Women's Rights and Gender Equality must ensure that this recognition and gender equality are adequately incorporated within the upcoming Regulation.

This Regulation should ensure that children enjoy their rights and maintain their legal status

in cross-border situations irrespective of their family situation and without discrimination, in particular, against women and same-sex couples, or contrary to the best interest of the child. 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.

It is also necessary to emphasize that EU member states need to recognise a parent-child relationship for the purposes of permitting a child to exercise without impediment, with each parent, the right to move and reside freely within the territory of all the member states as guaranteed in Article 21(1) Treaty on the Functioning of the European Union (TFEU), the application of which is key to ensuring gender equality.

Under the Commission's proposal the list of grounds for refusal of recognition of parenthood is exhaustive, mentioning, inter alia, grounds of public policy (ordre public); in this regard, this shall be applied by the courts and other competent authorities of the Member States in full respect, fulfilment and protection of the fundamental rights and principles laid down in the Charter, in particular, Article 21 thereof on the right to non-discrimination. Therefore, competent authorities should not be able to apply the public policy exception to discriminate against women and same-sex couples and, it has to always be in line with and promote the best interest of the child.

Achieving a gender equal Europe and eliminating structural inequality requires a strong commitment not only from the EU institutions, policymakers and NGOs, but also Members States.

## AMENDMENTS

The Committee on Women's Rights and Gender Equality calls on the Committee on Legal Affairs, as the committee responsible, to take the following into account:

### **Amendment 1** **Proposal for a regulation** **Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) Public policy within the meaning of the Regulation must be interpreted restrictively in accordance with the case law of the CJEU. In its judgment C-490/20, the CJEU reiterated its view that "the concept of 'public policy', if it is to justify a derogation from a fundamental freedom, must be interpreted restrictively, so that its scope cannot be determined unilaterally by each Member State without control by the Union***

*institutions."*

## Amendment 2

### Proposal for a regulation

#### Recital 11

##### *Text proposed by the Commission*

(11) Children derive a number of rights from parenthood, including the right to an identity, a name, nationality (where governed by *ius sanguinis*), custody and access rights by their parents, maintenance rights, succession rights and the right to be legally represented by their parents. The non-recognition in a Member State of the parenthood established in another Member State can have serious adverse consequences on children's fundamental rights and on the rights that they derive from national law. This may prompt families to start litigation to have the parenthood of their child recognised in another Member State, although those proceedings have uncertain results and involve significant time and costs for both families and the Member States' judicial systems. Ultimately, families may be deterred from exercising their right to free movement for fear that the parenthood of their child will not be recognised in another Member State for the purposes of rights derived from national law.

##### *Amendment*

(11) Children derive a number of rights from parenthood, including the right to an identity, a name, nationality (where governed by *ius sanguinis*), custody and access rights by their parents, maintenance rights, succession rights and the right to be legally represented by their parents. The non-recognition in a Member State of the parenthood established in another Member State can have serious adverse consequences on children's fundamental rights and on the rights that they derive from national law. This may prompt families to start litigation to have the parenthood of their child recognised in another Member State, although those proceedings have uncertain results and involve significant time and costs for both families and the Member States' judicial systems. Ultimately, families may be deterred from exercising their right to free movement for fear that the parenthood of their child will not be recognised in another Member State for the purposes of rights derived from national law. ***To allow families to fall outside the system on which society is built, is to discriminate against children and their families: their rights to security and dignity must be upheld. To deny some families the right to exist is to deny them of the dignity of the individual and is contrary to our European values and the promotion of gender equality. 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 should ensure that children enjoy their rights and maintain their legal status in cross-border situations irrespective of their family situation and without discrimination.***

### Amendment 3

#### Proposal for a regulation

#### Recital 14

*Text proposed by the Commission*

(14) Under Article 21 TFEU and secondary legislation relating thereto as interpreted by the Court of Justice, the respect of a Member State's national identity under Article 4(2) TEU and a Member State's public policy cannot serve as justification to refuse to recognise a parent-child relationship between children and their same-sex parents for the purposes of exercising the rights that a child derives from Union law. In addition, for the purposes of exercising such rights, proof of parenthood can be presented by any means<sup>52</sup>. Therefore, a Member State is not entitled to require that a person presents either the attestations provided for in this Regulation accompanying a court decision or an authentic instrument on parenthood, or the European Certificate of Parenthood created by this Regulation, where the person invokes, in the context of the exercise of the right to free movement, rights that a child derives from Union law. This should not, however, prevent a person from choosing to present in such cases also the relevant attestation or the European Certificate of Parenthood provided for in this Regulation. To ensure that Union citizens and their family members are informed that the rights that a child derives from Union law are not affected by this Regulation, the forms of the attestations and of the European Certificate of

*Amendment*

(14) Under Article 21 TFEU and secondary legislation relating thereto as interpreted by the Court of Justice, the respect of a Member State's national identity under Article 4(2) TEU and a Member State's public policy cannot serve as justification to refuse to recognise a parent-child relationship between children and their same-sex parents for the purposes of exercising the rights that a child derives from Union law. ***The refusal can never go against the best interest of the child and the best interest of the child has to be always adhered to. Under no circumstances can the best interest of the child be used as an excuse for refusal on the basis of the gender of the parents.*** In addition, for the purposes of exercising such rights, proof of parenthood can be presented by any means<sup>52</sup>. Therefore, a Member State is not entitled to require that a person presents either the attestations provided for in this Regulation accompanying a court decision or an authentic instrument on parenthood, or the European Certificate of Parenthood created by this Regulation, where the person invokes, in the context of the exercise of the right to free movement, rights that a child derives from Union law. This should not, however, prevent a person from choosing to present in such cases also the relevant attestation or the European

Parenthood annexed to this Regulation should include a statement specifying that the relevant attestation or the European Certificate of Parenthood do not affect the rights that a child derives from Union law, in particular the rights that a child enjoys under Union law on free movement, and that, for the exercise of such rights, proof of the parent-child relationship can be presented by any means.

Certificate of Parenthood provided for in this Regulation. To ensure that Union citizens and their family members are informed that the rights that a child derives from Union law are not affected by this Regulation, the forms of the attestations and of the European Certificate of Parenthood annexed to this Regulation should include a statement specifying that the relevant attestation or the European Certificate of Parenthood do not affect the rights that a child derives from Union law, in particular the rights that a child enjoys under Union law on free movement, and that, for the exercise of such rights, proof of the parent-child relationship can be presented by any means.

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<sup>52</sup> Judgments of the Court of Justice of 25 July 2002, C-459/99, MRAX, ECLI:EU:C:2002:461, paragraphs 61 and 62, and of 17 February 2005, C-215/03, Oulane, ECLI:EU:C:2005:95, paragraphs 23 to 26.

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<sup>52</sup> Judgments of the Court of Justice of 25 July 2002, C-459/99, MRAX, ECLI:EU:C:2002:461, paragraphs 61 and 62, and of 17 February 2005, C-215/03, Oulane, ECLI:EU:C:2005:95, paragraphs 23 to 26.

#### **Amendment 4**

##### **Proposal for a regulation**

##### **Recital 36**

###### *Text proposed by the Commission*

(36) In order to facilitate the recognition of court decisions and authentic instruments on parenthood matters, this Regulation should lay down uniform jurisdiction rules for the establishment of parenthood with a cross-border element. This Regulation should also clarify the right of children below the age of 18 years to be provided with an opportunity to express their views in proceedings to which they are subject.

###### *Amendment*

(36) In order to facilitate the recognition of court decisions and authentic instruments on parenthood matters, this Regulation should lay down uniform jurisdiction rules for the establishment of parenthood with a cross-border element. This Regulation should also clarify the right of children below the age of 18 years to be provided with an opportunity to express their views in proceedings to which they are subject, *as laid out in Article 12 of the United Nations Convention of the Rights of the Child.*

## Amendment 5

### Proposal for a regulation Recital 42

#### *Text proposed by the Commission*

(42) Where jurisdiction cannot be established based on the general alternative jurisdiction grounds, the courts of the Member State where the child is present should have jurisdiction. This presence rule should, in particular, allow the courts of a Member State to exercise jurisdiction in respect of third-country national children, including applicants for or beneficiaries of international protection such as refugee children and children internationally displaced because of disturbances occurring in their State of habitual residence.

#### *Amendment*

(42) Where jurisdiction cannot be established based on the general alternative jurisdiction grounds, the courts of the Member State where the child is present should have jurisdiction. This presence rule should, in particular, allow the courts of a Member State to exercise jurisdiction in respect of third-country national children, including applicants for or beneficiaries of international protection such as refugee children and children internationally displaced ***and victims of trafficking in human beings*** because of disturbances occurring in their State of habitual residence.

## Amendment 6

### Proposal for a regulation Recital 49

#### *Text proposed by the Commission*

(49) Proceedings on the establishment of parenthood under this Regulation should, as a basic principle, provide children below the age of 18 years who are subject to those proceedings and who are capable of forming their own views, in accordance with the case law of the Court of Justice, with a genuine and effective opportunity to express their views and, when assessing the best interests of the child, due weight should be given to those views. This Regulation should, however, leave the question of who will hear the child and how the child will be heard to be determined by the national law and procedure of the Member States. In addition, while remaining a right of the child, hearing the child should not

#### *Amendment*

(49) ***In accordance with Article 12 of the UN Convention on the Rights of the Child and Article 24(1) of the Charter, all children have the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. As such,*** proceedings on the establishment of parenthood under this Regulation should, as a basic principle, provide children below the age of 18 years who are subject to those proceedings and who are capable of forming their own views, in accordance with the case law of the Court of Justice, with a genuine and effective opportunity to express their views and, when assessing the best interests of the child, due weight should be given to those views. This

constitute an absolute obligation although it should be assessed taking into account the best interests of the child.

Regulation should, however, leave the question of who will hear the child and how the child will be heard to be determined by the national law and procedure of the Member States. In addition, while remaining a right of the child, hearing the child should not constitute an absolute obligation although it should be assessed taking into account the best interests of the child.

## Amendment 7

### Proposal for a regulation

#### Recital 56

##### *Text proposed by the Commission*

(56) Considerations of public interest should allow courts and other competent authorities establishing parenthood in the Member States to disregard, in exceptional circumstances, certain provisions of a foreign law where, in a given case, applying such provisions would be manifestly incompatible with the public policy (*ordre public*) of the Member State concerned. However, the courts or other competent authorities should not be able to apply the public policy exception in order to set aside the law of another State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination.

##### *Amendment*

(56) Considerations of public interest should allow courts and other competent authorities establishing parenthood in the Member States to disregard, in exceptional circumstances, certain provisions of a foreign law where, in a given case, applying such provisions would be manifestly incompatible with the public policy (*ordre public*) of the Member State concerned. However, the courts or other competent authorities should not be able to apply the public policy exception in order to set aside the law of another State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination ***or contrary to the best interest of the child. Underlines that EU member states need to recognise a parent-child relationship for the purposes of permitting a child to exercise without impediment, with each parent, the right to move and reside freely within the territory of all the member states as guaranteed in Article 21(1) Treaty on the Functioning of the European Union (TFEU), the application of which is key to ensuring gender equality. In particular, competent authorities should not be able to apply the public policy exception to discriminate***

*against women and same-sex couples.*

## Amendment 8

### Proposal for a regulation

#### Recital 60 a (new)

*Text proposed by the Commission*

*Amendment*

***(60a) In order to prevent fragmentation of legal regimes for cross border families, Commission in cooperation with Member States shall draft a model international agreement, which would be based on the rules and principles of this regulation and would be used by Member State to enter into bilateral relations with third countries where mutual recognition of parenthood would be applied.***

## Amendment 9

### Proposal for a regulation

#### Recital 75

*Text proposed by the Commission*

*Amendment*

(75) Considerations of public interest should allow Member State courts or other competent authorities to refuse, in exceptional circumstances, to recognise or, as the case may be, accept a court decision or authentic instrument on the parenthood established in another Member State where, in a given case, such recognition or acceptance would be manifestly incompatible with the public policy (ordre public) of the Member State concerned. However, the courts or other competent authorities should not be able to refuse to recognise or, as the case may be, accept a court decision or an authentic instrument issued in another Member State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination.

(75) Considerations of public interest should allow Member State courts or other competent authorities to refuse, in exceptional circumstances, to recognise or, as the case may be, accept a court decision or authentic instrument on the parenthood established in another Member State where, in a given case, such recognition or acceptance would be manifestly incompatible with the public policy (ordre public) of the Member State concerned. However, the courts or other competent authorities should not be able to refuse to recognise or, as the case may be, accept a court decision or an authentic instrument issued in another Member State when doing so would be contrary to the Charter and, in particular, Article 21 thereof, which prohibits discrimination, ***in particular***



*against women and same-sex couples, or contrary to the best interest of the child.*

## **Amendment 10**

### **Proposal for a regulation Recital 99 a (new)**

*Text proposed by the Commission*

*Amendment*

*(99a) Underlines that the lack of parental recognition can ensure harmful ramifications for children within families in all their diversity, such as depriving them of their rightful succession, or their right to have any one of their parents act as their legal representative in matters such as medical treatments, childcare and education.*

## **Amendment 11**

### **Proposal for a regulation Recital 99 b (new)**

*Text proposed by the Commission*

*Amendment*

*(99b) Underscores how some types of families often face a burden in establishing filiation through court systems and the legal costs that such a process entails. Whereas having legal certainty on recognition will reduce serious concerns and problems that some families face when traveling or moving in the EU.*

## **Amendment 12**

### **Proposal for a regulation Article 1 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

This Regulation lays down common rules on jurisdiction and applicable law for the

This Regulation lays down common rules on jurisdiction and applicable law for the

establishment of parenthood in a Member State in cross-border situations; common rules for the recognition or, as the case may be, acceptance in a Member State of court decisions on parenthood given, and authentic instruments on parenthood drawn up or registered, in another Member State; and creates a European Certificate of Parenthood.

establishment of parenthood in a Member State in cross-border situations; common rules for the recognition or, as the case may be, acceptance in a Member State of court decisions on parenthood given, and authentic instruments on parenthood drawn up or registered, in another Member State; and creates a European Certificate of Parenthood.

***These rules shall apply without prejudice to the nature or type of family or to cases of adoption, established in a Member State, by one or both parents.***

### **Amendment 13**

#### **Proposal for a regulation**

#### **Article 4 – paragraph 1 – point 1**

*Text proposed by the Commission*

1. ‘parenthood’ means the **parent-child** relationship established in law. It includes the legal status of being the child of a particular parent or parents;

*Amendment*

1. ‘parenthood’ means the **child-parent** relationship established in law. It includes the legal status of being the child of a particular parent or parents;

*(This amendment, "parent-child" to "child-parent", applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

#### *Justification*

*The Regulation aims at safeguarding the rights of the child derived from the fact that the child has a parent and the parenthood is established in law. This amendment aims at better reflecting this child-centered approach.*

### **Amendment 14**

#### **Proposal for a regulation**

#### **Article 17 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. These rules shall apply without prejudice to the nature or type of family***

*or to cases of adoption, established in a Member State, by one or both parents.*

## Amendment 15

### Proposal for a regulation Article 22 – paragraph 2

*Text proposed by the Commission*

2. Paragraph 1 shall be applied by the courts and other competent authorities of the Member States in **observance** of the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.

*Amendment*

2. Paragraph 1 shall be applied by the **independent** courts and other competent authorities of the Member States in **full respect, fulfillment and protection** of the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination, **and can under no circumstances be used as an excuse for discrimination based on gender of parents. The refusal can never go against the best interest of the child and the best interest of the child has to be always adhered to.**

## Amendment 16

### Proposal for a regulation Article 31 – paragraph 1 – point a

*Text proposed by the Commission*

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, taking into account the child's interests;

*Amendment*

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, **always** taking into account **and protecting** the child's **best** interests;

## Amendment 17

### Proposal for a regulation Article 39 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, taking into account the child's interests;

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is invoked, ***always*** taking into account ***and protecting*** the child's interests; ***Under no circumstances can the best interest of the child be used as an excuse for refusal on the basis of the gender of the parents.***

## Amendment 18

### Proposal for a regulation Article 45 – paragraph 2

*Text proposed by the Commission*

2. The public policy (ordre public) referred to in paragraph 1 shall be applied by the courts and other competent authorities of the Member States in ***observance*** of the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination.

*Amendment*

2. The public policy (ordre public) referred to in paragraph 1 shall be applied by the courts and other competent authorities of the Member States in ***full respect, fulfillment and protection*** of the fundamental rights and principles laid down in the Charter, in particular Article 21 thereof on the right to non-discrimination, ***and shall therefore respect the rights of women and same-sex couples. It has to always be in line with and promote the best interest of the child.***

## Amendment 19

### Proposal for a regulation Article 49 – paragraph 3 – point h a (new)

*Text proposed by the Commission*

*Amendment*

***(ha) the certificate shall be available in all EU official languages and braille as well as be gender inclusive.***

## Amendment 20

### Proposal for a regulation Article 70 – paragraph 1

*Text proposed by the Commission*

1. By [5 years from date of application of this Regulation], the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation, including an evaluation of any practical problems encountered, supported by information supplied by the Member States. The report shall be accompanied, where necessary, by a legislative proposal.

*Amendment*

1. By [3 years from date of application of this Regulation], the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation, including an evaluation of any practical problems encountered, supported by information supplied by the Member States. The report shall be accompanied, where necessary, by a legislative proposal.

**Amendment 21**

**Proposal for a regulation**

**Article 70 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) the number of applications for the refusal of recognition of a court decision or of an authentic instrument establishing parenthood with binding legal effect in the Member State of origin pursuant to Article 32, and the number of cases in which the refusal of recognition was granted;

*Amendment*

(a) the number of applications for the refusal of recognition of a court decision or of an authentic instrument establishing parenthood with binding legal effect in the Member State of origin pursuant to Article 32, and the number of cases in which the refusal of recognition was granted, ***as well as on what grounds an application for refusal of recognition was granted, as set out in the provisions of Article 31 of this Regulation;***

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	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
<b>References</b>	COM(2022)0695 – C9-0002/2023 – 2022/0402(CNS)
<b>Committee responsible</b> Date announced in plenary	JURI 16.1.2023
<b>Opinion by</b> Date announced in plenary	FEMM 16.1.2023
<b>Rapporteur for the opinion</b> Date appointed	Robert Biedroń 19.9.2023
<b>Previous rapporteur for the opinion</b>	Margarita de la Pisa Carrión
<b>Discussed in committee</b>	26.6.2023                      19.7.2023
<b>Date adopted</b>	19.9.2023
<b>Result of final vote</b>	+:                      26 -:                      6 0:                      0
<b>Members present for the final vote</b>	Isabella Adinolfi, Christine Anderson, Robert Biedroń, Vilija Blinkevičiūtė, Annika Bruna, Maria da Graça Carvalho, Margarita de la Pisa Carrión, Gwendoline Delbos-Corfield, Rosa Estaràs Ferragut, Lina Gálvez Muñoz, Lívia Járóka, Arba Kokalari, Alice Kuhnke, Elżbieta Katarzyna Łukacijewska, Karen Melchior, Johan Nissinen, Maria Noichl, Carina Ohlsson, Pina Picierno, Evelyn Regner, Diana Riba i Giner, Eugenia Rodríguez Palop, María Soraya Rodríguez Ramos, Maria Veronica Rossi, Christine Schneider, Sylwia Spurek
<b>Substitutes present for the final vote</b>	Abir Al-Sahlani, Silvia Modig, Eleni Stavrou, Hilde Vautmans
<b>Substitutes under Rule 209(7) present for the final vote</b>	Laura Ballarín Cereza, Martin Hojsík

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

26	+
PPE	Isabella Adinolfi, Maria da Graça Carvalho, Rosa Estaràs Ferragut, Arba Kokalari, Elżbieta Katarzyna Lukacijewska, Christine Schneider, Eleni Stavrou
Renew	Abir Al-Sahlani, Martin Hojsik, Karen Melchior, María Soraya Rodríguez Ramos, Hilde Vautmans
S&D	Laura Ballarín Cereza, Robert Biedroń, Vilija Blinkevičiūtė, Lina Gálvez Muñoz, Maria Noichl, Carina Ohlsson, Pina Picierno, Evelyn Regner
The Left	Silvia Modig, Eugenia Rodríguez Palop
Verts/ALE	Gwendoline Delbos-Corfield, Alice Kuhnke, Diana Riba i Giner, Sylwia Spurek

6	-
ECR	Johan Nissinen, Margarita de la Pisa Carrión
ID	Christine Anderson, Annika Bruna, Maria Veronica Rossi
NI	Livia Járóka

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	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		
<b>References</b>	COM(2022)0695 – C9-0002/2023 – 2022/0402(CNS)		
<b>Date Parliament was consulted</b>	10.1.2023		
<b>Committee responsible</b> Date announced in plenary	JURI 16.1.2023		
<b>Committees asked for opinions</b> Date announced in plenary	LIBE 16.1.2023	FEMM 16.1.2023	
<b>Rapporteurs</b> Date appointed	Maria-Manuel Leitão-Marques 28.2.2023		
<b>Discussed in committee</b>	30.5.2023	3.7.2023	19.9.2023
<b>Date adopted</b>	7.11.2023		
<b>Result of final vote</b>	+: -: 0:	14 4 0	
<b>Members present for the final vote</b>	Ilana Cicurel, Angel Dzhambazki, Gilles Lebreton, Maria-Manuel Leitão-Marques, Karen Melchior, Sabrina Pignedoli, Franco Roberti, Raffaele Stancanelli, Adrián Vázquez Lázara, Axel Voss, Marion Walsmann, Javier Zarzalejos, Juan Ignacio Zoido Álvarez		
<b>Substitutes present for the final vote</b>	Alessandra Basso, Patrick Breyer, René Repasi		
<b>Substitutes under Rule 209(7) present for the final vote</b>	Valérie Hayer, Luděk Niedermayer		
<b>Date tabled</b>	21.11.2023		



## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

14	+
NI	Sabrina Pignedoli
PPE	Luděk Niedermayer, Axel Voss, Marion Walsmann, Javier Zarzalejos, Juan Ignacio Zoido Álvarez
Renew	Ilana Cicurel, Valérie Hayer, Karen Melchior, Adrián Vázquez Lázara
S&D	Maria-Manuel Leitão-Marques, René Repasi, Franco Roberti
Verts/ALE	Patrick Breyer

4	-
ECR	Angel Dzhambazki, Raffaele Stancanelli
ID	Alessandra Basso, Gilles Lebreton

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention