



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Directorate A: Civil and commercial justice
Unit A.1 : Civil justice

Brussels, 20 December 2021
JUST.A.1/LV/cw 8744365
A/Ares(2021)7370675

Ms Weronika Przebierała
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Dear Ms Przebierała,

Thank you for your e-mail of 29 November 2021 addressed to Commission President von der Leyen, who has asked me to reply on her behalf.

In your e-mail, you transmit to the Commission a petition called *Petition in defence of national parenthood* that has been, as you explain in your e-mail, prepared by an international coalition of over 20 NGOs. In the petition, you express your disagreement with the Commission's future initiative on the recognition of parenthood between Member States. You consider that this initiative would violate the provisions of the Treaties¹ by exceeding the authority conferred on the bodies of the European Union by the Member States in that it would affect the Member States' prerogative to legislate in the family law field. Therefore, you call on the European Commission to discontinue the preparation of the parenthood initiative.

Let me assure you that the Commission carefully considers the feedback it receives from stakeholders.

In your petition, you rightly point out that "The EU treaties specify that the substantive family law lies within the exclusive jurisdiction of the Member States. The matter of recognising who may and who may not be a spouse or a parent in accordance with the law is an element of the family law, which lies in sole jurisdiction of national provisions". Indeed, under the European Union Treaties, substantive family law matters, such as the definition of family and parenthood fall within the competence of Member States and are thus governed by national law. The European Union is based on the

¹ Treaty on European Union and Treaty on the Functioning of the European Union.

principle of respect of the social, historical and cultural diversity of the Member States, which is particularly manifested in the area of family law. It is thus for the Member States to define under their national law the concept of parenthood and the rights and obligations derived from such status.

However, please note that, under the European Union Treaties, the European Union is entitled to adopt measures concerning family law with cross-border implications. Therefore, the Union can adopt measures to facilitate that, once parenthood has been established in a Member State, it is recognised in other Member States. This would in no case lead to the harmonisation of the definition of family or of the rules on the establishment of parenthood.

I would like to clarify that the Commission initiative would not concern the recognition of spouses or registered partners. However, the Commission considers it essential to protect the rights of children in cross-border situations. Currently there are discrepancies between the laws of the Member States as regards both the establishment and the recognition of parenthood and, as a result, children may be considered to have different parents in different Member States or lose the recognition of one or both parents when moving to another Member State or travelling within the Union. The non-recognition in a Member State of the parenthood established in another Member State can have significant adverse consequences for children as it interferes with the child's rights, in particular the right to respect for private and family life, the right to non-discrimination and the right to an identity. The child's rights derived from parenthood may also be denied in another Member State, such as the rights to custody, maintenance or inheritance.

It is in this context that the Commission is considering an initiative to facilitate the recognition of parenthood between Member States. I would like to reiterate that this initiative would respect the Member States' competence to adopt rules on the establishment of parenthood while having the best interests of the child and the protection of the rights of the child in cross-border situations as its primary consideration.

Yours faithfully,

Electronically signed
Andreas STEIN
Head of Unit