



# **Commission proposal on the recognition of parenthood between Member States**

**European Parliament, S&D Group workshop  
5 July 2023**

**EUROPEAN COMMISSION  
DG Justice and Consumers**



## Background

- **Problem:** complaints, petitions, judicial proceedings reporting problems with the recognition of parenthood within the Union
- **Causes:**
  - ✓ national law: different law in MS on how to establish parenthood
  - ✓ EU law: under EU law on free movement:
    - recognition of parenthood (i) only for EU citizens or their family members, and (ii) for the purposes of rights derived from **EU law** (e.g. entry, residence in another MS), but
      - no recognition of parenthood (i) for all citizens, or (ii) for the purposes of rights derived from parenthood under **national law**, e.g. nationality, inheritance, maintenance, legal representation of child in another MS (e.g. medical, schooling)
  - ✓ international law: no general convention on the recognition of parenthood

- **Consequences of no recognition:**
  - adverse impact on children's rights
  - need to start legal proceedings for recognition
  - deterrence of the exercise of the right to free movement
- COM President 2020 SOTEU speech: **political commitment**
- **COM proposal** adopted on 7 December 2022
- **Primary consideration:** rights of child and best interests of child
- **Aims:** facilitate recognition, protection of children's rights, provide legal certainty and continuity of parenthood, reduce litigation costs
- **Legal basis** - Art 81(3) TFEU: "measures concerning family law with cross-border implications" - **special legislative procedure:** unanimity in Council after consulting European Parliament
  - **Why?** (i) consequence of VMA case: Art 21 TFEU on free movement only requires recognition of parenthood for the purposes of rights under **Union law** (not under national law); (ii) *lex specialis* over Art 21 TFEU



## Proposal

- **Scope:** gender-neutral text. Covers recognition of parenthood of:
  - **all children** without discrimination: irrespective of conception, birth, type of family (same-sex parents, domestic adoption, surrogacy)
  - irrespective of **nationality** of child or parents
  - where parenthood has been established **in a MS**. Recognition of parenthood established **in a third country** remains subject to MS law
- Harmonisation of **private international law** rules
  - jurisdiction: which MS is competent to establish parenthood
  - applicable law: which national law applies to establish parenthood
  - recognition of judgments or documents by administrative authorities or notaries establishing parenthood
  - acceptance of documents by administrative authorities or notaries with evidentiary effects (e.g., birth certificate)



## Proposal

- MS cannot invoke **public policy** contrary to the EU Charter (e.g. against same-sex parents) to refuse:
  - the application of another State's law to establish parenthood
  - the recognition of parenthood established in another MS
- Creation of **European Certificate of Parenthood** (ECP)
  - gender-neutral document to provide evidence of parenthood in another MS
  - optional for citizens but must be issued by MS competent authority on request
  - uniform contents and uniform effects irrespective of MS of issuance
  - uniform form existing in all EU official languages, so reduction of translation costs



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