

Cross-border aspects of adoptions

At present, there is no guarantee that domestic adoptions carried out in one EU Member State will be recognised automatically in another. The resulting hurdles facing families who move to another EU country after adopting a child can interfere with their freedom of movement, harm children's rights, and impose significant costs. The European Parliament has identified scope for EU legal action in this area and further cooperation on several other cross-border aspects of adoption. A legislative own-initiative report is due to be debated in plenary in February.

Current legal situation and concerns

As EU citizens take advantage of European integration to live in other Member States, an increasing number of families are facing legal issues with a cross-border dimension. One area where problems may arise is in recognition of adoptions that have taken place in another EU Member State, as national laws on adoption differ significantly across the EU and there is currently no harmonised European or international legal framework in this area. As it stands, the [Brussels IIa Regulation](#), on jurisdiction and recognition of judgments regarding parental responsibility and child protection measures, excludes adoption and the recognition of adoption orders from its scope. The 1993 [Hague Convention](#) on Protection of Children and Co-operation, to which all EU Member States are [party](#), provides for automatic recognition of adoptions (Article 23), but only applies to situations where the adopter(s) and adoptive child reside in different countries at the time of the adoption (inter-country adoptions). A European Added Value [Assessment](#) prepared by EPRS (November 2016) for the European Parliament's Committee on Legal Affairs (JURI) finds that the lack of European rules on recognition is leading to legal uncertainty for families. Parents who move to another EU country may still have to go through additional procedures to get an adoption recognised, or even be obliged to re-adopt their child, meanwhile facing problems in important areas such as medical care and education where parental authorisation may be required. The child's welfare entitlements and other rights, including the right to family life and nationality, can be affected.

Scope for further action at EU level

Like other areas of substantive family law, adoption is a national competence. However, under the Treaties (Article 81(3) of the [Treaty on the Functioning of the European Union](#)), the EU [may](#) adopt measures on aspects of family law with cross-border implications under a special legislative procedure (unanimity in Council). The November 2016 EPRS European Added Value Assessment [concluded](#) that EU legislation on cross-border recognition of adoptions would be more effective than other policy options, and could lead to better protection for children, reinforce EU citizenship rights, and reduce social impacts and administrative costs and burdens.

European Parliament

The Parliament already [called](#) in 2011 for coordinated European level strategies on adoption. In 2015, its JURI Committee began work on a legislative initiative report on cross-border recognition of adoptions. The report, with detailed recommendations to the Commission for a regulation of the Council, was adopted by the JURI Committee on 29 November 2016. It proposes an EU regulation on cross-border recognition of domestic adoption orders, making automatic mutual recognition a default principle and introducing a European Certificate of Adoption. It also calls for non-legislative measures to address [other aspects](#), such as the sensitive issue of [adoptions without consent of the biological parents](#), on which Parliament has received a number of petitions. Calling for minimum standards, it stresses that the best interests of the child must be paramount in all decisions in adoption matters, and that each adoption case must be addressed on its individual merits.

Legislative initiative report [2015/2086\(INL\)](#); Committee responsible: JURI; Rapporteur: Tadeusz Zwiefka, EPP, Poland.

