



2022/0402(CNS)

12.9.2023

ALTERNATIVE COMPROMISE AMENDMENTS 1 - 6

Draft opinion
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(PE749.263v01)

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

Proposal for a regulation
(COM(2022)0695 – C9-0002/2023 – 2022/0402(CNS))

AM_Com_LegCompr

Amendment 1

on behalf EPP, S&D, Renew, Greens/EFA, The Left

Compromise amendment replacing Amendment(s): 89, 90

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.

Or. en

Amendment 2

on behalf EPP, S&D, Renew, Greens/EFA, The Left

Compromise amendment replacing Amendment(s): 123, 124, 126

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.

Or. en

Amendment 3

on behalf EPP, S&D, Renew, Greens/EFA, The Left

Compromise amendment replacing Amendment(s): 133, 134

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

Or. en

Amendment 4

on behalf EPP, S&D, Renew, Greens/EFA, The Left

Compromise amendment replacing Amendment(s): 153, 154, 155

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.**

Or. en

Amendment 5

on behalf EPP, S&D, Renew, Greens/EFA, The Left

Compromise amendment replacing Amendment(s): 158, 159

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;

Or. en

Amendment 6

on behalf EPP, S&D, Renew, Greens/EFA, The Left

Compromise amendment replacing Amendment(s): 163, 164

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.***

Or. en