

**Question for oral answer O-000045/2022
to the Commission**

Rule 136

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Subject: Legal protection for rainbow families exercising free movement, in particular the Baby Sara case

If one Member State recognises a parental relationship, all Member States should (Baby Sara case¹). Sara is Bulgarian, thus an EU citizen. However, the Bulgarian authorities considered she could not have two mothers and denied her citizenship. The Court of Justice of the European Union (CJEU) obliged Bulgaria to issue her an identity card or a passport without requiring a birth certificate beforehand and to recognise the document obtained from the host Member State². On 15 April 2022, the Sofia Administrative Court obliged Sofia Municipality to issue a birth certificate with both mothers' names, a decision later challenged by the Municipality. Similarly, the CJEU reiterated its reasoning in Case C-2/21³, where the daughter of two mothers had obtained a birth certificate in Spain. The Polish authorities refused to issue an identity document arguing that transcription would contravene Polish law – despite the fact that the Spanish authorities had lawfully established a parent-child link. Furthermore, Parliament called on the Commission to start infringement procedures against Romania over its failure to implement the Court's judgement in Case C-673/16⁴.

1. The Commission has not guaranteed rainbow families' freedom of movement⁵. Is this Commission ready to use legal tools to ensure enforcement of legislation on freedom of movement? Can it comment on the implementation of C-673/16 and the use of legal tools to ensure compliance in C-673/16, C-490/20 and C-2/21?
2. In Case C-2/21, the CJEU stated that Member States cannot use national law to refuse to issue identity documents. Yet in Case C-490/20, it is legally impossible to register Sara as national legislation precludes child registration without a personal identification number (PIN), which can be obtained either by obtaining a birth certificate or citizenship other than by birth. 'The refusal to issue the birth certificate with two women as legal mothers is no longer within the ambit of private international law [but] falls within the scope of administrative law⁶'. This violates Article 4(3) Directive 2004/38/EC, Article 21 of the Charter of Fundamental Rights and directly contravenes the CJEU judgement. What actions will the Commission take to ensure a national measure does not preclude implementation of judgments?

¹ Case C-490/20, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0490>

² Ibid., paragraph 69.

³ Paragraph 52, Case C-2/21, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62021CO0002&qid=1666107236137>

⁴ Resolution of 14 September 2021 on LGBTIQ rights in the EU, OJ C 117, 11.3.2022, p. 2, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021IP0366>

⁵ Case C-673/16, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62016CJ0673>

⁶ De Groot, David, 'EU law and the mutual recognition of parenthood between Member States: the case of V.M.A. v Stolichna Obshtina', Global Citizenship Observatory, Special Report 2021/01, p. 9, <https://cadmus.eui.eu/handle/1814/69731>

3. Mandatory transcription of documents proved detrimental in rainbow families' freedom of movement cases (birth certificate in C-490/20, marriage certificate in C-673/16). A paper commissioned by the Commission states: 'While transcription as such is not a violation of EU law, obliging the transcription of civil status of one's own nationals in all circumstances [...] can result in a violation of EU law⁷'. How will the Commission prevent this?

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⁷ https://ec.europa.eu/info/sites/default/files/eu-citizen_-_type_a_report_-_study_on_coman_developments.pdf