



LEGAL PROTECTIONS FOR THE FAMILY: UPHOLDING MARRIAGE AND PARENTHOOD IN A SECULARIZED EUROPE

STRASBOURG, 23 MARCH 2026

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„The monks are in direct communication with God, they are in a way the internet to the divine and they redistribute grace to us”

(Les moines sont en communication directe avec Dieu, ils sont en quelque sorte l'internet vers le divin et ils nous redistribuent la grace).

Jean Raspail (1925-2020), interview published on May 11, 2019.

Jean Raspail : « L'Occident a complètement renoncé à se défendre », 11.05.2019,
<https://web.archive.org/web/20190706201716/https://www.noussommespartout.fr/jean-raspail-loccident-a-completement-renonce-a-se-defendre/entretiens/>.

The three main characteristics of marriage



- The three main characteristics of marriage:

1. heterosexuality,
2. permanence,
3. openness to children.

- The three biggest legal threats to marriage that correspond to these characteristics:

1. institutionalization of same-sex unions,
2. facilitation of divorce proceedings,
3. anti-natalist regulations.

Why fight for the exclusivity of heterosexual marriage at all? 1



- Sexual preferences are not monocausal, meaning **they do not have a single cause**.
- A 2008 brochure from the American Psychological Association states that „**There is no consensus among scientists** about the exact reasons that an individual develops a heterosexual, bisexual, gay, or lesbian orientation. Although much research has examined the possible genetic, hormonal, developmental, social, and cultural influences on sexual orientation, no findings have emerged that permit scientists to conclude that sexual orientation is determined by any particular factor or factors. Many think that **nature and nurture both play complex roles**; most people experience little or no sense of choice about their sexual orientation”.

Source: American Psychological Association, *Answers to Your Questions: For a better understanding of sexual orientation & homosexuality*, 2008, <https://www.apa.org/topics/lgbt/orientation.pdf>, p. 2.

- This is also confirmed by a 2016 study by Lisa Diamond and Clifford Rosky: „One fact about sexual orientation garners near-universal agreement from scientists: It has no single cause (...). Rather, **multiple biological and nonbiological factors interact to shape the adult expression of same-sex sexuality**, and the mix of causal factors may differ from person to person, and for males versus females”.

Source: Clifford Rosky, Lisa M. Diamond, *Scrutinizing Immutability: Research on Sexual Orientation and U.S. Legal Advocacy for Sexual Minorities*, „Journal of Sex Research”, nr 4-5 (2016), <https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1023&context=scholarship>.

Why fight for the exclusivity of heterosexual marriage at all? 2



- Furthermore, sexual preferences are not permanent or unchangeable. Contrary to the long-held view that sexual orientation generally takes the distinct forms of exclusive homosexuality and exclusive heterosexuality, **research today points to greater plasticity (fluidity), particularly among women.** Long-term studies „unequivocally demonstrate that same-sex and other-sex attractions **do change over time in some individuals.** The degree of change is difficult to reliably estimate, given differences in study measures, but the occurrence of change is indisputable”. It is worth noting that the fluidity of sexual orientation is much more common among people who identify as homosexual than among those who identify as heterosexual.

Source: Clifford Rosky, Lisa M. Diamond, *Scrutinizing Immutability: Research on Sexual Orientation and U.S. Legal Advocacy for Sexual Minorities*, „Journal of Sex Research”, nr 4-5 (2016), <https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1023&context=scholarship>.

- This variability is particularly evident during adolescence. **When their natural development is not interfered with, 98% of teenagers who identify as homosexual or bisexual at age 16 will shift to a heterosexual orientation within a year.** The probability that a 16-year-old who considers themselves non-heterosexual will be heterosexual by the age of 17 is twenty-five times greater than the likelihood of a shift in preference in the opposite direction.

Source: Neil E. Whitehead, Briar K. Whitehead, *Can sexual orientation change?*, eidem, *My Genes Made Me Do It! Homosexuality and the scientific evidence*, 2013, R.C. Savin-Williams, *Prevalence and stability of sexual orientation components during adolescence and young adulthood*, „Archives of Sexual Behavior”, nr 36, 2007.

Why fight for the exclusivity of heterosexual marriage at all? 3



- This means that **the very act of promoting homosexual tendencies among children and adolescents**, which results in their consolidation, whereas otherwise they might have been gradually suppressed in the course of upbringing in a heterosexual environment and dominated by heterosexual tendencies, **is, from the state's perspective, harmful** in and of itself, because if these inclinations were suppressed, a large proportion of such individuals, upon reaching adulthood, would be able to father or bear children with a person of the opposite sex and raise them as citizens, thereby ensuring at least simple generational replacement for the nation.
- The state therefore gives preferential treatment to the institution of marriage, which, in accordance with its natural identity, is a union between a man and a woman – not on the basis of a „right to happiness”, but because of the anticipated benefit to the nation in the form of the conception and birth of a new human being and citizen, and **the raising of that child in the most natural and stable environment, which is precisely marriage**. Even if, in practice, many children are born outside of marriage, the state cannot abandon promoting marriage as **the model and default institution**. The wide range of diverse ways to encourage marriage also includes various legal and financial privileges.

European countries: 50



1. Albania,
2. Andorra,
3. Armenia,
4. Austria,
5. Azerbaijan,
6. Belarus,
7. Belgium,
8. Bosnia and Herzegovina,
9. Bulgaria,
10. Croatia,
11. Cyprus,
12. Czechia,
13. Denmark,
14. Estonia,
15. Finland,
16. France,
17. Georgia,
18. Germany,
19. Greece,
20. Hungary,
21. Iceland,
22. Ireland,
23. Italy,
24. Kazakhstan,
25. Latvia,
26. Liechtenstein,
27. Lithuania,
28. Luxembourg,
29. Malta,
30. Moldova,
31. Monaco,
32. Montenegro,
33. Netherlands,
34. North Macedonia,
35. Norway,
36. Poland,
37. Portugal,
38. Romania,
39. Russia,
40. San Marino,
41. Serbia,
42. Slovakia,
43. Slovenia,
44. Spain,
45. Sweden,
46. Switzerland,
47. Turkey,
48. Ukraine,
49. United Kingdom,
50. Vatican City.

European countries that mention marriage, family or parenthood at the constitutional level: 36 / 50



1. Albania – article 53,
2. Andorra – article 13,
3. Armenia – articles 16 and 35,
4. ~~Austria—lack of legal provision,~~
5. Azerbaijan – articles 17 and 34,
6. Belarus – article 32,
7. ~~Belgium—lack of legal provision,~~
8. Bosnia and Herzegovina – article 2(3)(j),
9. Bulgaria – articles 14 and 46,
10. Croatia – article 61 and 62,
11. Cyprus – article 22,
12. Czechia – article 32,
13. ~~Denmark—lack of legal provision,~~
14. Estonia – paragraph 27 and 28,
15. ~~Finland—lack of legal provision,~~
16. ~~France—lack of legal provision,~~
17. Georgia – article 30,
18. Germany – article 6,
19. Greece – article 21,
20. Hungary – article L,
21. ~~Iceland—lack of legal provision,~~
22. Ireland – article 41,
23. Italy – articles 29, 30, 31, 37,
24. Kazakhstan – article 27 (referendum 2026: 30),
25. Latvia – article 110,
26. ~~Liechtenstein—lack of legal provision,~~
27. Lithuania – articles 38 and 39,
28. Luxembourg – article 11,
29. ~~Malta—lack of legal provision,~~
30. Moldova – articles 48 and 50,
31. ~~Monaco—lack of legal provision,~~
32. Montenegro – articles 71, 72 and 73,
33. ~~Netherlands—lack of legal provision,~~
34. North Macedonia – articles 40 and 42,
35. ~~Norway—lack of legal provision,~~
36. Poland – articles 18, 48 and 71,
37. Portugal – articles 36, 67, 68,
38. Romania – article 48,
39. Russia – articles 7, 38 and 72,
40. San Marino – article 12,
41. Serbia – articles 62 and 66,
42. Slovakia – article 41,
43. Slovenia – article 53,
44. Spain – articles 32 and 39,
45. ~~Sweden—lack of legal provision,~~
46. Switzerland – articles 14 and 116,
47. Turkey – article 41,
48. Ukraine – article 51,
49. ~~United Kingdom—lack of legal provision,~~
50. ~~Vatican City—lack of legal provision.~~

European countries that mention marriage, family or parenthood at the constitutional level: 36 / 50



- (36) European countries that have a mention of marriage, family or parenthood in their constitution
- (14) European countries that do not have such a mention in their constitution



European countries that protect the heterosexual nature of marriage at the constitutional level: 17 / 50



1. Armenia – article 35,
2. Azerbaijan – article 34,
3. Belarus – article 32,
4. Bulgaria – article 46,
5. Croatia – article 61 (referendum 2013),
6. Georgia – article 30 (amendment 2018),
7. Hungary – article L (2011),
8. Kazakhstan – article 30 (referendum 2026),
9. Latvia – article 110 (amendment 2005),
10. Lithuania – article 38,
11. Moldova – article 48,
12. Montenegro – article 71,
13. Poland – article 18,
14. Russia – article 72 (amendment 2020),
15. Serbia – article 62,
16. Slovakia – article 41 (amendment 2014),
17. Ukraine – article 51.

European countries that protect the heterosexual nature of marriage at the constitutional level: 17 / 50



- (17) European countries that have a mention in their constitution that marriage is exclusively a union between a man and a woman
- (33) European countries that do not have such a mention in their constitution



European countries: the current battlefields for the identity of marriage



- (12) European countries that recognize marriage as a union between a man and a woman – at the constitutional level.
- (6) European countries that recognize marriage as a union between a man and a woman only – but not at the constitutional level
- (22) European countries that have institutionalized same-sex partnerships and called them „marriage”.
- (10) European countries that have institutionalized same-sex partnerships but not called them „marriage”.



Article 9 of the Charter of Fundamental Rights of the European Union – illusory guarantee of a veto by member states in family matters



Article 9

Right to marry and right to found a family

The right to marry and the right to found a family shall be guaranteed **in accordance with the national laws** governing the exercise of these rights.

26.10.2012

EN

Official Journal of the European Union

C 326/395

The European Parliament, the Council and the Commission solemnly proclaim the following text as the Charter of Fundamental Rights of the European Union.

CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

Preamble

The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values.

Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.

The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; it seeks to promote balanced and sustainable development and ensures free movement of persons, services, goods and capital, and the freedom of establishment.

To this end, it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter.

Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

European Parliament resolution of 22 November 2023: Amendments 103 and 104



Official Journal
of the European Union

EN
C series

C/2024/4216

24.7.2024

P9_TA(2023)0427

Proposals of the European Parliament for the amendment of the Treaties

European Parliament resolution of 22 November 2023 on proposals of the European Parliament for the amendment of the Treaties (2022/2051(INL))

(C/2024/4216)

The European Parliament,

- having regard to Article 48 of the Treaty on European Union,
 - having regard to the Manifesto of Ventotene ⁽¹⁾,
 - having regard to the Schuman declaration of 9 May 1950 ⁽²⁾,
 - having regard to its resolution of 9 June 2022 on the call for a Convention for the revision of the Treaties ⁽³⁾,
 - having regard to Rules 46, 54 and 85(1) of its Rules of Procedure,
 - having regard to the opinions of the Committee on Foreign Affairs, the Committee on Budgets, the Committee on Economic and Monetary Affairs, the Committee on Agriculture and Rural Development, the Committee on Culture and Education and the Committee on Civil Liberties, Justice and Home Affairs,
 - having regard to the position in the form of amendments of the Committee on Women's Rights and Gender Equality,
 - having regard to the letters of the Committee on Budgetary Control, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Food Safety and the Committee on Industry, Research and Energy,
 - having regard to the report of the Committee on Constitutional Affairs (A9-0337/2023),
- A. whereas the current version of the Treaties entered into force on 1 December 2009 and since then the European Union has faced unprecedented challenges and multiple crises, in particular Russia's war of aggression against Ukraine;
- B. whereas amending the Treaties is necessary, not as an end in itself, but in the interest of all Union citizens, as these amendments aim to reshape the Union in a way that will enhance its capacity to act, as well as its democratic legitimacy and accountability;
- C. whereas amending the Treaties should enable the Union to more effectively tackle geopolitical challenges;
- D. whereas the Union's institutional framework, and in particular its decision making process, especially that in the Council, is barely adequate for a Union of 27 Member States; whereas the prospect of future enlargements makes a reform of the Treaties inevitable;
- E. whereas on 9 May 2022 the Conference on the Future of Europe finished its work and presented its conclusions; whereas those conclusions contain 49 proposals and 326 measures, many of which are only possible to implement if there are changes to the Treaties;

Amendment 103

Treaty on the Functioning of the European Union

Article 81 – paragraph 3 – subparagraph 1

Present text	Amendment
Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.	Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure.

Amendment 104

Treaty on the Functioning of the European Union

Article 81 – paragraph 3 – subparagraph 2

Present text	Amendment
The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.	The European Parliament and the Council, on a proposal from the Commission, may adopt, in accordance with the ordinary legislative procedure , a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure.

Source: <https://eur-lex.europa.eu/eli/C/2024/4216/oj/eng>.

The first attempt to impose a legal obligation on all member states to recognize same-sex unions and homosexual adoptions: the 2011 draft regulation



EUROPEAN COMMISSION

Brussels, 16.3.2011
COM(2011) 127 final

2011/0060 (CNS)

Proposal for a

COUNCIL REGULATION

on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships

{COM(2011) 125 final}
{COM(2011) 126 final}
{SEC(2011) 327 final}
{SEC(2011) 328 final}

Sources:

- Proposal for a COUNCIL REGULATION on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52011PC0127>,
- <https://lgbti-ep.eu/2015/12/08/hungary-and-poland-block-equal-property-rights-all-eu-couples-living-abroad/>.



Hungary and Poland block equal property rights all EU couples living abroad

8th December 2015 | 1549 | 0 | 0

Last Thursday, Poland and Hungary blocked a proposal for regulations which would simplify legal procedures for EU couples living or working in another Member State in the event of divorce or death.

Couples who use their right to freedom of movement in the EU are often faced with legal uncertainties as to the applicable law when dividing property. The regulations were supposed to tackle this uncertainty, while leaving family law, which is a Member State competence, untouched.



However, during the debate in the Justice and Home Affairs Council, the Polish Justice Minister argued that the proposals would interfere in national family law, and should be rejected on the basis of subsidiarity.

Hungary's Justice Minister added that the proposals violate Member States' national identity, particularly "traditions and values related to the family as a basic element of society."

The second attempt to impose a legal obligation on all member states to recognize same-sex unions and homosexual adoptions: the 2022 draft regulation



Brussels, 7.12.2022
COM(2022) 695 final
2022/0402 (CNS)

Proposal for a COUNCIL REGULATION

on 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

{SEC(2022) 432 final} - {SWD(2022) 390 final} - {SWD(2022) 391 final} -
{SWD(2022) 392 final}

A LAW WHICH COULD ABOLISH “MOTHER” AND “FATHER”. AN ANALYSIS OF THE EU DRAFT REGULATION “CROSS-BORDER FAMILY SITUATIONS - RECOGNITION OF PARENTHOOD”

ORDO IURIS ANALYSIS

A STEP TOWARDS COMPULSORY RECOGNITION OF HOMOADOPTION AND SURROGACY. DRAFT EU REGULATION

- In December 2023, the European Parliament voted in favour of the European Commission's proposal to regulate the mutual recognition of parenthood in EU Member States. - As a result of the adoption of this draft legislation, Poland would be obliged to recognise the legal validity of a document certifying same-sex parenthood. - The draft...

PUBLICATION DATE: FEBRUARY 1, 2024
Author: Ordo Iuris -

- In December 2023, the European Parliament voted in favour of the European Commission's proposal to regulate the mutual recognition of parenthood in EU Member States.
- As a result of the adoption of this draft legislation, Poland would be obliged to recognise the legal validity of a document certifying same-sex parenthood.
- The draft may constitute a first step towards the legal acceptance of both 'same-sex marriages' and adoption by same-sex couples.
- In addition, the regulations open the way towards the legal acceptance of surrogacy.
- The Ordo Iuris Institute has prepared an analysis on this topic.

Sources:

- Proposal for a COUNCIL REGULATION on 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, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52022PC0695>,
- https://ordoiuris.pl/sites/default/files/inline-files/A_law_which_could_abolish_mother_and_father.pdf.



Amendments 103 and 104 take away the Member States' sovereignty over family law

The proposed amendments contained in the European Parliament's resolution of 22 November 2023 include amendments number 103 and 104, concerning "measures concerning family law with cross-border implications" and "aspects of family law with cross-border implications". These amendments relate respectively to the first subparagraph of Article 81(3) and the second subparagraph of Article 81(3) of the Treaty on the Functioning of the European Union¹ (hereinafter: TFEU). In their current wording, these provisions – when it comes to the establishment of the aforementioned measures and the adoption of a decision defining these aspects – presuppose that the Council of the European Union, after consulting the European Parliament, shall always act unanimously on these matters. Meanwhile, the amendments remove this exception, stipulating that henceforth the European Parliament and the Council of the EU, after receiving a proposal from the Commission, would have to act in accordance with the ordinary legislative procedure, which would make it possible for some countries to outvote others.

The essence of the current wording of Article 81(3) TFEU is to exclude the regulation of family law at the EU level from the regime of the ordinary legislative procedure and to make it subject to the unanimity of the Council – which in everyday language is equivalent to a kind of veto right belonging to each Member State. This exception is directly linked to Article 9 of the Charter of Fundamental Rights of the European Union (CFREU) annexed to the TFEU², according to which "[t]he right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights". The proposed changes amount to replacing the unanimity rule with the ordinary legislative procedure. This means, as in many areas that are discussed in this report, subjecting family law matters at the EU-wide level to a qualified majority decision, i.e. the support of 55% of the Member States with a combined population of at least 65% of EU citizens.

If such an amendment to an international agreement such as the TFEU were to be introduced, Poland would face a real risk that other Member States with an appropriate qualified majority in a given vote could pass a regulation imposing various family law solutions on all the Member States, despite their apparent contradiction with the fundamental principles of their respective legal orders. For example, it could be a regulation on the recognition of same-sex unions that puts them on an equal footing with marriage; or a regulation on the discretionary separation of children from their parents for, say, the purpose of their being brought up in a particular value system or for refusing to fulfil their educational obligations outside the family home; or else a regulation normalising surrogacy.

Amendments 103 and 104 as increasing the risk of imposing a legal obligation on Member States to recognise same-sex unions and put them on an equal footing with marriage

The proposed amendments continue the European Parliament's previous routine calls for the European Commission to impose an obligation on all EU Member States to recognise same-sex relationships in (non-legally binding) resolutions:

- of 18 January 2006: "on homophobia in Europe" (points 11 and 13),
- of 24 May 2012: "on the fight against homophobia in Europe" (points 4 and 9),
- of 4 February 2014: "on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity" (point 4(H)),
- of 14 February 2019: "on the future of the LGBTI List of Actions (2019-2024)" (point 10),
- of 14 September 2021: "on LGBTIQ rights in the EU" (points 4 and 5).

On 16 March 2011, the European Commission also presented a draft regulation "on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships".¹⁷ This regulation would have imposed on the administrative and judicial authorities of all Member States the obligation to recognise in certain cases the institution of registered partnerships in other Member States (recitals 21 and 23, Article 18(2), Article 24). However, the draft was never enacted due to opposition from, among others, Poland and Hungary.

On 7 December 2022, the European Commission presented a draft regulation analogous to that of 2011, but with a different title: "on 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".¹⁸ As before, this regulation would have imposed an obligation on Member States to recognise in certain cases the institution of partnerships registered in other Member States (recitals 14 and 21, Article 24(1) and (2)).

Amendments 103 and 104 are an attempt to "bypass" the complicated procedure of passing successive regulations and take away the Member States' autonomy in this regard once and for all.

Source: <https://ordoiuris.pl/sites/default/files/inline-files/Why do we need sovereignty report 4.pdf>.

The efforts of Members of the European Parliament to compel Member States to grant homosexual unions the same legal status as marriage



The proposed amendments continue the European Parliament's previous routine calls for the European Commission to impose an obligation on all EU Member States to recognise same-sex relationships in (non-legally binding) resolutions:

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3. of 4 February 2014: „on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity” (point 4(H)),
4. of 14 February 2019: „on the future of the LGBTI List of Actions (2019-2024)” (point 10),
5. of 14 September 2021: „on LGBTIQ rights in the EU” (points 4 and 5),
6. of 8 February 2024: „on the implementation of the EU LGBTIQ Equality Strategy 2020-2025” (point 30).

Sources:

1. 2006: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52006IP0018>,
2. 2012: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012IP0222>,
3. 2014: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014IP0062>,
4. 2019: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52019IP0129>,
5. 2021: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021IP0366>,
6. 2024: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52024IP0076>.

Judicial activism aimed at forcing Nation-States to grant homosexual unions the same legal status as marriage – European Court of Human Rights (Strasbourg)



1. Judgment of 24 June 2010 in the case of **Schalk and Kopf v. Austria** (30141/04), in which the Court found that a stable and committed homosexual relationship constitutes „family life” within the meaning of Art. 8 of the Convention, which results in the state's obligation to create an appropriate legal framework for its formalization,
2. Judgment of 21 July 2015 in the case of **Oliari and others v. Italy** (18766/11 and 36030/11), in which the Court held that Italy had violated Art. 8 of the Convention, without giving homosexual couples a legal opportunity to formalize their relationships, and emphasized that providing homosexual couples with a legal framework enabling the recognition and protection of their relationships constitutes a „positive obligation” incumbent on Member States under Article 8. 8 of the Convention,
3. Judgment of 23 February 2016 in the case of **Pajić v. Croatia** (68453/13), in which the Court found Croatia guilty of failing to enable the applicant to have „family reunification” with her same-sex „partner”,
4. Judgment of 17 January 2023 in the case of **Fedotova and others v. Russia** (40792/10, 30538/14 and 43439/14), in which the Court found a violation of Art. 8 of the Convention by Russia, obliging it to institutionalize same-sex relationships,
5. Judgment of 23 January 2023 in the case of **Macatė v. Lithuania** (61435/19), in which the Court found that the provisions of Lithuanian law recognizing the promotion of homosexual relationships among 9-year-old children „are incompatible with the ideas of equality, pluralism and tolerance rooted in democratic society”,
6. Judgment of 5 September 2023 in the case of **Koilova and Babulkova v. Bulgaria** (40209/10), in which the Court has ruled that Bulgaria’s failure to institutionalize same-sex unions violates the right to respect for family and private life,
7. Judgment of 12 December 2023 in the case of **Przybyszewska and others v. Poland** (11454/17), ...
8. Judgment of 19 September 2024 in the case of **Formela and others v. Poland** (58828/12), ...
9. Judgment of 27 February 2025 in the case of **Szypuła and others v. Poland** (78030/14), in which the Court has ruled that Poland „left the complainants in a legal vacuum” by failing to „recognize and protect same-sex couples in stable and committed relationships”.

Judicial activism aimed at forcing Member States to grant homosexual unions the same legal status as marriage – Court of Justice of the EU (Luxembourg)



1. Judgment of 5 June 2018 in the case of **Relu Coman and others v. Romania** (C-673/16), in which the Court ruled that „a Member State cannot rely on its national law as justification for refusing to recognise in its territory, for the sole purpose of granting a derived right of residence to a third-country national, a marriage concluded by that national with a Union citizen of the same sex in another Member State in accordance with the law of that state”.
2. Judgment of 25 November 2025 in the case of **Jakub Cupriak-Trojan and Mateusz Trojan v. Wojewoda Mazowiecki** (C-713/23), in which the Court held that Poland is under an obligation to recognize a „marital” union entered into by same-sex EU citizens in the host country in the exercise of their right to freedom of movement and residence.

Judicial activism – the highest national judges serving European centralism in family law issues



Hungary, 3 June 2025:

- The Constitutional Court „found that the legislator had caused an unconstitutionality [...] by failing to enact the rules that would allow for the recognition and registration of marriages concluded by same-sex couples abroad as civil unions upon request, which is constitutionally and legally available and guaranteed to same-sex couples in the Hungarian legal system – in the absence of marriage”.

Source: <https://alkotmanybirosag.hu/kozlemeny/mulasztasban-megnyilvanulo-alaptorveny-ellenesseg-a-bejegyzett-elettarsi-kozosseg-elismeresevel-kapcsolatban/>

Poland, 20 March 2026:

- The Supreme Administrative Court ruled – based on the CJEU judgment of November 25, 2025 – that the Registry Office of the Capital City of Warsaw is required to transcribe foreign civil status documents concerning same-sex unions defined in another European Union member state as „marriages”.

Source: <https://orzeczenia.nsa.gov.pl/doc/CE82955F7B>.

What can sovereign nation-states do, aside from amending their constitutions? Attach interpretative declarations or reservations to international treaties



Examples of such interpretative declarations issued by the Republic of Poland are:

1. Two interpretative declarations to the Convention on the Rights of the Child of 20 November 1989 [1991]:
 - „The Republic of Poland considers that the exercise by the child of his or her rights set out in the Convention, in particular the rights set out in Articles 12 to 16, shall be carried out with **respect for parental authority, in accordance with Polish customs and traditions regarding the child’s place within and outside the family**”,
 - „Regarding Article 24(2)(f) of the Convention, the Republic of Poland considers that counseling for parents and education in the field of family planning should be in accordance with **the principles of morality**”.
2. Interpretative Declaration to the Concordat with the Holy See submitted on April 15, 1997, including: „The principle expressed in Article 1, according to which the State and the Church are independent and autonomous, is in fact giving legal expression to a practice that has arisen in Poland over recent years. It means abandoning an understanding of constitutional norms that expressed an antagonistic relationship, in favor of an interpretation that assumes **cooperation for human development and the common good**”.
3. Interpretative Declaration No. 39 to the **Treaty of Accession to the European Union**, submitted in January 2003 (inspired by the Slovak resolution of Vladimir Palko of 2002), according to which „nothing in the provisions of the Treaty on European Union, the Treaties establishing the European Communities and the provisions of the Treaties amending or supplementing these treaties does not constitute an obstacle for the Polish State in regulating **issues of moral importance**, as well as issues relating to the **protection of human life**”.
4. Interpretative Declaration No. 61 to the **Treaty on the Functioning of the European Union** (2007), according to which „the Charter in no way prejudices the right of Member States to legislate in the field of **public morality, family law, as well as the protection of human dignity and respect for the physical and moral integrity of man**”.

What can sovereign nation-states do, aside from amending their constitutions? Sign new international agreements.



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INTERNATIONAL CONVENTION ON THE RIGHTS OF THE FAMILY

The International Convention on the Rights of the Family is a comprehensive draft international treaty aimed at strengthening the fundamental unit of society, safeguarding marriage, parenthood, and children's rights, and reinforcing the principle of subsidiarity of the State.

PUBLICATION DATE: JANUARY 30, 2026
Author: Ordo Iuris -

[READ THE CONVENTION](#) [DOWNLOAD](#)

Description of the published document:

The published document presents an updated version of the *International Convention on the Rights of the Family* from 2018. The revised text responds to contemporary legal, social, and demographic challenges affecting families and reinforces the family's inherent dignity, autonomy, and primary role in society.

CONVENTION ON THE RIGHTS OF THE FAMILY

CHAPTER I Definitions

Article 1

For the purposes of the present Convention:

- "marriage" means a free and permanent union of woman and man subject to particular protection under national law;
- "family" means a community of people related by blood or marriage;
- "sex" means a set of biological (including genetic) characteristics allowing for an objective differentiation between woman and man;
- "child's best interest" means all conditions necessary for the proper personal, spiritual and intellectual development of the child and necessary to provide him or her with the basic material conditions, which are first and foremost provided by parents and other family members and where they are deprived of parental authority in compliance with the present Convention, by other legal guardians. Such conditions are identified in consideration of the need to maintain family bonds and family integrity, secure life and health of the minor child and protect him or her from depravity, respect his or her cultural identity as well as, appropriately to his or her age and maturity, his or her opinion on his or her situation;
- "violence" means a single or recurring deliberate action in breach of another person's rights, which constitutes an act prohibited by the law of the State Party against life, health, physical integrity, freedom and/or property and
- "domestic violence" means a single or recurring deliberate action in breach of another person's rights, which constitutes an act prohibited by law of the State Party against life, health, physical integrity, freedom and/or property, committed in a family or domestic context between ex-spouses or cohabitants, regardless of whether or not the offender lives together with the victim.

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THE PARLIAMENT HAS TO DEAL WITH THE TOPIC OF DENOUNCING THE ISTANBUL CONVENTION. 150 THOUSAND SIGNATURES SUBMITTED TO THE PARLIAMENT

The Istanbul Convention is a document of a radically ideological nature, which introduces the concept of gender into Polish law through the back door. The Parliament received 150,000 signatures under the civic project of an act to denounce it and replace it with the International Convention on the Rights of the Family. The signatures were...

PUBLICATION DATE: JANUARY 13, 2021
Author: Ordo Iuris -

The Istanbul Convention is a document of a radically ideological nature, which introduces the concept of *gender* into Polish law through the back door. The Parliament received 150,000 signatures under the civic project of an act to denounce it and replace it with the International Convention on the Rights of the Family. The signatures were collected in a short time, despite the restrictions and the need to carry out the collection under the sanitary regime. The campaign was initiated by the Ordo Iuris Institute together with the Chrześcijański Kongres Społeczny (Christian Social Congress). A number of pro-family circles and organisations have joined in.

Source: Ordo Iuris 2026: <https://ordoiuris.pl/en/draft-legislation/international-convention-on-the-rights-of-the-family-updated-version/>.

„The Great Reset” – a proposal for a deep reform of the European Union, also taking into account the removal of quasi-legislative competences from the CJEU and placing family matters within the exclusive competence of the Member States (Ordo Iuris, MCC 2025)



**THE GREAT RESET:
RESTORING MEMBER
STATE SOVEREIGNTY IN
THE EUROPEAN UNION**

A TWO SCENARIO PROPOSAL THROUGH
INSTITUTIONAL REFORM FOR A NEW EU
FROM MATHIAS CORVINUS COLLEGIUM
AND ORDO IURIS INSTITUTE



Each State Party shall have the right to submit specific acts of the *acquis communautaire* for audit. The audit process will be conducted by the Committee of Member States, which will assess the compliance of the analyzed secondary legislation with the principles of conferral and subsidiarity. The primary objective of this audit is to facilitate the implementation of the principle of Voluntary Cooperation and Revocability of Deeper Cooperation Programs (see Section III.i.a).

Based on the audit findings, the Council shall, by unanimous vote, determine the core set of minimum commitments that constitute the *sine qua non* of EU membership. Additionally, the Council will identify optional commitments in policy areas where only certain Member States share common interests, thereby allowing for a more flexible and differentiated approach to integration.

Proposal 9: Establish a „national competences shield” by including in the Treaty on European Union a specific provision that outlines a list of competences legally protected from any EU interference. The EU shall have no direct or indirect impact on these areas, whether through legislative or judicial means. This list should include family, public order, moral order, and education.

Source: https://ordoiuris.pl/wp-content/uploads/2025/04/the_great_reset_restoring_member_state_sovereignty.pdf.



Saint Thomas Aquinas:

„An action is said to be against the natural law, if it is not in keeping with the due end intended by nature, whether through not being directed thereto by the action of the agent, or through being directed thereto by the action of the agent, or through being in itself impropportionate to that end. **Now the end which nature intends in sexual union is the begetting and rearing of the offspring [=children].** [...]

Now since the rearing and teaching of the children remain a duty of the parents during a long period of time, **the law of nature requires the father and mother to dwell together for a long time, in order that together they may be of assistance to their children**”.

Source: Summa Theologica Supp., question 65, article 3, https://www.documentacatholicaomnia.eu/03d/1225-1274,Thomas_Aquinas,Summa_Theologiae_%5B1%5D,EN.pdf.



<https://ordoiuris.pl/en/>

Ordo Iuris Institute for Legal Culture
Plac Bankowy 2 (11. floor)
00-095 Warsaw, Poland