# Update: The Rights of Rainbow Families in the EU

Blog, Legal Protection, Court of Justice of the European Union, Family, Lesbian

> The Court of Justice of the EU has ruled in two occasions over recent months that EU countries must protect the freedom of movement of rainbow families. This is a right all EU citizens should enjoy, LGBTI people too. In today's blog, we bring you the state of LGBTI people's family rights in different EU countries.

Baby Sara and Baby Sofia are too little yet to understand the change they've brought about for rainbow families in the EU. They don't know that they share similar experiences. Both were born in Spain to lesbian couples and both were at risk of statelessness during the first years of their lives.

For quite some time, Sofia, daughter of Irish and Polish mothers, and Sara, daughter of British and Bulgarian mothers, did not have access to identity documents and couldn't leave Spain. One of the reasons was that the countries of one of their mothers, Bulgaria in the case of Sara, and Poland in Sofia's, refused to recognise the birth certificate issued in Spain because the parents in the documents were two persons of the same sex. After the Court of Justice of the EU rulings on their cases, both Sara and Sofia have helped to further the protection of rainbow families' rights in the European Union.

First it was Baby Sara. At the end of 2021, the CJEU issued a landmark judgment in her case, stating that if one EU country recognises the child's parental relationship, as Spain had done, then all EU countries should do the same, and so guarantee the child its freedom of movement across the region, which is a right of all EU citizens. The court decreed that Bulgarian authorities must issue an identity card or a passport to baby Sara, and that all other EU countries should recognise and follow this ruling.

In June 2022, the CJEU confirmed this in the reasoned order in the case of Baby Sofia's, stating something very similar: when an EU country has recognised two persons of the same sex as parents of a child, then the EU country of which that child is a national, should issue identity documents to that child with both parents on them, and all EU countries should protect the right to freedom of movement of the child and their family. Poland has been told that it must now provide the child with identity documents and guarantee her and her parents the right to move and reside freely in the country.

These are protections granted in Articles 20 and 21 of the Treaty on the Functioning of the European Union (TFEU) and Articles 7 and 24 of the Charter of Fundamental Rights of the EU, among others.

The cases of Baby Sara and Baby Sofia have strengthened the freedom of movement of LGBTI families across the EU as citizens of the Union, which does not necessarily translate into changes in national legislation Union. The family rights of LGBTI people vary significantly across the Union.

## Have a look at the family rights of LGBTI people in the EU:

**13 countries recognise marriage equality and joint adoption for same-sex couples.**

They are: Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, Malta, Netherlands, Portugal, Spain and Sweden.

Bonus: Some weeks ago, Slovenia's Constitutional Court ruled that marriage is a life union of two persons, paving the way for same-sex marriage and adoption. The Court gave the Slovenian Parliament six months to comply with this decision.

**In 13 countries registered partnership with similar rights to marriage is possible for same-sex couples**

They are: Austria, Croatia, Cyprus, Greece, Hungary, Ireland, Italy, Luxembourg, Malta, Netherlands, Portugal, Slovenia and Spain in some regions.

Additionally, in seven countries same-sex couples have access to registered partnership with limited rights.

**In 11 countries, medically assisted insemination is available for same-sex couples and singles**

They are: Belgium, Denmark, Finland, France, Ireland, Luxembourg, Malta, Netherlands, Portugal, Spain and Sweden.

In Austria, only couples have access and in Latvia, only singles.

**Only 4 countries of the EU, Belgium, Malta, Slovenia and Sweden, recognise trans parenthood.**