

Schlittner-Hay v. Poland

[Case Law](#), [Legal Protection](#), [Children](#), [European Court of Human Rights](#), [Family](#), [Poland](#)

Rainbow family and children rights

(Apps no. 56846/15 and 56849/15), 23 July 2019

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[Schlittner-Amicus v. Poland](#)[Download](#)

- The applicants – two twins born through surrogacy – complain that despite the fact that their biological father Mr S. is a Polish citizen, they were refused Polish citizenship by descent on the ground that their birth certificate indicated two men as their parents.
- ILGA-Europe together with the CRIN, the HFHR, the NELFA and the Polish Society of Anti-Discrimination Law submitted the following:
 - The **best interests of the child** shall be a primary consideration in all actions concerning children. According to the ECtHR, parent-child relationships fall within the ambit of **family life covered by Article 8**. Refusal by State authorities to recognise existing family ties established under foreign law generally establishes interference in family life as well as private life.
 - According to the **Supreme Administrative Court of Poland** (SAC), the fact that the child was born by a surrogate is irrelevant for his/her legal status since every child has the right to citizenship if one of his/her parents is a Polish citizen. National Courts similarly held that the established de facto relations between adults and the minor in whose family this is created must be established, promoted, protected and integrated, all in the best interests of the child.
 - Sexual orientation is a prohibited ground of discrimination under **Article 14 ECHR**. Accordingly, the children of rainbow families should not be “penalised in [their] daily existence” simply because of their association with their parents because of their sexual orientation.