

Top EU Court Recognises Relationship of Same-sex Parents and their Children Under EU Law

[Press Release](#), [Legal Protection](#), [Bulgaria](#), [Children](#), [Court of Justice of the European Union](#), [Family](#), [Strategic Litigation](#)

In a landmark judgement, the Court of Justice of the European Union has ruled that a child and its same-sex parents must be recognised as a family, the child should be issued a Bulgarian passport, and the family should have free movement in all Member States of the European Union.

Today, December 14, the Court of Justice of the European Union (CJEU) ruled that if one EU member state recognises a parental relationship between a child and its parents, then all member states should, in order to give the child its right to freedom of movement.

[The case 'Stolichna obshtina, rayon Pancharevo'](#) arose when a same sex couple were refused a birth certificate in Bulgaria for their infant daughter, who was born in Spain. The Bulgarian authorities asserted that the couple, one of whom is Bulgarian, could not be registered as parents on the child's birth certificate, leaving the family in legal limbo.

Bulgarian born Kalina Ivanova* and Gibraltar-born Jane Jones* are the mothers of Sara, who was born in Spain in 2019. Under current Spanish law, the child could not acquire Spanish citizenship because neither Kalina or Jane is a Spanish citizen. The child was also denied British citizenship because Jane was born in Gibraltar of British descent, and under the British Nationality Act (1981), cannot transfer citizenship to her daughter.

Therefore, Kalina requested Bulgarian citizenship for their daughter. Bulgarian authorities rejected a request for citizenship of the child, the application, arguing that a child cannot have two mothers, and refused to issue a birth certificate in which the parents are two persons of the same sex.

Sara was therefore deprived of Bulgarian, and therefore European citizenship, and was at risk of statelessness. Currently, the child has no personal documents and cannot leave Spain, the country of the family's habitual residence. The lack of documents restricts Sara's access to education, healthcare, and social security in Spain.

In Bulgaria, same-sex marriages and same-sex registered partnerships are not recognised.

Today the CJEU ruled that it is contrary to the fundamental rights guaranteed by Articles 7 and 24 of the Charter for the child to be deprived of the relationship with one of her parents when exercising her right of free movement or for her exercise of that right to be made impossible or excessively difficult on the ground that her parents are of the same sex.

The ruling asserts that the Bulgarian authorities are obliged to issue an identity card or a passport to Baby Sara, which all other EU Member States are obliged to recognise.

Welcoming the ruling, Baby Sara's parents said: "We are thrilled about the decision and cannot wait to get Sara her documentation and finally be able to see our families after more than two years. It is important for us to be

a family, not only in Spain but in any country in Europe and finally it might happen. This is a long-awaited step ahead for us but also a huge step for all LGBT families in Bulgaria and Europe.

“Thank you so much to the LGBT Deystvie organisation in Bulgaria and especially to our legal representation, Denitsa Ivanova and Veneta Limberova for fighting for our family and countless others in our position. Thanks too all the people and organisations who supported us in this process: ILGA-Europe, NELFA, ACCEPT Romania and many others.”

According to Arpi Avetisyan, Head of Litigation at Europe’s leading LGBTI rights organisation, ILGA-Europe, which intervened in the case: “We are very pleased with CJEU’s judgment this morning. It gave legal endorsement to the EC President Ursula von der Leyen DL’s words, delivered during last year’s State of the Union address: ‘If you are a parent in one country, you are parent in every country’. The judgment has brought long-awaited clarification that parenthood established in one EU Member State cannot be discarded by another, under the pretence of protecting the “national identity”. This is a true testament to the EU being a union of equality and we look forward to seeing rainbow families enjoying their right to freedom of movement and other fundamental rights on equal footing to anyone else. It is important that the judgment is implemented imminently, not only for baby Sara and her family, but also for other families facing similar struggles across the EU.”

**Names have been changed.*

For comment, contact Ana Muñoz media officer at ana@ilga-europe.org and +32493356055