



LEGAL PROTECTION FOR SOCIAL PARENTHOOD

Final Conference

22-24 February 2024

UNIMORE Department of Law, Modena, Italy

The concept of family is changing, due to scientific, technological and social developments. More and more people are attempting to establish parentage through informed consent or agreements. Newer forms of social parenthood identified by recent jurisprudence and academics include intentional parenting and *de facto* parenting.

The need for legal recognition for new forms of social parenthood in the EU arises from the importance given to the affective relationship established by the child with the person who has assumed responsibility for a parental project, but with whom the child does not share a gene pool or a biological link. A *de facto* relationship, informed consent or agreement between the parties can constitute the basis for a legal parent-child relationship.

During the course of the societal developments outlined above, MSs have provided and are still providing a legal framework. However, their frameworks are neither uniform nor harmonized: some MSs ban commercial or altruistic surrogacy agreements, thus introducing public order obstacles that prevent the recognition and enforcement of certain foreign birth certificates, for example. Some MSs ban same-sex adoption, thus introducing public order obstacles that prevent the enforcement of adoption judgments issued in other Member States. Where legal protection of intentional and *de facto* filiation is provided, the regulations are not uniform among MSs, or the broader legal system is not fully updated in these areas. Where legal protection of social parenthood is provided and the system is broadly updated, national rules for civil status recognition nonetheless do not always comply with Article 81 TFEU, Article 8 ECHR, Articles 2, 3, 7, 8, 9 and 18 of the United Nations Convention on the Rights of the Child and relevant Hague Conventions.

One must conclude that such lack of harmony constitutes an **obstacle to an effective and adequate mutual recognition of civil status and family matters** within the EU. This leads to **inconsistent registrations of civil status relationships between many parents and children based on the manners in which they became legal family to each other in their home MSs** that can generate both public policy and inadvertent obstacles precluding the recognition of foreign parental orders between MSs and non-EU (third party) States, a result currently permitted by Reg. Bruxelles no. 1215/2012 ("Brussels I"). Moreover, the lack of harmonization and the *ordre public* obstacles also can permit and exacerbate intersectional discrimination towards parents and their children (on the basis of for example nationality, gender, sexual orientation, age or health condition as well).

In order to achieve the objective of protecting the statuses acquired abroad and the best interests of children, it is necessary to harmonize the domestic rules on civil status acquired through artificial insemination, surrogacy, filiation, adoption and civil unions. While respecting the MS legislators' discretion to prohibit conduct considered unacceptable in the national context, nevertheless will require recognition of the status of children and parents in social families legally established abroad, regardless of whether the acquisition of such status may have involved violation of national rules by doctors or parents.

JUST PARENT

The conference **aims to engage EU-wide discussion about the lack of mutual recognition and to evaluate the possibilities of conceiving social family connection** as an alternative and adequate model for legally recognizing parenthood through the MSs, in the **best interest of the child**. In the recognition in the EU of a legal parent-child relationship, including between a child and a same-sex spouse or between a child and an intentional parents in surrogacy agreements, it is essential to strike a balance between the **national identity** of the Member States and their concepts of the traditional family, on the one hand, and the rights to **freedom of movement** and **family life** of the child and his or her parents, on the other.

For the **Final Conference of the project “JUST PARENT: Legal Protection for Social Parenthood”** funded by the European Union that will take place at the University of Modena, Department of Law (via S. Geminiano, 3), on **22-24 February 2024**, we invite scholars from all areas of the legal and other social sciences (including, e.g., **public law, constitutional law, private law, biolaw, medical law, bioethics, criminal law, philosophy, gender studies, European Union law, comparative law, procedural law, political science and demographics**), to send proposals for papers and panels that engage with, from the multidisciplinary perspective, the theme of **the transformation of the family, new forms of parenthood and the identity of individual Member States** in dialogue with European institutions pushing for a reconstruction of parental relations that more uniformly facilitates and removes existing barriers to free movement. Papers and panels engaging with this theme in light of the prospects for reform in this EU law area, practically and with reference to the role of the European Union and the international community in the protection of fundamental rights, are particularly welcome.

Submission of Proposals: To participate in the Call, an abstract, in Italian or English, of a single paper (max. 500 words) or an entire panel (max. 1000 words) must be sent by **November 20, 2023**, to info@justparent.eu. Panels must include no fewer than 3 and no more than 5 participants. To be indicated on each submission: first name, last name, email, role and institutional affiliation of each participant. Individual papers may be presented or panels held in **Italian** or **English**. Translation between the languages will facilitate international participation.

Selection and Publication: The outcome of the selection will be communicated to participants by **December 20, 2023**. For those who wish to participate, the final versions of the contributions will be evaluated for publication in a monographic conference volume. Contributions, regardless of language, also will be evaluated competitively for possible publication in the Italian journal “Lo Stato” and other international journals.

*Modena-Milan-Granada-Berlin-Uppsala
September 18, 2023*