



**Equality Bodies protecting the
rights of rainbow families
on the move**

by Equinet's Cluster on Rainbow Families
on the Move

Equinet Webinar: Equality Bodies promoting the rights of rainbow families

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Equality Bodies protecting the rights of Rainbow Families on the Move (I)

- Survey:
 - 1) Part one „Recognition of parenthood established in another Member States - the status quo”
 - 2) Part II „Recognition of parenthood established in another Member States - the role of National Equality Bodies”
 - 3) Part III „Cross-border recognition of parenthood and right to equal treatment and other fundamental rights”

Aim: to identify the obstacles „rainbow families” face daily when they exercise EU free movement rights and the role of NEBs in coping them

Equality
Bodies
protecting
the rights of
Rainbow
Families on
the Move (II)

- Report published in 2023
- Prepared by the Cluster on Rainbow families on the move
- Contributing Ebs: Belgium, Czechia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia
- 2 aims:
 - Introduce comprehensive understanding of the legal framework ensuring protection of rights and freedoms of rainbow families on the move
 - Explain and demonstrate the role that Ebs can play in ensuring protection and promotion of rainbow families on the move




Part I – international standards

- **EU law** (Art. 21 TFEU, Art. 45 Charter, Directive 2004/38/EC, Regulation 2016/1191, LGBTIQ Equality Strategy 2020-2025, proposal for Regulation on Mutual Parenthood Recognition)
- definition of **family member** – the spouse (gender neutral-Coman), the partner with whom the EU citizen has contracted a registered partnership in one MSs
- **CJEU case-law** (V.M.A. v Stolichna obshtina, Rzecznik Praw Obywatelskich)
- **CoE standards** (Arts. 8, 12 and 14 ECHR, Recommendation CM/Rec/(2010)5)
- **ECtHR case-law** (Oliari, Orlandi, Taddeucci, Pajić, Wagner, Mennesson, A.D.-K. v Poland; including on effects of gender transition on marriage and parental rights)




Part I – national legislations

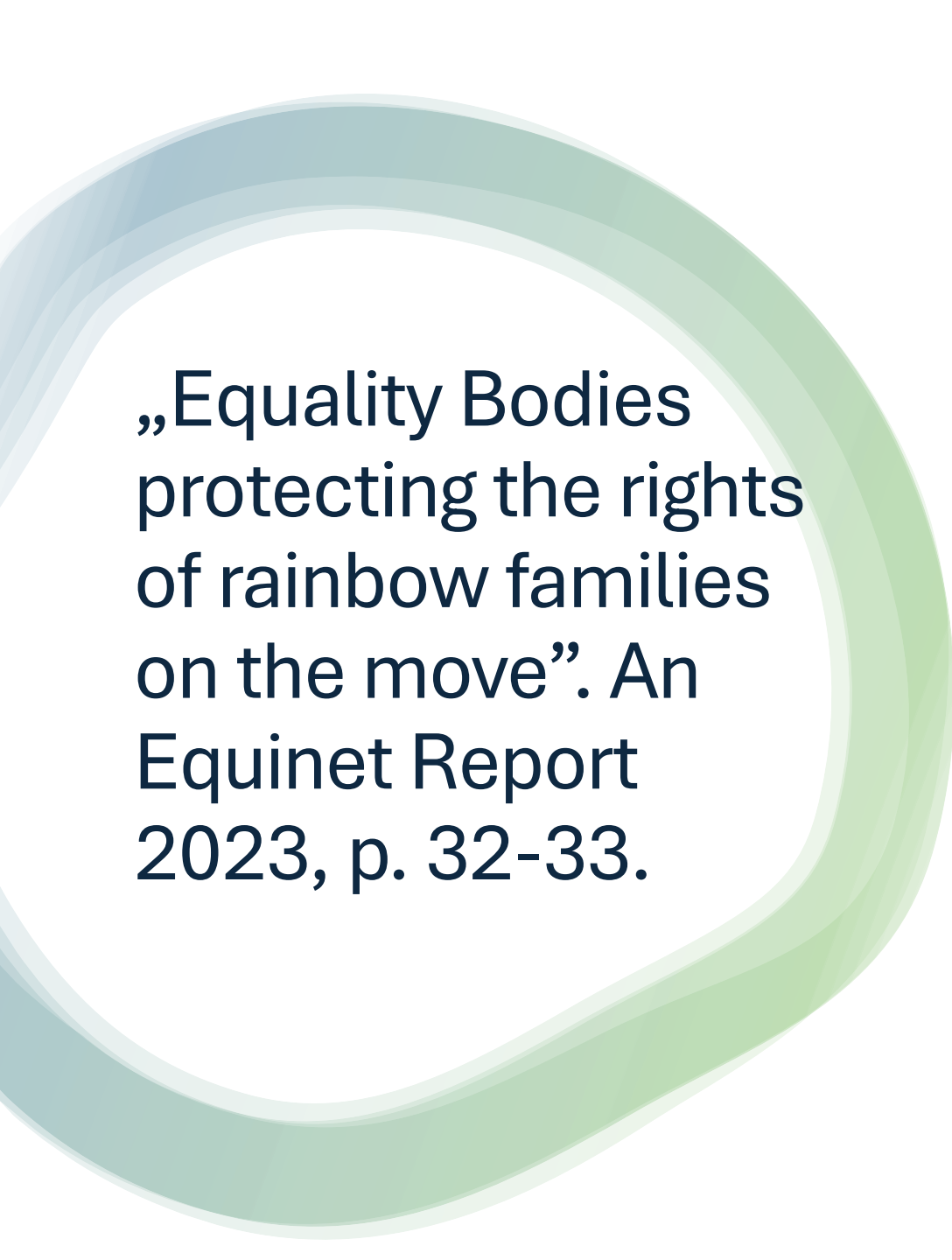
- **different standards** for recognition of same-sex parenthood
 - see also Rainbow Index (category Family)
- **recognition** of same-sex parenthood regulated under the civil law (Malta), private international law (Belgium) or citizenship legislation (Lithuania)
- **non-recognition** of same-sex parenthood (Poland, Romania, Slovakia)
 - arguments of protection of public/legal order (Poland)
 - non-recognition of same-sex partnerships (Lithuania, Romania, Slovakia)
 - protection from sham parenthoods



„Equality Bodies protecting the rights of rainbow families on the move”. An Equinet Report 2023

II. Recognition of parenthood established in another Member State - the role of National Equality Bodies

- lack of involvement of Equality Bodies on issues linked to the establishment or recognition of parenthood
 - good practices of cases addressed by Equality Bodies in Croatia, Poland, Romania and Slovenia
 - causes of low level of activity by NEBs in cases concerning recognition of parenthood established in another Member State
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„Equality Bodies protecting the rights of rainbow families on the move”. An Equinet Report 2023, p. 32-33.

- **National Commission for the Promotion of Equality (Malta):** The Equality Body did not receive any cases despite having the legal mandate and competence to deal with such issues and having a close link with the LGBTQI+ community.
- **Equal Opportunities Ombudsperson (Lithuania):** The Equality Body has a mandate on sexual orientation but limitations when it comes to the field of life. Theoretically there could be some cases connected to rainbow families on the move that fall under their mandate, but they have not received cases. Furthermore, in Lithuania same-sex partnerships are not legally recognized.
- **Commission for the Protection of Equality (Serbia):** the Commission has not received any complaints. In Serbia, same-sex partnerships are not recognized.
- **Ombudsperson Institution of Kosovo:** has not received cases yet.
- **National Council for Combating Discrimination (Romania):** They have the mandate and received complaints but not for families. In Romania, there is no recognition of same-sex partnerships and marriages.
- **Commission for Protection against Discrimination (Bulgaria):** They have the mandate to examine such cases, however, it is not specifically for families. Bulgarian’s constitution only recognizes marriage between men and women. They had only a few such cases through the years.

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III. Cross-border recognition of parenthood and right to equal treatment and other fundamental rights

- (lack of) cross-border recognition of parenthood strongly interconnected with the protection of fundamental rights
- **Who** is affected the most? → parents identified by (the same) sex/non-heteronormative orientation + children of same-sex parents
- **Why** is it? → lack of legal recognition of different types of relationships of same-sex persons by the Member States
- **What** are the **consequences**?



„Equality Bodies protecting the rights of rainbow families on the move”. An Equinet Report 2023 (II)

Child’s rights violation

the best interest of the child, right to personal identity, child’s rights derived from a parent’s obligation to contribute to a child’s upbringing, care duties and the duty to pay allimonies, inheritance rights, discrimination by association, freedom of movement under EU law, right to public and/or private health care and other social services, right to respect for private and family life

Parents’ rights violation

parental relationship, right to equal treatment and non-discrimination



Thank you very much for
your attention