

European Court must rule in favour of a child at risk of statelessness and her family's freedom of movement in the EU, say leading LGBTI rights organisations

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

Authorities in Bulgaria have not recognised the valid EU birth certificate of the child of a same-sex couple. On February 9, the Court of Justice of the European Union must clarify that if you are a parent in one EU country, you are a parent in every EU country.

On Tuesday, February 9, the Court of Justice of the European Union (CJEU) will hear the case of a same-sex couple who were refused a birth certificate in Bulgaria for their newborn daughter. The authorities claimed that a same-sex couple cannot be registered as parents on the birth certificate. ILGA-Europe have been supporting Bulgarian LGBTI rights organisation, [Deytsvie](#) in bringing the case forward and is, through their campaign #parentswithoutborders, raising awareness of the lack of protection of same-sex parents and their children within the EU.

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 the application, arguing that a baby cannot have two mothers, and refused to issue a birth certificate in which the parents are two persons of the same sex.

Sara has been deprived of Bulgarian, and therefore European citizenship, and is at risk of statelessness. At the moment, the child has no personal documents and cannot leave Spain, the country of the family's habitual residence. The lack of documents will restrict Sara's access to education, healthcare, and social security.

According to the case taken to the CJEU, the Bulgarian authorities are violating the rights of a European citizen on the grounds of sexual orientation, namely to free movement, and to private and family life. This constitutes a breach of the fundamental principles of the EU.

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

According to Denitsa Lyubenova, attorney-at-law and co-founder of Deytsvie: "Countries in Central and Eastern Europe are derogating from basic human rights guaranteed by the European Convention on Human Rights and the Charter of the Fundamental Rights of the EU. This weakens the EU position as a guardian of human rights. With this case we have the chance to realign the practice in EU countries with the principles set out in the EU

Treaties and to protect the rights of LGBTI families and their children moving across Europe. and the Court needs to reconfirm that Rainbow families are as valid as all others.”

Arpi Avestisyan, Head of Litigations at ILGA-Europe added: “In her State of the Union 2020 address, President Ursula von der Leyen said: ‘If you are parent in one country, you are parent in every country’. However, thousands of same-sex parented families in the EU currently live at risk of not having the parental relations recognised and face legal turmoil due to differences in member states’ national systems.”

Avestisyan continued: “Parents cease to exist when moving from one EU member state to another, where birth certificates from another member state are not recognised. These situations create severe obstacles for children in exercising the rights to which they are entitled under European and international law.

“Through this case, the CJEU has the opportunity to clarify that parentage established in one member state must be recognised across the EU, and all EU citizens and their families equally enjoy freedom of movement. As already confirmed in Romanian [Coman case](#), arguments on “constitutional identity”, namely that Bulgaria does not recognise rainbow families, cannot justify a violation of EU law.”

*Names have been changed.

The longest hearing I’ve attended before the [@EUCourtPress](#) – over 4 hrs long! [#Bulgaria](#) continue arguing national identity prevalence with “traditional marriage” between a man and a woman at the heart of it. <https://t.co/biBgEb24i7>

— Arpi Avestisyan (@ArpiAvet) [February 9, 2021](#)