

Keynote for the workshop “LGBTI people and their families in cross-border situations”:

Dear audience, I would like to raise my voice first for those who are probably the most vulnerable ones in the matter – **these are our children**, meaning several thousands of children in rainbow families within the European Union. So, we are not only talking about LGBTI equality, but also about fundamental rights of children, laws and regulations for their well-being and best interests.

Our children are often deprived of their rights, partly or fully, **only** because their parents identify themselves as lesbian, gay, bi, trans, intersex or queer.

Our children are victims whenever they and their families are physically or verbally attacked, stigmatised as a “threat to society” and as being against the “moral code”; our **children are discriminated against** whenever they and their families are not recognised and protected by the law (unlike families built up by an opposite-sex couple who are *always* recognised and protected), whenever their parents have no right to get married or to enter into a civil union and/or their relationship with one (or sometimes even both) of their parents is not recognised under the law – because then, **also the children might not benefit** from tax credits, inheritance rights, health care provisions, parental leave, etc.

This is discrimination against the children on the ground of sexual orientation by association with their parents. And this - although we have - meanwhile - the necessary framework of conventions, charters and settled case-law in Strasbourg to avoid this and to ensure that children of LGBTIQ* parents are treated equally. But: reality shows that we are still far away from that.

Discrimination begins at the national level, in the Member States. And yes, unfortunately, the EU has no substantive competence in family law. But: with regard to the Fundamental Rights Charter, Strasbourg judgments, and the Children’s Rights Convention, we have some general obligations and **Member States just can’t say that they are not bound by those obligations.**

The crux of the matter today is the non-recognition of familial ties between the members of a rainbow family, ties that are already legally established elsewhere: birth certificates, adoption contracts, marriage or partnership docs.

For civil servants this might be just a denial of a bureaucratic act, not to transcribe for example an existing birth certificate stating two mothers or fathers. But, to make it clear: these civil servants – intentionally or accidentally – cut off existing familial ties. **Children are losing one of their parents and are put in jeopardy just by crossing borders:** children might not get a nationality, a

common family name, even as adults they may have problems to get a marriage licence because their birth certificate won't be accepted. And all this is often accompanied by hostile attitudes and the malicious reference to the "public order", "traditional values" and the "national identity".

However, ... we shouldn't use this workshop only for complaining – but for **changing the current situation**. And this is possible if we take all the positive developments into account: there are more and more countries (18 in the EU) where a child may have two legal parents of the same sex as the result of a second-parent adoption or the so-called "automatic" co-parent recognition from birth, and promising debates i.e. in France, Ireland or Germany.

Then, we have the **backing of court decisions** like in the Coman case (for the cross-border recognition of same-sex marriage), the legal recognition of two lesbian parents in Poland, or the recent advisory opinion of the European Court of Human Rights concerning the need to establish legal ties between children born through surrogacy and both of their intended parents. And we have the resolution of the Council of Europe concerning the private and family life of rainbow families ... which should be adopted by the EU as **working principle**.

Unluckily, the legal systems are quite varying and the national regulations and restrictions for the recognition of LGBTIQ* parents are often mismatching even in countries with a high-level of equality. So, **how we can make some efforts of harmonisation?** Or – much better – **how we could find a compromise to ensure the mutual recognition of the content of civil documents related to families in the EU?** It would solve many cross-border problems directly.

And what's about the Directive 2004/38/EC – 15 years after the adoption, how we can fill in the gaps? To make it meaningful and inclusive for family diversity? By now, **freedom of movement is far away from being implemented**.

And the LGBTI List of Actions? How we can get out of the certain comfortable status of just "monitoring" and "mapping"? Because, **we really need more clarification, research, purposeful dialogue and guidance as soon as possible**.

The EU mustn't "*bury its head into the sand*", we need a strong support from the guarantor of the Treaties: **sensitive** towards social reality and inequality, **persistent** in helping to deconstruct prejudices, **sharp** against all kind of hate speech and maltreatment of the LGBTIQ* minority and... ***their children***.

Let's start... **now!**