

To the Committee of Petitions of the European Parliament,

My name is Catalina Pallàs Pico and I write to you as the president of the Association of LGBT Families of Catalonia (FLG). FLG is an association that represents 300 families consisting of LGBT parents and their kids. We are writing to the Committee of Petitions of the EP because we believe that the right of free movement within the EU for LGBT Families does not exist.

According to Union Law “Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States” (Art 21 Treaty on the Functioning of the European Union). Freedom of movement is one of the fundamental rights of EU citizens.

But in reality we see that LGBT Families from Spain, who have legally established familial links, will be not recognised as such in the event of deciding to move to an EU Member State that does not have national laws regarding LGBT persons and their children.

The refusal of the host Member State to legally recognise the familial links within an LGBT family, can create restrictions to free movement in two ways: when this results in the refusal of family reunification rights (i.e. when some members of the family are not allowed to enter the Member State) and when it leads to the denial of a number of rights or entitlements (such as social and tax benefits) to which the family would have been entitled, if the legal ties among its members would be recognised.

The decision from the ECJ on the Coman Case highlighted that a spouse for the purpose of allowing entry to an EU Member State, can apply to same-sex marriages. Unfortunately on that case there were no children involved and also the judgement did not take the extra step to grant full equal rights to same-sex married couples as to all married couples, such as tax benefits for example.

This means that a LGBT Family from our association cannot move freely and reside wherever it wants within the EU, as in many countries the familial links will not be recognised.

LGBT families from our association and the rest of Spain, are being discriminated against and not treated equally as other families. We have the right to family and private life (Art 8 of ECHR and 7 of EUCFR). When a Host Member State does not recognise the legal links between a child and both his/her parents, links that have been established legally in another Member State, our right to family and private life is breached. Furthermore there is an unjustified breach of the prohibition of discrimination on the ground of sexual orientation, as this is laid down under Article 21 EUCFR.

The Children of LGBT parents are the ones who can suffer the most. When moving to a Host Member State that does not recognise the family unit, the child loses one of its legal parents. This can lead to serious problems to the daily life of the family consisting and not limited to only one parent recognised by the education system (school) or by the health system meaning the other parent cannot make important decisions regarding the child's life.

When the Host Member State refuses to recognise the familial links of a child with his/hers LGBT parents legally established elsewhere,(eg birth certificate, adoption papers, fostering agreements etc), it breaches a number of the child's rights:

- Art. 24 of EUCFR: The rights of the child: In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration
- Art. 3 of the Convention on the Rights of the Child. All EU Member States have ratified this treaty.
 - Article 3 – Best interests of the child. All actions concerning the child shall take full account of his or her best interests.
- Art. 8 of the Convention on the Rights of the Child – 1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

And there is another aspect to this problem that is troubling us; what will happen later on in life when our children, as adults decide to exercise their right to freedom of movement only to be denied because their birth certificate shows that they have same-sex parents? Can the European Parliament guarantee that the children of LGBT parents will have equal rights when they become adults and they will not be discriminated against?

We believe that all these issues can disappear if there was mutual recognition of civil documents within the EU. Last year Regulation 2016/1191 made possible the circulation of public documents but not the recognition of the contents of these documents.

We ask the Petitions Committee to make sure LGBT Families are not treated like second class European Citizens, that our rights are guaranteed even in Member States that do not have national laws in place for LGBT Families. The European Union should be a safe place for all children including the children of LGBT parents.