



Forum: The European Parliament

Issue: Equalising the right to adoption for same-sex couples across all EU member states:

A step towards full equality or an infringement on national sovereignty?

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Chair Introduction

Dear Honorable Delegates,

Welcome to the European Parliament Simulation at Pefki European Parliament Simulation Conference, hosted by 1st Senior High School of Pefki.

My name is Antonia Koulou, and it is a true honor to serve as your Deputy President for this session. Model European Parliament has been an enriching and intellectually stimulating experience for me, and I am genuinely looking forward to working alongside all of you during this debate.

This study guide has been carefully prepared to equip you with the essential background knowledge required for our discussions. Our topic, **“Equalising the right to adoption for same-sex couples across all EU Member States: a step towards full equality or an infringement on national sovereignty?”**, is both timely and deeply complex. It touches upon fundamental human rights, the protection of family life, and the delicate balance between European integration and national competence. Through thorough research, critical analysis, and open-minded dialogue, you will be well-prepared to engage meaningfully with this issue.

As your Deputy President, my role is to guide you throughout this process and ensure a respectful, productive, and engaging debate. Should you have any inquiries or require further clarification during your preparation, you are kindly invited to contact me at koulou_ant@outlook.com.

I am looking forward to an insightful and professional debate, where your arguments, perspectives, and diplomacy will contribute to a dynamic and thought-provoking debate.

Special regards to our Vice President Filippas Kokkinos for creating our conference's website and helping with the IT procedures.



Kind regards,

Antonia Koulou

Deputy President of the Pefki European Parliament Simulation Conference

Introduction

The debate surrounding the equalisation of adoption rights for same-sex couples across the European Union represents a critical intersection between human rights protection, social policy, and the constitutional limits of European integration. While the European Union is founded upon values such as equality, non-discrimination, respect for human dignity, and the protection of minorities, it is simultaneously a union of sovereign states that retain significant authority over culturally sensitive areas of law, particularly family law. Adoption, marriage, and parenthood are therefore not merely legal concepts but deeply embedded social institutions that reflect national traditions, moral frameworks, and historical experiences.

This tension becomes especially visible in the context of same-sex couples. Over the past two decades, societal attitudes toward LGBTIQ+ rights have evolved considerably in many parts of Europe, leading several Member States to legalise same-sex marriage and adoption. However, other states remain firmly opposed to these developments, often citing constitutional provisions, religious traditions, or societal consensus. The result is a fragmented legal landscape in which families that are fully recognised in one Member State may lose their legal status when crossing an internal EU border.

From a policy perspective, this fragmentation raises fundamental questions. Can the European Union ensure equality without harmonising family law? To what extent should EU institutions intervene when national laws restrict the rights of minority groups? And how should the principle of subsidiarity be balanced against the EU's commitment to fundamental rights? These questions lie at the heart of the European Parliament's political divisions on same-sex marriage and adoption.

On the EU level, the discourse is also affected by the limited competencies of the Union in the area of family law, where competencies are still within the remit of the Member States. Nevertheless, the possibility for the EU to indirectly influence Member State policies in the area of adoption by adopting legislation regarding discrimination, the free movement of persons, and the Charter of Fundamental Rights exists, but the growing influence of the Court of Justice of the European Union and the European Court of



Human Rights has led to an increasing acknowledgement of the legal protection of same-sex families.

Institutional and Legal Background of the European Union

Under the Treaties, the European Union has no explicit competence to legislate on marriage or adoption law. These areas fall primarily within national jurisdiction. Nevertheless, EU law exerts indirect influence through anti-discrimination provisions, citizenship rights, and freedom of movement. Article 21 of the Charter of Fundamental Rights explicitly prohibits discrimination based on sexual orientation, while Article 24 places the best interests of the child at the centre of all actions concerning children. These provisions provide a normative framework that increasingly shapes EU discourse on family rights.

Furthermore, the jurisprudence of the Court of Justice of the European Union has progressively expanded the recognition of same-sex relationships in cross-border contexts. Although the Court has avoided mandating the legalisation of same-sex marriage or adoption at national level, it has required Member States to recognise such relationships for specific EU law purposes, such as residence rights and freedom of movement. This has blurred the line between national competence and EU influence, creating political friction and divergent interpretations among political groups.

Definition of key terms

Shared Competence

A legal framework in which both the EU and Member States may legislate, though family and adoption law largely remain national competences.

National Constitutional Identity

The fundamental legal and cultural principles protected by Member States' constitutions that the EU must respect under Article 4(2) TEU.



Joint Adoption

A legal process in which two partners adopt a child simultaneously and are recognised as equal legal parents.

Second-Parent Adoption

A procedure allowing one partner to adopt the biological or adopted child of the other without terminating existing parental rights.

Legal Parentage

The formal recognition of an individual as a parent under law, conferring rights and obligations toward the child.

Indirect Discrimination

A situation in which a seemingly neutral law or policy disproportionately disadvantages a specific group, such as same-sex couples.

Substantive Equality

An approach to equality that requires adapting laws or policies to address structural disadvantages, not merely applying identical rules.

Sexual Orientation as a Protected Ground

The explicit inclusion of sexual orientation as a basis on which discrimination is prohibited under EU law.

Mutual Recognition

A legal principle requiring Member States to acknowledge and give effect to legal decisions made in other Member States without changing national law.

Incremental Integration

The gradual expansion of EU involvement in sensitive policy areas through step-by-step measures rather than immediate full harmonisation.

Margin of Appreciation

The degree of discretion allowed to Member States in regulating sensitive social or moral issues, such as family law.

Timeline of Events in the EU

2004	EU adopts Directive 2004/38/EC on free movement, which later becomes relevant for same-sex spouses' residence rights.
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2015-2017	European Court of Human Rights (Council of Europe, not EU institution) starts laying groundwork on same-sex couples' rights and recognition. However, EU institutions had limited direct competence in family law at this stage.
2018	Major EU Court of Justice Ruling – ECJ in Coman and Others v. Romania rules that for free movement purposes, EU countries must recognise same-sex spouses when one spouse is an EU citizen relying on freedom of movement — even if the host state does not allow same-sex marriage domestically. This sets an important precedent on recognition of family relationships across borders.
2020	EU LGBTIQ Equality Strategy Adopted The European Commission adopts the EU LGBTIQ Equality Strategy (2020–2025), addressing discrimination against LGBTIQ+ persons across the Union. While not creating binding rules on family or adoption law, the strategy explicitly highlights challenges faced by same-sex families, particularly regarding cross-border recognition of parental status.
2021	European Parliament Resolution on LGBTIQ+ Rights The European Parliament passes a resolution urging Member States to ensure equal treatment of same-sex families, including recognition of parental rights across borders. The resolution reinforces EU political support for same-sex adoption and highlights ongoing tensions between national sovereignty and fundamental rights.
2020-2024	Growing National Adoption Rights Across EU These do not stem from EU harmonisation (there's no EU adoption law), but reflect national legal advances in EU member states (relevant when comparing rights across the Union): 2001–2024 (national) – By 2024, full joint adoption for same-sex couples is legal in at least 17 EU countries, including the Netherlands (since 2001), Sweden (2003), Spain (2005), Belgium (2006), France (2013), Austria (2016), Finland (2017), Germany (2017), Slovenia (2023), Estonia (2024), and Greece (2024) —driven by national law reforms
2024	Member State Milestones Impacting Adoption Rights 1 Jan 2024 – Estonia legalises same-sex marriage (with adoption rights). 15 Feb 2024 – Greece legalises same-sex marriage via Parliament. This includes full adoption rights for same-sex couples (confirmed later by the Greek Council of State).
2025	2025–EU Court of Justice Case & National Developments 30 May 2025 – Greece's highest administrative court (Council of State) upholds constitutionality of the same-sex marriage law and confirms that adoption rights extend to married same-sex couples. 25 Nov 2025 – ECJ in Cupriak-Trojan & Trojan v Wojewoda Mazowiecki



	expands Coman logic :ruling that EU member states must recognise same-sex marriages conducted in another EU state for all purposes (including residency and family rights) even if domestic laws don't allow same-sex marriage. While not directly a EU adoption law, this significantly strengthens family rights recognition for same-sex couples within the EU.
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Political Positions of the European Parliament Groups

Progressive Alliance of Socialists and Democrats (S&D)

The Progressive Alliance of Socialists and Democrats approaches the issue of same-sex marriage and adoption through a comprehensive human-rights and social-justice framework. For the S&D group, equality before the law is not a negotiable principle but a core obligation arising from the EU's foundational values. The group argues that denying same-sex couples access to marriage and adoption institutionalises discrimination and perpetuates social exclusion, particularly affecting children raised in same-sex families.

S&D emphasises that marriage is not merely symbolic but a legal institution that confers stability, protection, and social recognition. Without access to marriage, same-sex couples often face barriers in adoption procedures, inheritance law, parental recognition, and social security systems. According to this view, inequality in marriage law directly translates into inequality in adoption rights, undermining the welfare of children by exposing them to legal uncertainty.

While recognising that family law formally remains a national competence, S&D contends that Member States cannot invoke sovereignty to justify discriminatory practices. The group supports EU-level legislative initiatives, judicial enforcement, and political pressure aimed at ensuring that same-sex families enjoy equal treatment across the Union. In the long term, S&D envisions an EU in which marriage equality and adoption equality are recognised as standard components of democratic governance.



Renew Europe

Renew Europe adopts a liberal, rights-based, and integration-oriented position on same-sex marriage and adoption. The group frames marriage primarily as a civil institution governed by law rather than tradition, religion, or culture. From this perspective, excluding same-sex couples from marriage constitutes an unjustified restriction on individual liberty and legal equality.

Renew Europe places particular emphasis on legal certainty and freedom of movement. The group argues that when same-sex marriages and parental rights are recognised in some Member States but denied in others, families are effectively penalised for exercising their right to move within the EU. This undermines not only individual rights but also the coherence of the internal market and European citizenship.

Although Renew Europe does not always advocate immediate harmonisation of marriage laws, it strongly supports mandatory cross-border recognition of same-sex marriages and parental status. The group views such recognition as a pragmatic and legally necessary step toward reducing inequality. In the broader context, Renew Europe sees progress on same-sex marriage and adoption as indicative of the EU's capacity to protect civil liberties in an increasingly diverse society.

Greens / European Free Alliance (Greens/EFA)

The Greens/EFA hold one of the most uncompromisingly supportive positions on same-sex marriage and adoption within the European Parliament. For this group, marriage equality is a fundamental human-rights issue closely tied to the dignity and autonomy of individuals. They reject the notion that family should be defined according to traditional or heteronormative models and instead advocate for an inclusive understanding of family based on care, responsibility, and emotional bonds.

Greens/EFA argue that denying marriage and adoption rights to same-sex couples reinforces structural discrimination and legitimises social stigma. They emphasise that numerous studies demonstrate that children raised in same-sex families experience outcomes comparable to those raised in heterosexual families, undermining claims that marriage or adoption restrictions protect child welfare.

The group supports strong EU-level action, including legislative initiatives, judicial enforcement, and political conditionality, to promote marriage equality and adoption



rights. Greens/EFA frequently criticise Member States that constitutionally prohibit same-sex marriage, viewing such bans as incompatible with EU values and democratic principles.

European People's Party (EPP)

The European People's Party adopts a cautious and internally pluralistic approach to same-sex marriage and adoption. As a broad centre-right coalition, the EPP includes parties with divergent views shaped by national cultures, religious traditions, and political contexts. While some EPP members support marriage equality and inclusive family policies, others maintain more traditional views on marriage as a union between a man and a woman.

At the EU level, the EPP generally avoids endorsing full harmonisation of marriage or adoption law. Instead, it prioritises the principle of subsidiarity and the preservation of national competence in family matters. Many within the group support limited EU intervention aimed at preventing discrimination in cross-border situations, such as recognising marital and parental status for residency or social benefits.

This position reflects an attempt to balance respect for EU fundamental values with sensitivity to national diversity. Critics argue that this cautious approach risks perpetuating inequality, while supporters contend that it preserves democratic legitimacy by respecting national decision-making processes.

European Conservatives and Reformists (ECR)

The European Conservatives and Reformists group strongly emphasises national sovereignty and cultural autonomy in its approach to same-sex marriage and adoption. For ECR, marriage and family law are deeply rooted in national constitutional traditions and should not be reshaped through supranational pressure. The group frequently invokes the principle of subsidiarity as a safeguard against EU overreach.

ECR members argue that EU-level promotion of same-sex marriage risks undermining democratic self-determination by imposing social norms that lack consensus in many Member States. While some ECR representatives accept limited recognition of same-sex relationships for administrative purposes, they strongly oppose framing marriage equality as a fundamental right.



In this context, ECR views the extension of adoption rights to same-sex couples as inseparable from broader cultural debates about family structure. The group maintains that the EU should remain neutral on such issues and respect national diversity.

Patriots for Europe (PfE)

Patriots for Europe adopt a firm and explicitly oppositional stance toward same-sex marriage and adoption. The group frames marriage as a cornerstone of national identity and social stability and rejects the idea that alternative family models should receive equal legal recognition. From their perspective, EU involvement in these matters represents ideological interference rather than rights protection.

PfE consistently opposes both harmonisation and cross-border recognition mechanisms, arguing that such measures function as indirect tools of coercion. They reject the framing of marriage equality as a human-rights issue and instead emphasise the primacy of national traditions and democratic sovereignty.

This position aligns with their broader resistance to European integration and reflects a vision of the EU as a limited economic union rather than a value-driven political project.

The Left (GUE/NGL)

The Left adopts a strongly supportive position on same-sex marriage and adoption, grounded in principles of social justice, equality, and anti-discrimination. The group argues that marriage equality is essential to dismantling structural inequalities that marginalise same-sex couples and their families. From this perspective, denying marriage and adoption rights perpetuates economic, social, and legal disadvantages.

The Left emphasises that marriage confers material protections related to taxation, inheritance, housing, and parental recognition. Excluding same-sex couples from these protections is therefore seen as a form of systemic injustice. The group supports EU-level initiatives aimed at harmonising rights and is willing to challenge national governments that resist reform.



Europe of Sovereign Nations (ESN)

Within this ideological framework, ESN explicitly rejects the implementation of LGBTQ-related agendas as a guiding principle for future generations. The party's foundational documents state that they oppose the adoption of policies perceived as "wokeist", favouring instead the protection of what they describe as the traditional family composed of a mother, father, and children. This viewpoint reflects a broader narrative that the erosion of traditional social norms including the extension of marriage and adoption rights to same-sex couples undermines demographic stability and national cultural identity. For ESN, legal recognition of same-sex marriage or adoption rights at the EU level is seen not merely as a social policy debate, but as an infringement on the sovereign authority of Member States to define family structures according to their own cultural, religious, and historical contexts.

Politically, ESN's stance on these issues is consistent with its overarching goal of resisting increased centralisation within the European Union. The group views any attempt by the EU to harmonise marriage or adoption rights, whether through legislation, judicial interpretation, or cross-border recognition requirements, as a step toward an intrusive supranational order that weakens national governance. ESN has publicly criticised parliamentary measures that recommend Member States introduce legal recognition of same-sex partnerships, framing such proposals as overreach by mainstream political actors who disregard national preferences. In practice, ESN's policy approach tends to prioritise national legislative autonomy, advocate for the reinforcement of traditional social norms, and oppose the transformation of the EU into a union that imposes uniform social policies on culturally diverse Member States.

Conclusion

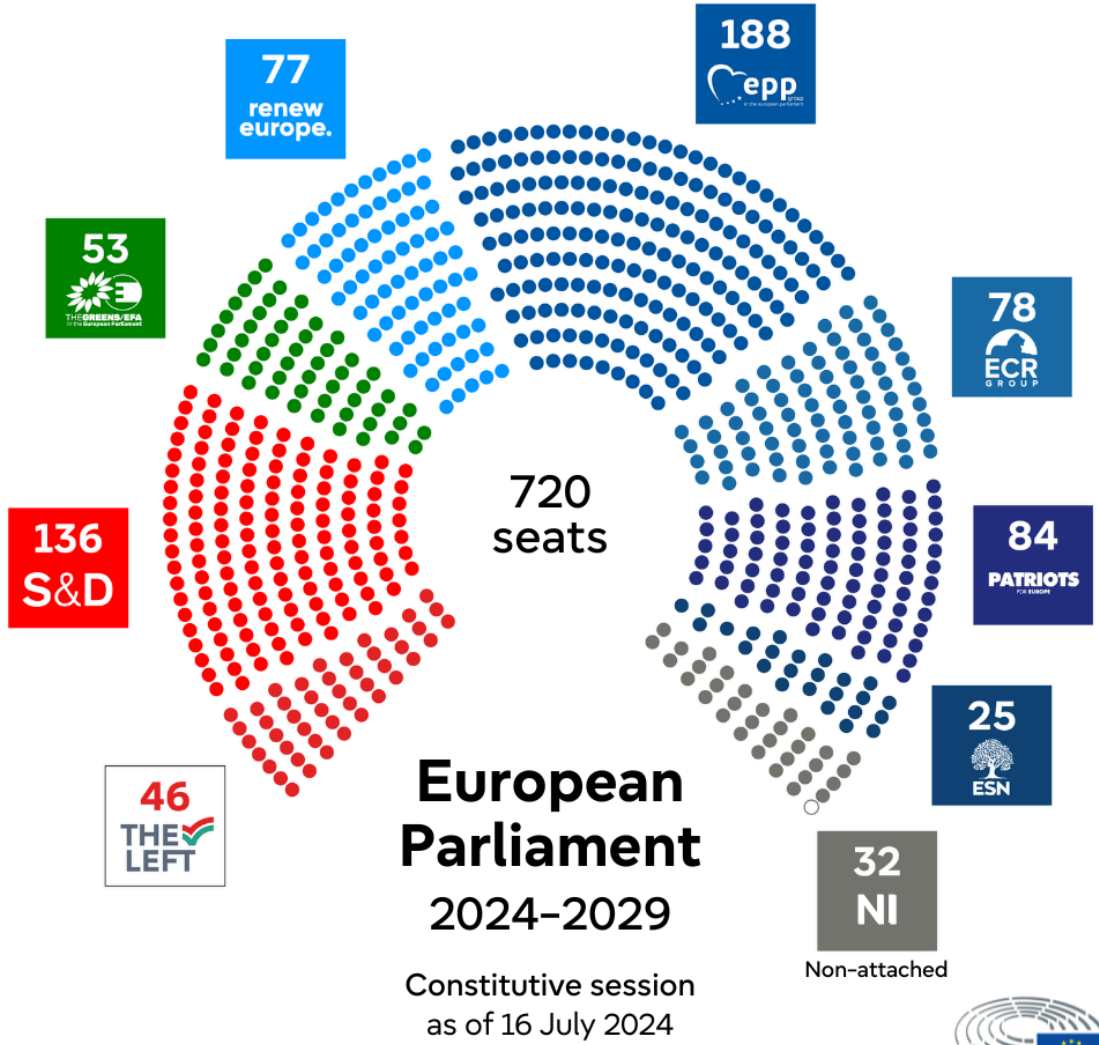
The debate over equalising the adoption rights for same-sex couples across the European Union remains a highly debated issue which underlines a more general question regarding what the EU is and where its powers should stop. The issue basically epitomises an ongoing dilemma: the balance between the Union's commitment to equality, non-discrimination, and fundamental rights, and the respect for the sovereignty of the Member States in culturally and constitutionally sensitive areas, such as family law. As has been variously discussed throughout



this study guide, adoption rights are not only part of a legal discourse but are also indicative of deep-seated social values, national traditions, and political priorities.

The fragmented legal landscape at the EU level creates significant practical and legal insecurity for same sex families. In particular, cross-border situations arise in which parental status or the right to adopt transferred in one Member State is then denied in another. Because the EU does not have direct competence to harmonize national adoption laws, the EU's increasing influence through the protection of fundamental rights, the rules on free movement, and judicial interpretation has arguably been testing the limits of national autonomy more and more. This increasing EU intervention has accordingly heightened political cleavages subsidiarity, democratic legitimacy, and constitutional identity.

Within the European Parliamentary, these tensions are also reflected in strongly opposing political stances, ranging from demanding equality and common standards throughout the EU to strong opposition to any kind of harmonization or indirect pressure. The European Parliament, in this case, is certainly a major debating arena where different understandings of European integration, human rights protection, and national sovereignty meet. Crucially, how same-sex adoption rights are to be handled within the EU will clearly have implications reaching beyond family law, influencing future balances of integration and diversity, the role of EU institutions in making value-based decisions, and life under equality for same-sex families in Europe.



Non-attached





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Kind Regards,

The Organizing Team