



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Directorate A: Civil and commercial justice
Unit A.1: Civil justice

Brussels, 7 February 2022

Minutes

5th Meeting of the Expert Group on the recognition of parenthood between Member States 2 December 2021 (via VTC)

The meeting was chaired by the Commission (Directorate-General for Justice and Consumers).

The meeting was attended by nine experts appointed in their personal capacity and four organisations invited as observers (EVS, HCCH, ILGA-Europe and NELFA).

1. APPROVAL OF THE MEETING AGENDA AND MINUTES OF THE PREVIOUS MEETING

The Expert Group adopted the agenda of the meeting.

The Expert Group adopted the minutes of its fourth meeting.

The fifth meeting of the Expert Group was dedicated to discussing four main topics:

- the European Certificate of Parenthood (ECP)
- the territorial scope of the planned instrument
- the application in time of the planned instrument
- definitions and adaptation

To facilitate the debate, the following documents were distributed prior to the meeting:

- a discussion paper drafted by the subgroup dealing with the European Certificate of Parenthood;
- a discussion paper drafted by the subgroup dealing with the application in time of the planned instrument.

2. THE EUROPEAN CERTIFICATE OF PARENTHOOD (ECP)

The subgroup presented their discussion paper on the European Certificate of Parenthood.

The experts agreed with the Commission's proposal that the ECP should be an optional certificate of parenthood, issued by national authorities if a citizen asked for it, that would not replace national certificates of parenthood. The ECP would be issued by an authority with jurisdiction under the planned instrument, and parenthood would be established in accordance with the national substantive law designated as the applicable law by the planned instrument. The ECP would provide evidence of parenthood in another Member State but would not have a constitutive nature. The ECP would have a number of advantages as compared with a national certificate of parenthood, for example its uniform contents and effects and its existence in all Union languages.

The group considered that the ECP would have added value to facilitate the recognition of parenthood in another Member State.

3. TERRITORIAL SCOPE OF THE PLANNED INSTRUMENT

The group discussed whether the planned instrument should cover only the recognition of court decisions and authentic instruments issued in a Member State or also court decisions and authentic instruments issued in a third country. Given that, to date, all existing Union instruments on private international law only cover the first scenario, it was generally considered that the planned instrument could cover only documents on parenthood issued in Member States. As a result, documents on parenthood issued in a third country but already recognised in a Member State would not circulate freely between Member States.

The group had a first discussion as to whether the planned instrument should cover only parenthood documents issued in a Member State as regards children born in a Member State or also parenthood documents issued in a Member State as regards children born in a third country but with the nationality of a Member State. No conclusion was reached on this matter.

4. APPLICATION IN TIME OF THE PLANNED INSTRUMENT

An expert presented his discussion paper on the application in time of the planned instrument.

Two possibilities were essentially considered. On the one hand, the planned instrument could cover only decisions given and authentic documents drawn up after the date of application of the planned instrument. This could lead families to seek new copies of their existing parenthood documents. On the other hand, the planned instrument could also cover documents relating to situations predating the date of application of the planned instrument subject to certain conditions, for example compliance with provisions equivalent to the rules on jurisdiction and applicable law laid down in the planned instrument.

The experts advocated for the widest possible application in time of the planned instrument in order to facilitate the circulation of documents establishing and/or proving parenthood. They therefore generally favoured the second option.

The group also discussed whether the certificate that would accompany the court decision or authentic instrument to be presented when seeking recognition should certify compliance with the jurisdiction and/or applicable law provisions of the planned instrument. No conclusion was reached on this matter.

5. DEFINITIONS AND ADAPTATION

Experts considered that the concept of parenthood for the purposes of the planned instrument should cover the legal relationship between a child and its parents, whether biological or adoptive.

Given that the notion of adoption varies between Member States (for example, some Member States know full and simple adoption), the group agreed that the instrument should include a provision on adaptation.

Some experts suggested including a reference in the planned instrument to the right of the child to know its identity and to have access to information about its origins.

6. NEXT MEETINGS

The next meetings of the Expert Group were planned on the following dates:

- 9 February 2022
- 22 February 2022