



IAFL Introduction to European Family Law Conference, Thessaloniki, Greece 17 and 18 April 2024

**Supplementary material:
Session 1 (17 April)
Session 4 (18 April)**

Best interest of the child in cross border families

Albania has ratified by law from 2005 the ¹ Convention on Contact concerning Children which together with the Law no. 18/2017, “on the children’s rights and protection” are the 2 most important legal instruments on the rights and protection of the children especially in cross border families. In the last 30 years of the court practice in a democratic country, the legal meaning on children relations has been vague and not adequate in court judgements.

The meaning of the interpersonal relations of the children

The convention is a particularly important act for ensuring the sustainability of interpersonal relationships of children, not only with their parents, but also with other individuals with whom the child has another family connection, such as grandparents. In fact, the Convention allows member states to create opportunities for other subject persons to have the right to request contacts with minors. For example, uncles and aunts may be other subjects to whom domestic legislation may grant the right to seek to maintain interpersonal relationships with minors, but it is always at the discretion of the member states as to which family members will be included in the circle of those authorized to seek legal protection of such a relationship.

Article 2 – Definitions

a "contact" means: i the child staying for a limited period of time with or meeting a person mentioned in Articles 4 or 5 with whom he or she is not usually living; ii any form of communication between the child and such person; iii the provision of information to such a person about the child or to the child about such a person.

Article 5 – Contact between a child and persons other than his or her parents

1 Subject to his or her best interests, contact may be established between the child and persons other than his or her parents having family ties with the child. 2 States Parties are free to extend this provision to persons other than those mentioned in paragraph 1, and where so extended, States may freely decide what aspects of contact, as defined in Article 2 letter a shall apply.

Article 6 – The right of a child to be informed, consulted and to express his or her views

1 A child considered by internal law as having sufficient understanding shall have the right, unless this would be manifestly contrary to his or her best interests:

- to receive all relevant information;
- to be consulted;
- to express his or her views.

2 Due weight shall be given to those views and to the ascertainable wishes and feelings of the child.

¹ <https://www.coe.int/en/web/conventions/full-list?module=treaties-full-list-signature&CodePays=ALB>

The concept of the interpersonal relation of a child is defined in the Convention. The Convention promotes the right of the parent from whom the child is not entrusted for upbringing and education to maintain contact with the child and, at the same time, to participate in decisions concerning the child's future. Based in the court decision on the manner of exercising parental responsibility, the right to contact is determined and implemented. These rights of the non-custodial parent must be guaranteed to them by the other parent, and if denied, this may be the case when the manner of exercising this responsibility is changed. In this regard, we recall that the Family Code, in Article 159, provides that decisions regarding the manner of exercising parental responsibility are not final in their substantial sense. And precisely this provision stipulates that these decisions are subject to change at any time, whenever circumstances dictate such a thing.

Article 158 The non-custodial parent maintains the right to supervise the care and education of the child and consequently be informed and consulted for important choices related to the life of the child. S/he should contribute to the care and education of the child in accordance with his/her resources and those of the other parent. The right for visitation, based on the conditions specified by the court, cannot be refused, except for serious reasons that damage the interests of the child.

Article 159 A custody decisions may be changed at any time by the court, upon request of one of the parents, a relative or the prosecutor.

The term provisions of the Convention including the nature and content of it are implemented by the means of the Law No. 18/2017. In this aspect, in cases of parental responsibility and contact right, both the Convention and the law shall be applicable.

Decisions regarding the manner of exercising parental responsibility stipulate that both parents exercise parental responsibility, but the primary care and upbringing of the child is entrusted to one parent for the majority of the time, while the other parent exercises parental responsibility through the right to contact. However, there is no legal ban that in case that the parent decide to co share the right to contact and the main custody for upbringing and education, they can do this.

In regard to the right to contact implementation, efforts should be made for the parents to agree to adhere to the schedule determined by the court. The schedule set by the court is a minimum standard assigned to and granted to the parents, intended to serve as a benchmark for them when they cannot agree or have conflicts with each other. However, nothing prevents the parents from arranging more contacts than those specified in the court's decision or exercising parental responsibility according to a different scheme than the one determined by the court, as long as there is such agreement between them and the child's best interest is not compromised.

However, during practice of the Albanian courts, it is evidenced that especially in cross boarder families, when one parent is living abroad or is a foreign citizen and the other parent (usually the mother) is an Albanian citizen who comes to live in Albania with the child, the manner of

exercising the parental custody is not strictly implemented. Sometimes it results to the loose of the right to contact. For example, in the case of Amnptallas, the child was brought from the mother in 2014 when he was 6 years old from Athens without the permission of the Greek father and in violation with the declaration in the boarder authorities of such permission. The father engaged the ministry of justice as a central authority based on the convention on civil aspects of the child abduction but was not successful in 3 levels of trial. This year, parents will finally have the divorce trial and establish probably the right to contact of the child with the Greek father. The child in fact was raised by the grandmother from the father's side until he was brought in Albania. He barely spoke Albanian when he first came.

However, in custodial decisions implementation, most of the times either one parent loses the interest to maintain the schedule of the right to contact or the other parent uses the right to contact to request more funds for the child from the persons that has not full custody or other conflict of this nature to hinder the other parent to contact with the child.

Parties authorized to seek a change in the manner of exercising parental responsibility.

According to the Article 159 of the Family Code, the right to seek the removal of parental responsibility belongs to the parent, the prosecutor, or any close relative. In court practice, there have been cases where grandparents have sought to exercise the right to have contact with the child, in cases where the parents, for various reasons, do not allow it or when they are unable to exercise parental responsibility themselves.

Such claims are based in the aforementioned Convention and in Law No. 18/2017. Although divorce and separation of couples happen, it is in the best interest of the child to have the right for a normal development and be in a harmonious and joyful environment; therefore they should maintain interpersonal relationships with other family members, grandparents included.

Based on the Convention and Law No. 18/2017, the judge can decide to enforce in a given way upon claims raised from any family member against the parents, if they do not respect the rights of visitation with the children or the child's rights to have interpersonal relationships with other family members. The court may impose fines or establish a specific schedule for meeting the children. Now we also have legal mechanisms that we can use more frequently to address these types of problematic cases in court and to help discipline our mindset regarding these issues.

In accordance with the general interpretation of the law, there is an open list of persons who have a legitimate interest in requesting from the court to change or establish a manner of parent custodial and right to contact.

The number of the persons authorized to request a change in the manner of exercising parental responsibility, is interpreted in a broad way from the court and is be assessed on a case-by-case basis. These subjects may include, in addition to grandparents, also uncles, aunts, or other individuals who may have a relationship with the child. The implemented practice of the European Court of Human Rights (ECtHR), sometimes even the presumed father of the child,

that is, the non-biological father who has established personal relationships with the child for years, raising them as his own, when parental responsibility is removed from him and the child goes to the biological father, he has the right to continue to have a relationship with them.

The form of the request

The form of the act that initiates the procedure for changing the manner of exercising parental responsibility, in cases where there has been a previous court decision that is final and binding should be that of a lawsuit. Although the legislation is contradictory in this point considering the article of the Article 159 of the Family Code defines the term of a "request" in such cases by one hand, by the other hand and in fact, the exercise of parental responsibility can only be changed through an adversarial judgment initiated through a "lawsuit". This conclusion is based on the fact that the initial decision on determining the manner of exercising parental responsibility is made within the framework of an adversarial trial, and consequently, the decision to change it must be made through the same procedure. Furthermore, the decision on exercising parental responsibility imposes corresponding obligations on the parents or other persons in family relationships with minors, obligations that can only be imposed on them through a process in which they have participated as parties.

Issues related to the parental custody of the child and the right to contact when living in cross border countries

If the primary custodial parent, has moved with the child to or from a foreign country, and therefore interrupts all contact between the child and the other parent The Hague Convention on the Civil Aspects of International Child Abduction, adopted on October 25, 1980, is implemented. Regardless of which parent is the primary custodian, based on Article 158 of the Family Code, the other parent must also oversee, obtain information about the child, and be involved in significant decisions regarding the child. If the other parent who has the child for upbringing and education does not respect these rights, then we are in a situation where authorities may be requested to return the child to their habitual residence. In such cases, only this kind of behaviour may constitute a reason for requesting the removal of parental responsibility, and/ or change this decision, and possibly change the primary custodian.

Is it in the best interest of the child to immediately change the primary custodian of parental responsibility in cases where the child may have had no contact with the parent requesting to take custody for upbringing and education?

The court, in its decision on the manner for exercising parental responsibility, always designates the parent to whom the child is entrusted for upbringing and education, while the other parent has the right to contact at intervals specified in the decision. The Family Code gives priority to the parents' agreement in this regard, and for matters where they do not agree, the law provides that the court decides after attempting to resolve the issue through reconciliation. The court has the discretion not to approve the agreement if it perceives that it does not truly serve the child's best interest. In this case, the court gives the parents the necessary time to resolve

those points of the agreement that the court considers problematic regarding the child's best interest.

In judicial practice, there has been no case where the sole reason for changing the manner of exercising parental responsibility and leaving the other parent for upbringing and education. Because as an established practice the court does not change the manner of the exercise of parental custody, or the custodial relation in any circumstance whatsoever, considering that it is in best interest of the child not to move from the first parent at any time and the gradual transition to the other parent would only occur through social service structures.

Authorization for the child to travel abroad

The issuance of authorization for the child to leave the country is related to parental responsibility as one of the rights that one parent has to request the issuance of authorization for the child to leave the country, but also the rights of the other non-resident parent to be informed or to oversee the exercise of parental responsibility, or even to receive information about where the child is going.

Article 58 - Authorization of the Court Each spouse can be authorized by the court to perform a legal transaction, for which the cooperation or approval of the other spouse would be necessary, if the latter is unable to express his/her will or if the refusal is contrary to the benefit of the family. The spouse, whose approval was not given for a legal transaction performed in this manner, may object and seek to have him/her discharged from the obligation.

Legal basis on which authorization for the child to leave the country can be requested.

Although the Family Code does not have a provision explicitly regulating this situation, the Code of Civil Procedure stipulates that even if there is no law, the court is obliged to address the issue, because not every law or other legal act can anticipate every type of situation. Additionally, such requests can also be based on Article 58 of the Family Code, which regulates the legal actions related to children. This provision, regarding the legal action part, has been broadly interpreted in judicial practice, using it as a legal basis for issuing authorization for children to leave the country. However, as a legal basis, we also have Article 221 of the Family Code, which states: "If the parents do not agree on what the child's interest requires, they may address the court, which decides after attempting to resolve the issue through reconciliation", as the best interest of the child may also extend to any need the child may have in his daily life, including freedom of movement in cross-border relations.

With the approval of Law No. 18/2017, which complements the provisions of the Family Code, several rights of children have been sanctioned, deriving from International Conventions and the Constitution of the Republic of Albania. This law includes the right of the child to stay with the parents (Article 9), as well as the right to move and return to the country of origin (Article 11), which are precisely related to the child's departure from the country. In the case of denial of the right to leave the country, this denial creates a legitimate interest to appeal to the court to restore this right.

The court decision regarding authorization for the child to leave the country should indeed be provided within a specific timeframe. This decision must be time-bound, clearly specifying the place where the child will stay and the purpose for which the authorization is granted. In this way, the court establishes a mechanism to control any potential abuse of the child's rights by the parent requesting authorization, to the detriment of the rights of the other parent to have contact with the child and be informed about them. However, one of the panel experts expressed the opinion that these decisions should be issued without a timeframe. Setting a deadline would require the parent to address the court in every case where the child needs to leave the country, which would pose a significant difficulty for this parent, especially when the other parent is entirely uncooperative. In any case, if the parent who requested the authorization abuses this right, the law provides mechanisms to seek the return of the child to the country of origin based on the Hague Convention on the Civil Aspects of International Child Abduction, as well as a change in the manner of exercising parental responsibility, if necessary. Nevertheless, the court decision must always include the purpose for which the authorization is granted and, when required, the parent who will bear the relevant expenses.

Regarding the procedural mechanism to be exercised for issuing authorization for the child to leave the country, experts held the position that it should be carried out through a petition, where the requesting parent is the plaintiff and the other parent is the defendant. This serves not only to ensure the other parent's right to give their authorization regarding this action but also to guarantee a thorough investigation into the best interest of the child within the framework of an adversarial trial, where both parties will present their arguments and evidence.

In cases where the permanent relocation of the child outside the country is requested, the procedural mechanism to be exercised is the modification of the court's decision regarding the exercise of parental responsibility. In this case, it is not sufficient to request authorization for the child to leave the country alone, as the permanent relocation directly affects the visitation rights of the other parent. In the judicial investigation that will be conducted in this case, the paramount concern is the best interest of the child. Regardless of the parents' desires or the reasons for one parent's departure from Albania, we must be very cautious, as it is essential for the child to have both parents present in their life. The child greatly needs the biological parent, and what we need to investigate further is the situation when the request for relocation is made because the seeking parent has entered into a marriage with someone else, who becomes an integral part of the child's life.

In judicial practice, it has been observed that the issuance of authorization for the child to leave the country is also provided for in the parents' agreements for the dissolution of marriage by mutual consent, according to the provisions of Articles 125, 126, and subsequent articles of the Family Code. In this case, when parents foresee the consequences of the dissolution of marriage, they also regulate the manner in which one parent will travel abroad with the child. Experts maintain the stance that, although such a provision is positive in terms of clarifying the manner of exercising parental responsibility, the court will still serve as a mechanism of control

to ensure that this agreement is in the best interest of the child. Furthermore, in the examination of these requests, it is necessary to appoint a psychological expert who should provide his opinion on the requests for authorization for the child to leave the country, as one of the crucial pieces of evidence considered by the court.

Requests for the issuance of authorization for the child to leave the country are often accompanied by a request for the issuance of a temporary enforcement order, based on Article 317 of the Code of Civil Procedure or Article 139 of the Family Code. The granting of a temporary enforcement order must be carefully assessed by the first instance courts, as there have been cases in practice where the plaintiff parent, after obtaining a positive decision for the child's departure, abused it by not returning to the Albanian state.

In this case was that the granting of a temporary enforcement order is not the only means that enables the expedited adjudication of requests for authorization for the child to leave the country. Another mechanism in this regard is the request for acceleration of the trial in the Court of Appeal, a request which, when made for matters concerning children, is always prioritized by the court. This ensures not only the swift adjudication of these requests but also the passing of the decision through the filter of both levels of adjudication.

Best Interest of the Child in Cross-Border Families

Albania, since 2005, has ratified the Convention on Contact concerning Children, along with Law No. 18/2017, "on the children's rights and protection," forming two crucial legal instruments regarding children's rights and protection, especially in cross-border families. However, over the last 30 years of democratic court practice, the legal understanding of children's relations has been vague and inadequately described in court judgments.

The convention plays a vital role in sustaining interpersonal relationships for children, not only with their parents but also with other family members like grandparents. It allows member states to grant opportunities for additional family members to seek contact rights with minors, depending on domestic legislation.

Key Legal Provisions and Definitions

Article 2 of the Convention defines "contact" as various forms of interaction between the child and specific persons. Article 5 emphasizes that contact between a child and persons other than their parents may be established if it's in the child's best interests.

Moreover, Article 6 enshrines the child's right to be informed, consulted, and express their views, with due consideration given to their opinions and feelings.

Parental Responsibility and Contact Rights

The Convention promotes the right of the non-custodial parent to maintain contact with the child and participate in decisions regarding the child's future. These rights are determined and implemented based on court decisions on parental responsibility.

Furthermore, the law permits changes to custody decisions upon request, ensuring that parental responsibility aligns with the child's best interests.

Implementation Challenges

However, in practice, especially in cross-border families, custody arrangements are not always strictly enforced. Sometimes, this results in the loss of contact rights for one parent. For instance, in the case of Amnptallas, legal complexities arose when a child was brought to Albania without permission from the Greek father.

Moreover, conflicts often arise during custody arrangements, with one parent either failing to adhere to visitation schedules or using contact rights to demand additional funds.

Seeking Changes in Custodial Arrangements

Article 159 grants various parties the right to request changes in custody arrangements, including parents, relatives, or even grandparents. These claims are rooted in both the Convention and Law No. 18/2017.

Authorization for Child Travel Abroad

Authorization for a child to travel abroad is closely linked to parental responsibility. Legal provisions allow one parent to request authorization for the child's travel, while the other parent has rights to be informed or oversee parental responsibility.

Procedural Mechanisms and Enforcement

Requests for child travel authorization are often accompanied by requests for temporary enforcement orders. However, these must be cautiously assessed to prevent abuse.

Another mechanism is to accelerate trials in the Court of Appeal, ensuring swift adjudication of such requests and thorough judicial scrutiny.

In summary, Albania's legal framework and international conventions aim to safeguard children's rights and maintain familial relationships, especially in cross-border families. However, effective implementation and enforcement remain critical challenges.

Best Interest of the Child in Cross-Border Families


BRIKENA KASMI, PhD
Attorney in AFortio Legal Counsels
Assistant professor of business law in University of Tirana

Thessaloniki, 17-18 April 2024




KEY LEGAL PROVISIONS AND DEFINITIONS

- Article 2 of the Convention defines "contact" as various forms of interaction between the child and specific persons. Article 5 emphasizes that contact between a child and persons other than their parents may be established if it's in the child's best interests.
- Moreover, Article 6 enshrines the child's right to be informed, consulted, and express their views, with due consideration given to their opinions and feelings.



PARENTAL RESPONSIBILITY AND CONTACT RIGHTS

- The Convention promotes the right of the non-custodial parent to maintain contact with the child and participate in decisions regarding the child's future. These rights are determined and implemented based on court decisions on parental responsibility.
- Furthermore, the law permits changes to custody decisions upon request, ensuring that parental responsibility aligns with the child's best interests.



IMPLEMENTATION CHALLENGES

- However, in practice, especially in cross-border families, custody arrangements are not always strictly enforced. Sometimes, this results in the loss of contact rights for one parent. For instance, in the case of Amnptallas, legal complexities arose when a child was brought to Albania without permission from the Greek father.
- Moreover, conflicts often arise during custody arrangements, with one parent either failing to adhere to visitation schedules or using contact rights to demand additional funds.



SEEKING CHANGES IN CUSTODIAL ARRANGEMENTS

- Article 159 grants various parties the right to request changes in custody arrangements, including parents, relatives, or even grandparents. These claims are rooted in both the Convention and Law No. 18/2017.



AUTHORIZATION FOR CHILD TRAVEL ABROAD

- Authorization for a child to travel abroad is closely linked to parental responsibility. Legal provisions allow one parent to request authorization for the child's travel, while the other parent has rights to be informed or oversee parental responsibility.



PROCEDURAL MECHANISMS AND ENFORCEMENT

- Requests for child travel authorization are often accompanied by requests for temporary enforcement orders. However, these must be cautiously assessed to prevent abuse.
- Another mechanism is to accelerate trials in the Court of Appeal, ensuring swift adjudication of such requests and thorough judicial scrutiny.
- In summary, Albania's legal framework and international conventions aim to safeguard children's rights and maintain familial relationships, especially in cross-border families. However, effective implementation and enforcement remain critical challenges.



• Thank you

- bkasmi@afortiori.al
- brikenakasmi@gmail.com



Times of trouble create cross-border families

Oksana Voinarovska
IAFL Fellow, Ukraine

Thessaloniki, 17-18 April 2024

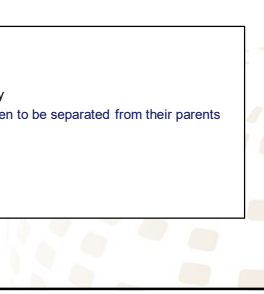



AGENDA



I. Divorce/Marriage
II. Children's matters

- Child's abduction
- Jurisdiction in the case of child custody

III. Mobilization as a factor forcing children to be separated from their parents
IV. Conclusion



I. Marriage/Divorce

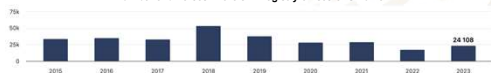


DIVORCE RATES HAVE DECREASED, BUT NOT FOR CROSS-BORDER COUPLES

➤ In 2022-2023 the overall level of non-court divorces decreased, but in practice, we have observed an increase in divorces between couples in which one person has been permanently residing abroad since the start of the full-scale invasion.

➤ In March 2022 approximately 44 % of Ukrainians had to be temporarily separated from their families, while in 2023 this number was 21 %.

Number of divorces in the civil registry offices of Ukraine



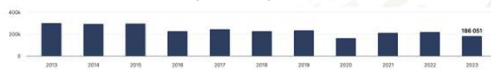
Source: <https://opendatabot.ua/analytics/marriages-divorces-2023>

WEDDING BOOM IN 2022

➤ During the first year of the full-scale war, Ukrainians entered into more than 198,000 marriages, almost 8,000 more than in 2021.

➤ At the beginning of the Russian-Ukrainian war in 2014, the number of marriages also increased.

Number of registered marriages in Ukraine



Source: <https://opendatabot.ua/analytics/marriages-divorces-2023>

II. Children's matters



IS UKRAINE SAFE FOR THE RETURN OF CHILDREN?

• Art. 13 (b) 1980 Hague Convention: «Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation».

• Art. Article 162 (1) of the Family Code of Ukraine: «If one of the parents or another person unauthorisedly, without the consent of the other parent or other persons with whom the minor child lived on the basis of the law or a court decision, or of the children's institution (facility) where the child lived by decision of the guardianship and custody authority or court, changes the child's place of residence, including by abduction, the court, at the request of the person concerned, has the right to immediately order the child's removal and return to the previous place of residence. The child may not be returned only if leaving him or her at the previous place of residence would pose a real danger to his or her life and health or the circumstances have changed so that the return is contrary to his or her interests».



1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Since the beginning of the full-scale invasion:

- 11 decisions of foreign courts on children's return to Ukraine.
- 50 decisions of foreign courts dismissing children's return to Ukraine.



MOST COMMON GROUNDS FOR DISMISSAL OF CLAIMS FOR CHILDREN'S RETURN TO UKRAINE

► Threat to the child's life and health posed by the return (Article 13 of the Convention).



Children attending school in the subway, Kharkiv 2024. Source: <https://www.pravobud.gov.ua/pivnichna-robotna-pogoda-prirodna-krayna-ty-batka-ukrayna-zhivna-2024>



DETERMINATION OF THE JURISDICTION IN THE CASES OF CHILD CUSTODY

➤ The key legal framework is provided by the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement, and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

➤ The 1996 Convention established general rule - cases on child custody, should be handled by the authorities of the state in which the child has habitual residence.



JURISDICTION IN THE CASES OF CHILD CUSTODY



III. Mobilization as a factor forcing children to be separated from their parents



LEGAL FRAMEWORK FOR MOBILIZATION

- From 05.30 a.m. on 24 February 2022, martial law was implemented in Ukraine for a period of 30 days (Decree of the President of Ukraine);
- General mobilization was announced and conducted in all regions of Ukraine from 24 February 2022 (Decree of the President of Ukraine);
- Defence of the Homeland, independence and territorial integrity of Ukraine is the duty of Ukrainian citizens (Article 65 of the Constitution of Ukraine);
- Men aged 25 to 65 are eligible for mobilization (Law of Ukraine "On Military Duty and Military Service").



THE IMPACT OF MOBILIZATION ON UKRAINIAN FAMILIES

- About a million Ukrainians are separated from their families because of their service in the defense forces of Ukraine.
- Ukrainian mothers who have taken their children abroad are forced to take on a dual role - to be both mother and father to their children.
- Ukrainian parents relocate their 17-year-old sons abroad to avoid their participation in the war.




IV. Conclusion



TAKEAWAYS

- Russian full-scale invasion has separated millions of Ukrainian families and killed more than 500 Ukrainian children;
- The role of international law in family disputes between Ukrainians has significantly increased due to forced migration;
- Foreign courts tend not to order the return of children to Ukraine because the war in Ukraine is dangerous for children;
- A significant number of Ukrainians have acquired habitual residence abroad;
- While defending Ukraine, parents actually lose the ability to exercise parental rights over their children.





LEGISLATION ON SAME-SEX MARRIAGE AND RECOGNITION OF DECISIONS ESTABLISHING A PARENT-CHILD RELATIONSHIP IN SAME-SEX COUPLES IN DIFFERENT LEGISLATIONS

Agnieszka Swaczyna – Poland
(picture of tapestry from the UERA collection (Folk University in Wola Sękowa Poland))

MARRIAGE IN POLAND

Marriage as a union between a man and a woman, family, maternity and parenthood are under the protection and guardianship of the Republic of Poland

(article 18 of the Constitution of the Republic of Poland)

Marriage is contracted when a man and a woman simultaneously declare that they are entering into marriage with each other

(article 18 of the Family and Guardianship Code)



Photo by Samantha Gades on Unsplash

BASIC INFORMATION

There is no regulation on same sex marriage in Poland. Such marriage is not legally admissible



Photo by Niek Karouris on Unsplash



Photo by [Krzysztof Komar](#), [Europe on the Move](#)

CASE OF PRZYBYSZEWSKA AND OTHERS V. POLAND

European Court of Human Rights

CASE OF PRZYBYSZEWSKA AND OTHERS V. POLAND (APPLICATIONS NOS. 11454/17 AND 9 OTHERS)

STRASBOURG
12 December 2023

FINAL
12/03/2024

INTRODUCTION

The applicants were five same-sex couples who complained of a lack of any form of legal recognition and protection for their respective relationships. The case raises an issue under Article 8 of the Convention

THE JUDGEMENT

The court holds, by six votes to one, that there has been a violation of Article 8 of the Convention.

- ownership
- maintenance
- taxes
- inheritance

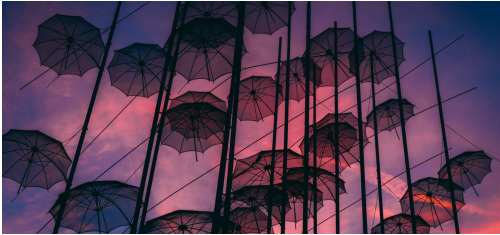


PHOTO BY [JIM KALLIGAS](#) ON [UNSPASH](#)

THANK YOU

SWACZYNA
ŁABUZ-WEISS
KANCLERZKA
ADWOKACKA
