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The State of Rainbow Families in the European Union

A comparative analysis of the political, social, and legal situation in Estonia, Germany, Hungary and Italy

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ANALYSIS


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1 Introduction

This study examines the rights and status of rainbow families in four European Union member states, namely Estonia, Germany, Hungary, and Italy. By rainbow families, we refer to households and cohabitation arrangements of people who identify as LGBTQ+. Unlike broader research on LGBTQ+ issues, this policy paper strictly focuses on how the legal frameworks of each country shape the most fundamental aspects of rainbow families. These aspects include marriage equality, access to assisted reproduction, surrogacy regulations, adoption rights, the status of children in rainbow families, and the cross-border recognition of parental rights.

This study aims to provide a comparative policy analysis that highlights the similarities and differences in the regulations that directly or indirectly shape the lives of rainbow families. The study also provides historical and social context on the emergence of LGBTQ+ and the current state of affairs in each country regarding public perception, as well as prominent actors and narratives surrounding rainbow families. The study explores which rights are granted or restricted, and how legal provisions create opportunities or barriers to equal treatment. Thus, the study contributes to a deeper understanding of LGBTQ+ rights in various member states by highlighting differences in equal treatment and non-discrimination policies.

With the support of the Friedrich Naumann Foundation for Freedom Europe, Political Capital conducted a comparative analysis of the political, social, and legal situations in Estonia, Germany, Hungary, and Italy. The research is based on country reports prepared by national experts. Each report combines detailed desktop research and legal analysis with qualitative fieldwork. Four semi-structured interviews were conducted in each country: two with experts and two with rainbow family members. This methodology ensures that the study reflects both the structure of legal frameworks and their practical implementation.

Each country chapter was written by an independent researcher or a non-governmental organization:

- Estonia – Mari-Liis Sepper
- Germany – Björn Sieverding
- Hungary – Háttér Society
- Italy – Francesco Rizzi

2 Executive summary

Social acceptance of LGBTQ+ individuals and rainbow families

- Support for equal rights, including marriage, adoption, and parental rights, varies widely among the four countries. The majority in Germany and Italy support these rights, while opinions are more divided in Hungary and Estonia.
- Recent public opinion polls suggest that approximately half of the populations of Estonia, Germany, Hungary and Italy are in favor of same-sex marriage.
- Except for Estonia, the majority in Germany, Hungary, and Italy support adoption rights for same-sex couples.
- While the majority in Germany and Hungary are in favor of allowing assisted reproduction for same-sex couples, Italy falls behind. There is no data available for Estonia.
- Public support for surrogacy is relatively low in all countries.
- Compared to other European countries, none of these countries rank among the most accepting of LGBTQ+ people.

Legislative trajectories

- Although Hungary was an early mover, recognizing cohabitation in 1996 and registered partnerships in 2009, it has since reversed course by enshrining restrictions in its constitution and implementing restrictive laws.
- Estonia started late but has progressed the furthest. It adopted the Registered Partnership Act in 2014, granting many marriage-like rights, but initially failed to implement the provisions. This gap was closed after the family law reform in 2023, which introduced marriage equality, joint adoption, and legislative harmonization.
- Germany followed a gradual path, expanding rights step by step from registered partnerships (2001) to marriage equality (2017) and gender recognition reform (2025).
- Italy lags behind, granting registered partnerships only in 2016, with no progress on marriage, adoption, or reproductive rights.

The relationship between the EU and national legislation

- The impact of EU legislation on national laws concerning rainbow families is limited because the EU has limited jurisdiction over family law.
- All four countries adopted the Race Equality and Employment Equality Directives, but their impact varied based on existing protections.
- In Italy, the directives were transformative, as they introduced sexual orientation and gender identity as prohibited grounds for discrimination for the first time.

- Estonia transposed several gender equality directives during its accession process and subsequently adopted the Equal Treatment Act to comply with them.
- Hungary also aligned with EU requirements and enacted anti-discrimination laws during accession.
- In Germany, EU laws largely complemented existing provisions.

Marriage equality

- Germany and Estonia now recognize full marriage equality, with registered partnerships either obsolete (Germany) or harmonized but secondary (Estonia).
- Hungary and Italy continue to restrict recognition of same-sex relationships to registered partnerships. Both countries explicitly define marriage as a union between a man and a woman, enshrining this definition in their constitutions (Hungary) or civil codes (Italy).
- In Hungary and Italy, registered partnerships are separate and unequal institutions compared to marriage. While they grant most of the rights associated with marriage, significant exceptions remain, including access to reproductive services and same-sex adoption.

Access to artificial fertilization

- Estonia has the most progressive framework, offering all women, regardless of sexual orientation or marital status, access to reproductive techniques with public health coverage, as well as automatic recognition of parenthood for **married** lesbian couples.
- While Germany permits assisted reproduction for single women and couples regardless of sexual orientation, a lack of clear and uniform guidelines creates barriers for same-sex couples to accessing services. Costs and limited insurance are additional barriers.
- Hungary only allows assisted reproduction to be accessible for opposite-sex couples and single women, but not for women in same-sex relationships. Although single women can access these services, legal risks, bureaucracy, and long waiting times make it difficult for them to do so in practice.
- Italy limits assisted reproduction to married and cohabiting opposite-sex couples, excluding same-sex couples and single women.

Surrogacy regulations

- Estonia and Germany ban domestic surrogacy but do not criminalize intended parents or families who seek surrogacy services abroad. Estonia has not created obstacles to registering children born through surrogacy, but Germany's legal recognition of intended parents is uncertain.
- Hungary views surrogacy as a criminal activity, and those involved, including intended parents, could be punished. The ban also applies to Hungarian citizens seeking surrogacy services in countries where it is legal.

- Italy criminalizes surrogacy under universal jurisdiction, holding Italians liable for prosecution for engaging in surrogacy abroad.

Adoption rights

- Estonia has adopted full adoption rights. LGBTQ+ individuals can access individual adoption, and registered same-sex couples can access second-parent adoption, while married same-sex couples can adopt jointly.
- Germany has gradually expanded adoption rights for same-sex couples and now ensures all adoption procedures; however, it lacks proper implementation, making adoption challenging for same-sex couples.
- In Hungary, both joint and second-parent adoptions are closed to same-sex couples. Although individual adoption is legally possible, recent amendments to the Civil Code have made the process politically discretionary and nearly inaccessible to LGBTQ+ individuals.
- Italy has restricted domestic adoption to married opposite-sex couples. Same-sex couples who adopted abroad received some protection through adoption in special cases. Recent rulings have paved the way for international individual adoption and the recognition of foreign court decisions that granted adoption.

Status of children in rainbow families

- Estonia stands out with its explicit regulations that ensure equal parental rights and benefits, as well as automatic recognition of parenthood for married lesbian couples.
- Germany, Hungary, and Italy only recognize the biological or adoptive parent by default.
- Although the automatic recognition of parentage for same-sex couples has been on the German political agenda for years, intended parents still have to undergo a burdensome stepchild adoption process.
- Italy has made progress after its Constitutional Court granted equal parental rights to female intended parents who underwent assisted reproduction abroad under foreign laws. The intended parent in a male same-sex couple has to go through adoption in special cases, which, if successful, guarantees equal rights protections for children raised in rainbow families.
- While Hungary automatically recognizes the intended parent as a stepparent or a de facto parent, they cannot presume full parenthood. Instead, they remain in a relegated status with limited rights.

Cross-border recognition of parental rights

- Estonia recognizes foreign marriages, registered partnerships, birth certificates, and adoptions, while routinely transcribing civil documents.
- Although Germany has recognized foreign same-sex marriages since 2017, recognizing parenthood is not straightforward. Recognition depends on connecting factors, such as residence or citizenship, which leads to inconsistent practices.

- In Hungary, same-sex marriages performed abroad are not recognized, not even as registered partnerships. Joint and second-parent adoptions are not recognized either. Only the biological parent is registered on foreign birth certificates with two same-sex parents.
- Italy does not recognize same-sex marriages, but it does recognize them as registered partnerships. Female same-sex parents can be recognized as parents if their children are born in Italy through assisted reproduction abroad.

Main narratives and political actors

- Germany and Estonia both advanced from registered partnerships to marriage equality, despite opposition from the far right. This demonstrates their resilience and ability to adapt institutionally.
- In Hungary, the Orbán government stands out as a clear pioneer of anti-LGBTQ+ narratives and policies. It dominates domestic public discourse with its narratives and has passed legislation to curb acquired rights or set up barriers to exercising them.
- In Italy, the Meloni government's efforts have been limited to spreading anti-LGBTQ+ narratives and taking preventive measures intended to stop the country from adopting pro-LGBTQ+ policies.

3 Policy recommendations

Although there has been general progress in extending LGBTQ+ rights in all four countries since the 1990s, many social and legal challenges remain, particularly in Hungary and Italy. Since adopting marriage equality in 2023, Estonia has significantly improved the status of rainbow families by directly addressing fundamental aspects, including marriage equality, inclusive adoption rights, and assisted reproduction. While Germany has made significant progress in addressing the concerns of same-sex couples, challenges persist regarding automatic recognition of parenthood and access to reproductive services. In contrast, rainbow families face inequality and barriers in Italy and Hungary. Current Hungarian legislation contains discriminatory provisions regarding access to assisted reproduction and same-sex adoption that negatively impact same-sex couples. Political resistance has created legislative stagnation in Italy, leaving the most pressing concerns of same-sex couples unanswered.

Recognition of same-sex relationships

Both Hungary and Italy should address concerns regarding the recognition of same-sex relationships. Italy should introduce full marriage equality and end the practice of downgrading foreign same-sex marriages to registered partnerships. Hungary should remove discriminatory provisions from its constitution regarding the definitions of marriage and family and include protections for family diversity. It should either open marriage to same-sex couples or eliminate the discriminatory provisions in the Registered Partnership Act concerning taking a partner's name and parenting. Additionally, Hungary should recognize same-sex marriages performed abroad as either marriages or registered partnerships. It should also recognize same-sex cohabitation among non-Hungarian residents, even if their personal law does not recognize it.

Recognition of parentage

To resolve legal uncertainties for rainbow families, Germany, Hungary, and Italy should address issues concerning parentage recognition. Germany should reform its descent law so that the intended parents in same-sex relationships are recognized automatically. Hungary should extend the presumption of parenthood to same-sex couples. Italy should adopt automatic parentage recognition to ensure that intended parents are recognized at birth and eliminate the need for adoption in special cases.

Equal access to artificial fertilization

Germany, Hungary, and Italy should grant same-sex couples equal access to assisted reproduction. Germany should address its discriminatory practices toward same-sex couples and implement clear guidelines to ensure they have smooth access to reproductive services. Additionally, Germany should provide equal reimbursement for these treatments. Hungary should eliminate discrimination against lesbian couples regarding access to assisted

reproduction. Italy should extend domestic access to assisted reproduction for same-sex couples and single women, regardless of sexual orientation.

Uniform adoption procedures

Hungary and Italy should introduce standardized adoption procedures that apply to opposite-sex and same-sex couples. Hungary should eliminate the automatic prioritization of adoption by married couples and establish a transparent, standardized decision-making process overseen by professionals, which applies to both married couples and unmarried individuals. The country should also introduce publicly available guidelines on adoption suitability criteria that include the principle of non-discrimination based on sexual orientation and gender identity. Italy should extend adoption rights to same-sex couples and single individuals regardless of sexual orientation.

Discrimination and hate crimes

Estonia, Germany, Hungary, and Italy should strengthen protections against discrimination and hate crimes targeting rainbow families. Germany should expand queer-sensitive training in administration, education, and healthcare. Hungary should introduce accredited in-service training for social workers in child protection that covers same-sex families. The country should also incorporate awareness of LGBTQ+ families into legal, medical, and social work program curricula. Italy should adopt comprehensive anti-discrimination and anti-hate crime legislation that includes a ban on conversion therapy. Estonia should adopt legislation that protects LGBTQ+ individuals against hate crimes, marginalization, and discrimination. The country should also raise public awareness of the rights of rainbow families and provide mandatory professional training for educators, healthcare providers, and law enforcement personnel.

4 Historical and social context

4.1 Post-WWII LGBTQ+ movement history

The trajectories of LGBTQ+ movements in Estonia, Germany, Hungary, and Italy reveal striking similarities and sharp differences. A decisive turning point occurred in the 1990s when the democratization of Central and Eastern Europe, coupled with increased attention to LGBTQ+ rights, created new opportunities for activism and reform. Even in established Western democracies such as Germany and Italy, this decade saw the formation of advocacy organizations fighting for equal rights. Thus, the 1990s represent the moment when LGBTQ+ rights entered the mainstream political debate across all four countries, followed by some initial legal victories.

However, national paths quickly diverged from this shared revival. Germany and, more recently, Estonia have translated activism into steady legal progress, culminating in the legalization of same-sex marriage and broad, inclusive rights. In contrast, Italy, despite an early movement, has advanced more slowly, with recognition arriving late and political resistance continuing to block comprehensive reforms. Hungary initially followed the regional trend of gradually extending LGBTQ+ rights, but has since shifted course dramatically. Since 2010, the Fidesz government has rolled back protections and targeted LGBTQ+ communities. Together, these cases demonstrate how a common European opening in the 1990s produced different outcomes, highlighting the significant impact of national political contexts.

Estonia

The Estonian LGBTQ+ movement has deep historical roots dating back to the 19th century¹. Estonia decriminalized homosexuality in 1935, briefly making it one of the most progressive countries in the world². However, the movement could not advance further due to the Soviet occupation and annexation from 1944 to 1991. In fact, the country was forced to reinstate criminalization of homosexual relations in 1940. In the 1990s, Estonia's democratization coincided with the movement's efforts to raise awareness of LGBTQ+ rights and gender identity. Since then, Estonia has steadily achieved key milestones,

including the decriminalization of homosexuality in 1992, the adoption of a legal gender recognition framework in 1999, the introduction of the Registered Partnership Act in 2014 (effective 2016), and the legalization of same-sex marriage in 2023 (effective 2024).

Germany

Until the reunification of Germany, the country's LGBTQ+ movement followed two different paths. Homosexual relations were criminalized in 1871 and further tightened under the Nazi regime's Criminal Code. After World War II, the German Democratic Republic took a more progressive approach, effectively decriminalizing homosexual relations in 1958. In contrast, the Federal Republic of Germany continued to enforce the Nazi regime's severe provisions and only decriminalized homosexual relations in 1969. In the 1990s, the LGBTQ+ movement began accelerating as organizations advocating for rights were established. Since the 2000s, the movement has achieved multiple historic milestones, including the introduction of civil registered partnerships in 2001³, the gradual extension of adoption rights⁴, and the legalization of same-sex marriage in 2017⁵.

Hungary

Between the 1960s and 2010s, Hungary made steady progress in extending LGBTQ+ rights. In 1962, the country decriminalized male homosexual relations with the adoption of the new socialist Criminal Code. Meanwhile, female homosexual relations had never been criminalized⁶. The fall of communism catalyzed the LGBTQ+ movement, leading to the formation of numerous registered organizations that began to bring political attention to LGBTQ+ rights. Although the Constitutional Court rejected the legalization of same-sex marriage in 1995⁷, the following year, the Parliament adopted a gender-neutral definition of cohabitation⁸. During the 2000s, there was a gradual extension of rights, including the adoption of comprehensive equal treatment legislation in 2003⁹ and the Registered Partnership Act (RPA) in 2009¹⁰. The RPA granted same-sex couples most of the rights associated with marriage, except for the right to parenting. However, the extension of LGBTQ+ rights encountered an abrupt halt with Fidesz party's victory in the 2010 general election. The Hungarian government has adopted several legislative changes adversely affecting rainbow families, accompanied by a deliberate and coordinated campaign against LGBTQ+ people.

Italy

The Italian LGBTQ+ movement emerged in the 1970s to

¹ Rebecka Põldsam, Vahur Aabrams, and Andreas Kalkun. "Kalevi alt välja." LGBTQ+ inimeste lugusid 19 (2022). Põldsam, Rebecka. "Why are we still abnormal?!" History of discourses on non-normative sex-gender subjects in Estonia." Rebecka Põldsam. "Otsides kvaäre lugusid sõdadevahelise Eesti ajakirjandusest." Mäetagused. Hüperajakiri 76 (2020): 95-124.

² Taavi Koppel. "Kurjategijatest vabadeks Eesti inimesteks." Vikivaade, 1.06.2022. Available at: <https://vikivaade.ee/taavi-koppel-kurjategijatest-vabadeks-eesti-inimesteks/>.

³ See <https://www.gesetze-im-internet.de/lpartg/> (March 27, 2025).

⁴ The German Parliament (Deutscher Bundestag) decided on December 15, 2004, to amend the Civil Partnership Act, among other things, with regard to stepchild adoption (see <https://dip.bundestag.de/vorgang/.../97271>, March 27, 2025). This came into force on January 1, 2005. See Bundesverfassungsgericht, press service,

https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2013/02/ls20130219_1bv1000111.html (March 27, 2025).

⁵ See Deutscher Bundestag, press service, <https://www.bundestag.de/webarchiv/textarchiv/2017/kw26-de-ehe-fuer-alle-513682> (March 27, 2025).

⁶ Judit Takács, "A homoszexualitás magyarországi dekriminalizációjának háttere," in Meleg század. Adalékok a homoszexualitás 20. századi magyarországi társadalomtörténetéhez (Kalligram-MTA TK, 2018), 119–138.

⁷ Decision no. 14/1995. (III. 13.).

⁸ Act no. XLII of 1996, S. 2. amending S. 685/A. of Act no. IV. of 1959 on the Civil Code.

⁹ Act no. CXXV of 2003 on equal treatment and the promotion of equal opportunities.

¹⁰ Act no. XXIX of 2009 on registered partnership and related legislation and on the amendment of other statutes to facilitate the proof of cohabitation; hereinafter: RPA.

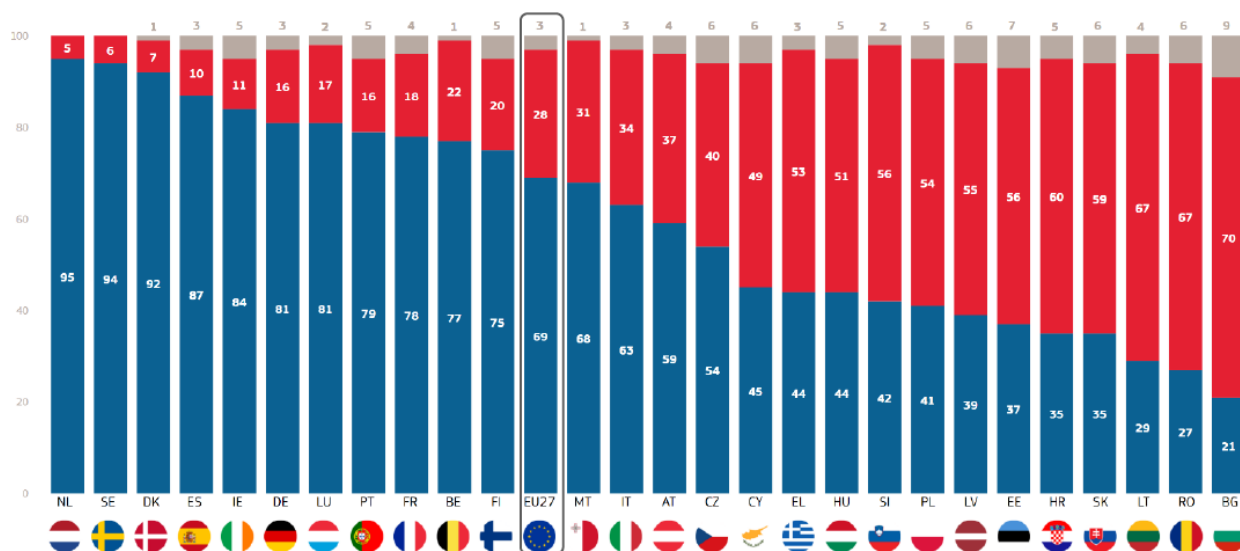
advocate for greater equality. However, its path was marked by internal divisions and pivotal milestones. One such milestone was the movement's alliance with the now-defunct Radical Party, which supported progressive policies, including family law reform and abortion rights in the 1970s. LGBTQ+ associations fought tirelessly for rights and achieved notable victories, including the enactment of legal gender recognition legislation in 1982 and the adoption of civil registered partnerships in 2016. However, the growing influence of radical right parties in the Italian parliament during the 2010s slowed the progress on extending LGBTQ+ rights, forcing rainbow organizations to rely on strategic litigation to advance their cause. In 2021, Italy's Senate failed to pass a crucial bill called DDL Zan, which aimed to extend existing hate crime provisions to sexual orientation and gender identity¹¹. The bill was heavily criticized by right-wing parties and met with reluctance from left-wing parties as well, reflecting a lack of political will to address legislative gaps concerning LGBTQ+ individuals.

4.2 Social acceptance of LGBTQ+ individuals and rainbow families

Public opinion across Estonia, Germany, Hungary, and Italy shows broad but uneven support for LGBTQ+ rights, with Germany consistently leading, Italy, Hungary, and Estonia showing slower—yet notable—progress. While marriage equality has gained majority approval in all four countries, other issues, such as adoption, assisted reproduction, and surrogacy, reveal more varied attitudes.

Support for equal rights varies widely among the four countries, ranging from majorities in Germany and Italy to more divided opinions in Hungary and Estonia. 81% of Germans and 63% of Italians think that lesbian, gay, and bisexual people should have the same rights as heterosexual people with regard to marriage, adoption, and parental rights. In contrast, only 44% of Hungarians support equal rights, which is slightly higher than the 37% in Estonia.

1. Figure: To what extent do you agree or disagree with each of the following statements? (%) Lesbian, gay and bisexual people should have the same rights as heterosexual people (marriage, adoption, parental rights) (Source: Special Eurobarometer 535: Discrimination in the European Union -LGBTIQ people, European Union, 2023)



Recent public opinion polls indicate that about half of each country's population is in favor of same-sex marriage. Germany has the highest percentage of public support at 71%¹². Italy is in second place with 56-58%¹³. Meanwhile, Estonia and Hungary are slightly lower at

53%¹⁴ and 49-58%¹⁵, respectively. Notably, support for same-sex marriage in Estonia has grown significantly over the last decade. In 2012, 34% of Estonians supported it, while 60% opposed it. This drastic shift demonstrates how societal attitudes can change significantly over time.

¹¹ See "Italian LGBTQ+ hate crime bill defeated", 27.10.2021 <https://www.politico.eu/article/italy-lgbtq-hate-crime-bill-matteo-salvini-rome-senate/>.

¹² See IPSOS, „LGBTQ-Studie zum Pride Month: Situation queerer Menschen weltweit verschlechtert, in Deutschland weiter hohe Akzeptanz“, <https://www.ipsos.com/de-de/lgbtq-umfrage-pride-month-2025>, (June 10, 2025).

¹³ Prearo M., Trastulli F., Pansardi P., L'opinione pubblica italiana e i diritti LGBT+. Un'accettazione selettiva?, Report scientifico, 2024 <https://sites.dsu.univr.it/politessa/wp-content/uploads/2021/08/Report-scientifico-Survey-LGBT-2024-2.pdf> [56%]; IPSOS LGBTQ+ PRIDE REPORT 2024 A

26-Country Ipsos Global Advisor Survey June 2024, <https://www.valored.it/wp-content/uploads/2024/06/2024-Ipsos-LGBT-Pride-Report-giu2024.pdf> [58%].

¹⁴ Comparative results of 2012, 2014, 2017, 2019, 2021 and 2023 surveys available at: <https://humanrights.ee/en/topics-main/equal-treatment/attitudes-towards-lgbt-topics-estonia/>.

¹⁵ Tamás Dombos and Alexandra Sipos, Az LMBTQI témák magyarországi megítélése. 2024 november, (Háttér Társaság, 2024) [49%]; András Bíró-Nagy et al., Mit kíván a magyar nemzet? Magyarország problématerképe 2024-ben, (Policy Solutions, 2024) [54%]; Dominika Hajdú et al., GLOBSEC Trends 2024: CEE – A Brave New Region? (GLOBSEC, 2024) [58%].

Except for Estonia, the majority in each country supports adoption rights for same-sex couples. Germany leads the way with 74%¹⁶ of public support, followed by Hungary with 60%¹⁷. Since 2019, the percentage of Hungarians who believe that same-sex couples can be good parents has increased significantly, with 55% now fully agreeing and 8% somewhat agreeing, compared to 17% and 25%, respectively¹⁸. Support for same-sex adoption in Italy ranges from 54.8% to 63%¹⁹. Although Estonia has inclusive adoption rights, only 47% believe that married same-sex couples or those in registered partnerships should be able to adopt together²⁰. 54% are in favor of stepparent adoption, and 37% support adoption rights for LGBTQ+ individuals.

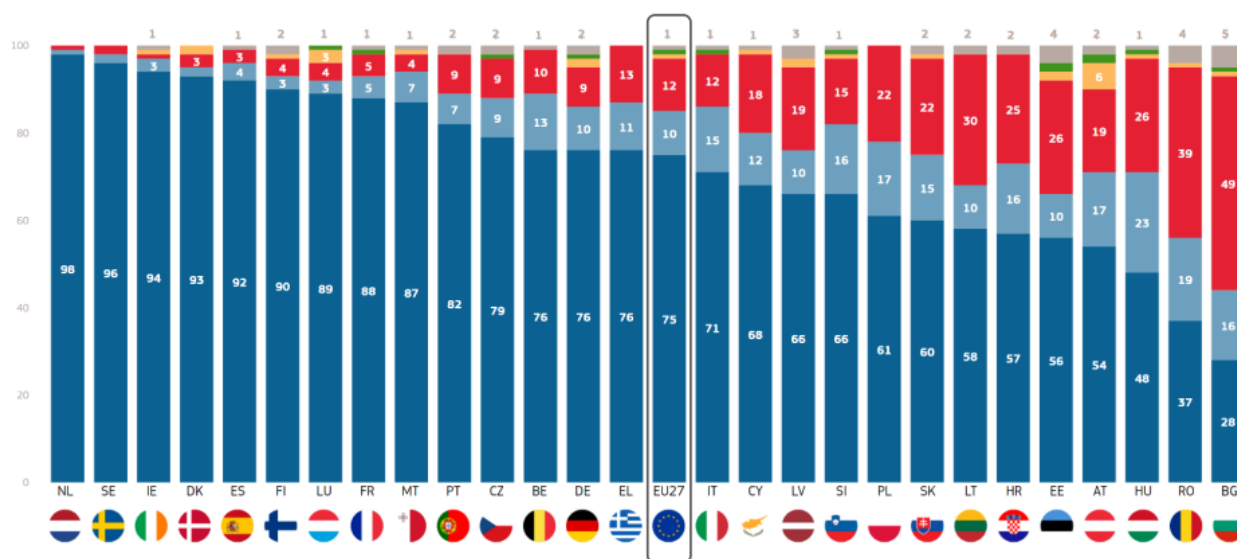
While the majority in Germany and Hungary is in favor of allowing assisted reproduction for same-sex couples, Italy falls behind. In Germany, 78% of women and 66% of men support access to assisted reproduction for couples unable to conceive naturally²¹. In Hungary, 63% of people would allow women in registered partnerships, and 60% would allow cohabiting lesbian women to access artificial

fertilization at a healthcare facility²². By contrast, only 48.7% of Italians support assisted reproduction for all couples²³. There is no available data for Estonia.

Public support for surrogacy is relatively low in all countries. Germany shows the highest level of support (41%)²⁴, followed by Italy (27.3%)²⁵ and Hungary (17%)²⁶. However, opposition is particularly strong in Hungary, at 56%, compared to 38.5% in Italy and 24% in Germany. There is no available data for Estonia.

Compared to other European countries, none of those studied rank among the most accepting of LGBTQ+ people. Estonia and Hungary are among the least accepting, while Germany and Italy are relatively more accepting. 48% of Hungarians and 56% of Estonians would feel comfortable having a lesbian, gay, or bisexual colleague at work, which is well below the EU average of 75%. In contrast, 76% of Germans and 71% of Italians would feel comfortable, putting them above or close to the EU average.

2. Figure: Regardless of whether you're actually working or not, please tell me, using a scale from 1 to 10, how comfortable would you feel, if a colleague at work with whom you are in daily contact, belonged to each of the following groups? '1' means that you would feel, "not at all comfortable" and '10' that you would feel "totally comfortable". (%) A lesbian, gay or bisexual person (Source: Special Eurobarometer 535: Discrimination in the European Union -LGBTIQ people, European Union, 2023)



¹⁶ See IPSOS, „LGBTQ-Studie zum Pride Month: Situation queerer Menschen weltweit verschlechtert, in Deutschland weiter hohe Akzeptanz“, <https://www.ipsos.com/de-de/lgbtq-umfrage-pride-month-2025>, (June 10, 2025). In detail, 74% support the statement that same-sex couples should have the same rights as heterosexual couples when adopting children. Less than a fifth (19%) reject this.

¹⁷ Tamás Dombos, Luca Dóra and Alexandra Sipos, Social attitudes towards LGBTQI issues in Hungary. November 2023, (Háttér Társaság, 2024), 15–16.

¹⁸ Dombos and Sipos, Az LMBTQI témák magyarországi megítélése. 2024 november, 11.

¹⁹ Prearo M., Trastulli F., Pansardi P., L'opinione pubblica italiana e i diritti LGBT+. Un'accettazione selettiva?, Report scientifico, 2024

<https://sites.dsu.univr.it/politese/wp-content/uploads/2021/08/Report-scientifico-Survey-LGBT-2024-2.pdf> [54.8%]; IPSOS LGBTQ+ PRIDE REPORT 2024 A 26-Country Ipsos Global Advisor Survey June 2024, https://www.valored.it/wp-content/uploads/2024/06/2024-Ipsos_LGBT_Pride_Report-giu2024.pdf [63%].

²⁰ Comparative results of 2012, 2014, 2017, 2019, 2021 and 2023 surveys available at: [https://humanrights.ee/en/topics-main/equal-treatment/attitudes-towards-lgbt-](https://humanrights.ee/en/topics-main/equal-treatment/attitudes-towards-lgbt)

[topics-estonia/](https://www.presseportal.de/pm/59298/3324922).

²¹ <https://www.presseportal.de/pm/59298/3324922>.

²² Dombos and Sipos, Az LMBTQI témák magyarországi megítélése. 2024 november, 12.

²³ Prearo M., Trastulli F., Pansardi P., L'opinione pubblica italiana e i diritti LGBT+. Un'accettazione selettiva?, Report scientifico, 2024 <https://sites.dsu.univr.it/politese/wp-content/uploads/2021/08/Report-scientifico-Survey-LGBT-2024-2.pdf>.

²⁴ See Presseportal, Idea, „Umfrage: Über 40 Prozent der Deutschen würden Leihmutterschaft erlauben“, September 21, 2022, <https://www.presseportal.de/pm/160792/5325864>, (May 23, 2025).

²⁵ Prearo M., Trastulli F., Pansardi P., L'opinione pubblica italiana e i diritti LGBT+. Un'accettazione selettiva?, Report scientifico, 2024 <https://sites.dsu.univr.it/politese/wp-content/uploads/2021/08/Report-scientifico-Survey-LGBT-2024-2.pdf>.

²⁶ Ivett Szalma, Lóránt Pélyi "A mesterséges megtermékenyítési eljárások társadalmi elfogadottsága Magyarországon", Demográfia 66, no. 2–3 (2023), 222–23.

4.3 Main narratives in the media and politics on LGBTQ+ rights

The challenges and rights of rainbow families have become prominent topics of discussion in Estonia, Germany, Hungary, and Italy. Radical right-wing parties have mobilized against gender identity and LGBTQ+ rights, spreading narratives that emphasize the supposed threat of "gender ideology" to traditional and Christian values. Although these parties share strikingly similar stances on LGBTQ+ issues, their success in terms of narratives and policies varies. The Orbán government stands out as a clear pioneer of anti-LGBTQ+ narratives and policies. It dominates domestic public discourse with its narratives and has passed legislation to curb acquired rights or set up barriers to exercising them. Meanwhile, the Meloni government's efforts have been limited to spreading narratives and taking preventive measures intended to stop the country from adopting pro-LGBTQ+ policies. In contrast, Germany and Estonia have made progress in expanding LGBTQ+ rights despite opposition from radical right and far-right parties.

Estonia

Estonia's gradual expansion of LGBTQ rights was marked by two decades of intense debate. The discussions primarily focused on the legal recognition of same-sex relationships, beginning with registered partnerships and culminating in marriage equality.

Several civil society organizations, including the Estonian LGBT Association and the Estonian Human Rights Center, played pivotal roles in shaping public opinion and policymaking. They provided evidence-based studies and expert opinions on draft legislation, such as the Registered Partnership Act, emphasizing the importance of equal treatment and legal protection for rainbow families and their children. Political parties such as the Estonian Social Democratic Party (SDE), the Estonian Greens (Eestimaa Rohelised), and the liberal Estonian 200 (Eesti 200), as well as the Estonian Reform Party (Eesti Reformierakond), to a lesser extent, supported LGBTQ+ rights. These parties played a pivotal role in amending the Family Law Act in 2023 to recognize same-sex marriage.

Religious organizations and radical right parties have openly opposed the reforms affecting rainbow families. Catholic religious groups, such as the Foundation for the Protection of Family and Tradition (SAPTK), have primarily engaged in moral and radical Catholic anti-gender rhetoric, claiming that homosexuality is against human nature and

that the gradual extension of LGBTQ+ rights is an indication of society's moral decline. Radical right parties, such as the Estonian Conservative People's Party (EKRE) and the Fatherland (Isamaa), have mobilized against pro-LGBTQ+ policies, framing them as a threat to Christian and traditional values as well as national identity. The EKRE campaigned on repealing the Registered Partnership Act and constitutionally defining marriage as a union between a man and a woman²⁷. Ultimately, their actions spread misinformation and fueled hate speech against the LGBTQ+ community²⁸.

Germany

Although the German media has made significant progress in improving its coverage of LGBTQ+ rights, disinformation about these rights is prevalent on social media. While the major media outlets have enhanced their reporting on the lives and demands of rainbow families²⁹, many reports continue to rely on stereotypes and sensationalism³⁰. The increasing media attention has prompted public backlash, leading to narratives surrounding "transgender hype"³¹. Social media platforms have become hotspots for disinformation and queerphobia driven by religious fundamentalists, radical feminists (TERFs), and right-wing populists³².

Attitudes toward LGBTQ+ rights continue to divide the political arena. The radical Left Party (Die Linke), the Greens, and the Social Democratic Party (SPD) support issues affecting rainbow families³³. The Free Democratic Party (FDP) is broadly supportive of LGBTQ+ rights. In contrast, the Christian Democratic Union of Germany (CDU) and the Christian Social-Union (CSU) are less supportive, especially concerning intersex and non-binary rights. The Alternative for Germany (AfD) and the Sahra Wagenknecht Alliance (BSW) are critical of LGBTQ+ rights. The AfD frequently uses anti-gender rhetoric in its campaigns and openly opposes same-sex marriage and abortion. The party takes a hard stance against what it calls "gender ideology", framing it as an elitist imposition that undermines gender differences and questions gender identity³⁴.

Hungary

The governing Fidesz floods public discourse with anti-LGBTQ+ narratives. Since taking power in 2010, the Hungarian government has relied heavily on scapegoating and fearmongering, identifying certain social actors as threats that only the government can protect the nation from. Since 2017, the government has targeted LGBTQ+ people under the guise of child protection with various campaigns, including a national consultation in 2018³⁵ and

²⁷ Conservative People's Party of Estonia Faction, 2020 – VTVT.

²⁸ Interview with an activist and an expert Kelly Grossthal: <https://civicus.org/index.php/media-resources/news/interviews/6463-estonia-legal-changes-deepen-the-cultural-shift-favourable-to-lgbtqi-rights>.

²⁹ See LSVD*, article, Medien sensibilisieren, <https://www.lsvd.de/de/politik/aufklaerung/medien-sensibilisieren> (May 27, 2025).

³⁰ See LSVD*, article, „Von „Geschlechtsumwandlungen“ und „Schwulenehe“: Mediale Darstellung von LSBTI“, <https://www.lsvd.de/de/ct/599-von-geschlechtsumwandlungen-und-schwulenehe-mediale-darstellung-von-lsbt> (May 26, 2025).

³¹ See LSVD*, article, „Ein aktueller Hype: Falschdarstellung von trans* Menschen durch Medien“, <https://www.lsvd.de/de/ct/4453-ein-aktueller-hype>.

falschdarstellung-von-trans-menschen-durch-medien (May 26, 2025).

³² Reveland, Carla, Siggelkow, Pascal, ARD, „Verstärkte Mobilisierung gegen queere Menschen“, July 17, 2023,

<https://www.tagesschau.de/faktenfinder/kontext/queerfeindlichkeit-desinformation-100.html> (May 27, 2025).

³³ See LSVD*, Bundestagswahl 2025, Wahlprüfsteine (electoral benchmarks), <https://www.lsvd.de/de/ct/13725-wps-btw25>, (June 24, 2025).

³⁴ Sprengholz, M. (2021). Post-feminist German heartland: On the women's rights narrative of the radical-right populist party Alternative für Deutschland in the Bundestag. *European Journal of Women's Studies*, 28(4), 486-501. <https://doi.org/10.1177/13505068211007509> (Original work published 2021)

³⁵ Attila Varga, "Itt látható a kérdőív: 10 kérdésre vár választ a kormány a nemzeti konzultáció során," *Magyar Idők*, November 5, 2018.

an anti-LGBTQ+ referendum in the 2022 general elections. The government has used the pretext of protecting children and traditional values to spread and implement anti-LGBTQ+ narratives and policies³⁶. Additionally, pro-government news outlets have regularly discredited LGBTQ+ activists by claiming that they are not fighting for equal rights but want to impose their views on the majority via "LGBTQ- and gender-propaganda". In the 2024 European Parliament election campaign, the main slogan for the governing parties was "No war. No migration. No gender."³⁷

The opposition parties have widely varying positions on LGBTQ+ issues. The far-right organizations and Our Homeland party (Mi Hazánk) share Fidesz's views and refer to LGBTQ+ groups as "LGBTQP" (the "P" stands for pedophilia). In fact, Fidesz has adopted many of the tropes and demands that Mi Hazánk has brought to the forefront. The main challenger, the TISZA Party, has not expressed clear views. However, its leader, Péter Magyar, has indirectly expressed LGBTQ+-friendly positions³⁸. Left-liberal opposition parties, such as Democratic Coalition (DK) and Momentum, openly support LGBTQ+ rights and consistently vote against proposals restricting them, but their voices reach very few.

LGBTQ+ and human rights organizations have had moderate success neutralizing and countering the Orbán government's anti-LGBTQ+ and anti-gender narratives. One of their greatest successes was the "Family is Family" campaign in the fall of 2020, which raised awareness about the situation of rainbow families. Another success was the vote "no" campaign in the 2022 referendum, which increased support for same-sex parenting and convinced over 1.7 million people to vote "no". Ultimately, this campaign helped render the government's initiative legally invalid.

Italy

While Italian media has made significant progress in covering LGBTQ+ issues, the growing anti-gender movement, fueled by religious organizations and radical right-wing parties, has had a substantial influence on the political landscape. The 2024 Diversity Media Research Report revealed that media coverage of LGBTQ+ issues primarily focuses on social challenges and legal battles, such as discrimination and the legal recognition of parenting and surrogacy, rather than social representation³⁹. Meanwhile, the anti-gender movement has fueled the rise of Catholic associations, such as the "ProVita e Famiglia" and radical right-wing parties, such as Brothers of Italy (Fratelli d'Italia), thereby shaping the

political agenda⁴⁰. Since taking office, Giorgia Meloni's government has continued to use religion to justify its anti-LGBTQ+ positions and combat the so-called "gender ideology", which they see as a threat to women's rights and a tool for indoctrinating children in schools⁴¹. For instance, in 2023, the government restricted parental rights for same-sex couples, recognizing only biological parents as legal guardians⁴².

Despite the Meloni government's opposition to LGBTQ+ rights, various parties and organizations continue to challenge it and advocate for these rights. Center-left and liberal parties, such as +Europa, Azione, the Democratic Party (PD), and the Greens and Left Alliance (AVS), generally support the rights of rainbow families. However, the legal status and social challenges of these families have not been a central focus of their electoral campaigns. Meanwhile, numerous organizations, such as Rete Lenford – Avvocatura per i diritti LGBTI, persistently advocate for LGBTQ+ rights and provide legal assistance to rainbow families who are victims of discrimination and violence.

³⁶ Political Capital. 2022. Anti-gender and Anti-LGBTQI Mobilisation in Hungary. Budapest: Political Capital, July 21, 2022. https://politicalcapital.hu/pc-admin/source/bejegyzesek/Zinc%20gender%202022/Full%20Report_Anti-gender%20and%20anti-LGBTQI%20mobilisation%20in%20Hungary_PolCap_2022-07-21.pdf.

³⁷ PM Orbán: No migration, no gender, no war!

³⁸ "Hősök tere. Talpra, Magyarok!," *Magyar Péter Hivatalos*, June 8, 2024.

³⁹ Diversity Media Research Report 2024, <https://www.diversitymediaawards.it/wp-content/uploads/2024/04/Diversity-Media-Research-Report-2024.pdf>.

⁴⁰ "The Anti-LGBTQ+ Views of Italy's Likely New Leader, Giorgia Meloni", 29.9.2022, <https://www.advocate.com/world/2022/9/29/anti-lgbtq-views-italys-likely-new-leader-giorgia-meloni>.

⁴¹ See Indelicato, M. E., & Magalhães Lopes, M. (2024). Understanding populist far-right

anti-immigration and anti-gender stances beyond the paradigm of gender as 'a symbolic glue': Giorgia Meloni's modern motherhood, neo-Catholicism, and reproductive racism. *European Journal of Women's Studies*, 31(1), 6-20. <https://doi.org/10.1177/13505068241230819>.

⁴² The case concerns approximately 35 birth certificates of children of lesbian couples. The Tribunal of Padua rejected the complaint of the Public Prosecutor's office on procedural grounds. The case is pending in appeal before the Court of Appeal of Venice, which is postponing its decision on the appeal, waiting for a judgment pending before the Constitutional Court, see below § 5.5. M.M. Winkler, *The Italian Far Right's Attack on Queer Children*, *The Italian Law Journal*, 2023, vol. 9, n° 1, pp 117-137, <https://theitalianlawjournal.it/data/uploads/9-italj-1-2023/119-winkler.pdf>.

5 Overview of the legal framework

5.1 LGBTQ+ legislative trajectories

Legal recognition of rainbow families has developed unevenly across these four countries, and initial reforms do not necessarily ensure long-term progress. Hungary was a front-runner in recognizing de facto same-sex cohabitation in 1996 and in adopting the Registered Partnership Act in 2009, well before Estonia or Italy did so. However, Hungary's trajectory has since reversed due to constitutional amendments and restrictive laws. By contrast, Estonia demonstrates how sustained political will and legal reforms can deliver deep transformation, even after a delayed start. While its 2014 Registered Partnership Act was initially incomplete, its 2023 reform introduced marriage equality, joint adoption, and broad legislative harmonization. This places Estonia among Europe's more progressive states, surpassing Hungary and Italy. Germany's progress has been gradual, with a combination of parliamentary actions and court rulings incrementally expanding the rights of rainbow families from registered partnerships in 2001 to marriage equality in 2017 and gender recognition reform in 2025. Compared to these countries, Italy remains the most restrictive, having granted only registered partnerships in 2016 without making progress on marriage, adoption, or assisted reproduction rights.

Estonia

Over the past decade, Estonia has implemented substantial legal reforms to address the fundamental issues affecting rainbow families. The Registered Partnership Act, adopted in 2014 and taking effect in 2016, was a significant step toward legally recognizing same-sex couples. However, its incomplete implementation left many legislative gaps. These shortcomings were largely resolved in 2023, when the legislature simultaneously amended the Family Law Act to introduce marriage equality (effective from 2024) and enacted the long-delayed implementation acts of the Registered Partnership Act, thereby harmonizing approximately 80 legal provisions to include references to registered partners. While the Registered Partnership Act granted same-sex couples access to stepchild adoption, the revised Family Law Act granted them access to joint adoption.

Although Estonia's constitution does not explicitly include sexual orientation in the open-ended list of prohibited discrimination grounds (Article 12), its commentary interprets this provision as safeguarding human dignity and prohibiting discrimination irrespective of personal identity. In the context of jurisprudence, sexual orientation

is considered a component of the constitutional protection against discrimination. The Supreme Court has ruled that constitutional provisions regarding the right to family life, the protection of family, and the principle of equality apply to same-sex partnerships. The Court has also recognized specific rights for registered partners, including access to healthcare insurance. Furthermore, the Penal Code imposes criminal penalties for egregious violations of equal treatment.

Germany

Over the past 25 years, Germany has made significant progress in legally recognizing same-sex partnerships and rainbow families, but a few legislative gaps remain. In 2001, the country first passed the Civil Partnerships Act (Lebenspartnerschaftsgesetz)⁴³, which granted same-sex couples a few rights comparable to marriage, but not all, including adoption rights. However, rulings by the Constitutional Court played a crucial part in urging the government to gradually extend adoption rights for same-sex registered partners from stepchild adoption in 2005 to successive adoption in 2013. In 2017, the introduction of marriage equality (Ehe für Alle) permitted joint adoption for same-sex couples. In 2025, Germany introduced the Self-Determination Act⁴⁴, which simplified the process for transgender, intersex, and non-binary individuals to change their gender and first names. However, some regulatory gaps remain regarding assisted reproduction, the recognition of rainbow families formed abroad, and parentage law.

Hungary

Before Fidesz took power in 2010, the country experienced a gradual extension of LGBTQ+ rights. Since 2002, the criminal law has made no difference between same-sex and opposite-sex relations between consenting parties. There is a comprehensive anti-discrimination legislation in force explicitly banning discrimination on the basis of sexual orientation and gender identity. The de facto same-sex cohabitation was recognized in 1996, and the Registered Partnership Act entered into force in 2009, opening a marriage-like institution for same-sex couples.

Not only has Fidesz opposed the adoption of gender-inclusive policies in Hungary, but it has also passed legislation restricting previously acquired rights or limiting their practical exercise of rights. In 2012, the Fidesz-dominated parliament adopted the Fundamental Law, Hungary's new constitution, which contains a vision of families that excludes same-sex partners and their children (Article L). Parental rights have also been curtailed through direct and indirect amendments to the Fundamental Law. In 2020, the Hungarian government amended the Fundamental Law's definition of family (Article L) to state that "*the mother shall be a woman, and the father shall be a man,*" effectively banning adoption by same-sex couples. Another amendment stated that "*Hungary shall protect children's right to a self-identity corresponding to their sex at birth,*" which latter paved the

⁴³ See <https://www.gesetze-im-internet.de/lpartg/> (March 27, 2025).

⁴⁴ See Bundesfamilienministerium, Themen, <https://www.bmfsfj.de/bmfsfj/themen/gleichstellung/queerpolitik-und->

[geschlechtliche-vielfalt/gesetz-ueber-die-selbstbestimmung-in-bezug-auf-den-geschlechtseintrag-sbgg-199332](https://www.gesetze-im-internet.de/gesetzbuch/gesetz-ueber-die-selbstbestimmung-in-bezug-auf-den-geschlechtseintrag-sbgg-199332/) (March 27, 2025).

way for the so-called “children protection” law (the infamous anti-LGBTQ+ law). This law banned minors’ access to content about sexual orientation and gender diversity⁴⁵ and changed the adoption procedure and practice⁴⁶. Since 2020, legal gender recognition has been banned, preventing transgender people from changing their gender marker or name to reflect their gender identity⁴⁷. In February 2025, the government amended the Fundamental Law to prioritize children’s rights over all other fundamental rights except for the right to life. This amendment served as the basis for banning Budapest Pride.

Italy

Italy has made limited progress in granting rights to same-sex couples. Unlike opposite-sex couples, same-sex partners cannot marry, access artificial fertilization services, or adopt children. During the fourth cycle of the Universal Periodic Review, the United Nations Human Rights Council issued 19 recommendations to Italy regarding LGBTQ+ human rights. These recommendations include banning conversion therapy, recognizing rainbow families, prohibiting surgical interventions on intersex children, and combating hate crimes based on sexual orientation and gender identity.

Key advances for LGBTQ+ rights include civil registered partnerships, legal gender recognition, and strict anti-discrimination measures. Since 2018, sexual orientation and gender identity have been recognized as inherent features of human dignity in penitentiary regulations, the Privacy Code, and international protection laws.

5.2 The relationship between the EU and national legislation on rainbow families

The impact of EU legislation on national laws concerning rainbow families is limited because the EU has limited jurisdiction over family law. Member states decide whether to recognize civil partnerships or marriages of same-sex couples.

The EU’s anti-discrimination provisions provide a common framework for protecting LGBTQ+ individuals in each country. All four countries adopted the Race Equality and Employment Equality Directives, but their impact varied

based on existing protections. In Italy, for instance, the directives were transformative, as they introduced sexual orientation and gender identity as prohibited grounds for discrimination for the first time. In contrast, Estonia transposed several gender equality directives during its accession process and subsequently adopted the Equal Treatment Act to comply with them. Hungary also aligned with EU requirements by repealing unequal age-of-consent provisions and enacting anti-discrimination laws during accession. Conversely, EU laws largely complemented existing provisions in Germany, offering clarifications rather than substantive change.

Estonia

With its EU accession in 2004, Estonia transposed a wide range of gender equality directives⁴⁸. Subsequently, Estonia adopted the Equal Treatment Act in 2009 in compliance with the Employment Equality Directive and the Race Equality Directive. The Act explicitly prohibits discrimination based on sexual orientation in employment, while broader protection is provided by the Constitution.

EU and European Court of Human Rights (ECHR) case law references have appeared in legislative reforms. The explanatory notes to the draft Registered Partnership Act referred to the European Court of Justice’s *Frédéric Hay* ruling⁴⁹, while the 2023 amendments to the Family Law Act (introducing marriage equality) referenced EU policy developments such as the LGBTIQ Equality Strategy and ECHR case laws⁵⁰. The ECHR’s *Schalk and Kopf v. Austria* and *Gas and Dubois v. France* judgments were cited in explanatory notes as relevant comparators in discussions on cohabitation, family life, and adoption rights.

Germany

Germany implemented the Race Equality Directive and the Employment Equality Directive through the General Act on Equal Treatment in 2006. Since Germany’s introduction of marriage equality in 2017, EU law has had relatively little influence on its family law compared to other member states.

Nevertheless, EU case law has provided important clarifications. Rulings by the European Court of Justice have contributed to equal treatment for same-sex couples, ensuring that civil partners are entitled to the same survivor benefits⁵¹ and supplementary pensions as

⁴⁵ Act no. LXXIX of 2021 on stricter actions against pedophile offenders, and the amendment of certain laws for the protection of children.

⁴⁶ Amendment to Section 4:121 of the Civil Code introduced by Act CLXV of 2020, in force since March 1, 2021.

⁴⁷ Section 33 of Act no. XXX of 2020.

⁴⁸ Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women; Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security; Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes; Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood; Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the

safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC); Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes; Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex, and Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

⁴⁹ Available at: <https://www.riigikogu.ee/tegevus/eelnoud/eelnou/ea84e71c-291a-4c91-88b0-bd64af650d21/>.

⁵⁰ Available at: <https://www.riigikogu.ee/tegevus/eelnoud/eelnou/5fcb8fd-b3d9-47a4-b5c1-ed9959bf0c9c/perekonnaseaduse-muutmise-ja-sellega-seonduvalt-teiste-seaduste-muutmise-seadus/>.

⁵¹ ECJ judgement C-267/06 – Maruko, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62006CJ0267>, (June 02, 2025).

married couples⁵². Recent rulings, such as *Coman*⁵³ and *V.M.A. v. Pancharevo*⁵⁴, strengthened free movement and the recognition of parentage across borders. In Germany, however, these decisions confirmed rights already secured by national law rather than introducing substantial new obligations.

Hungary

During Hungary's accession process to the EU, the Commission of European Communities raised concerns about its unequal age of consent for same-sex and opposite-sex couples⁵⁵. The Constitutional Court resolved the issue by quashing the criminal provision that contained a different age of consent for same sex consenting partners⁵⁶. The Commission welcomed the Constitutional Court's ruling and emphasized the necessity for formal legislative repeal⁵⁷, which was subsequently carried out in accordance with the ruling⁵⁸. Hungary also enacted comprehensive legislation banning discrimination on the grounds of sexual orientation and gender identity in compliance with the Race Equality Directive and the Employment Equality Directive.

Although the Hungarian legal framework on adoption aligns with the case-law of the ECHR, as there is no *de jure* discrimination in individual adoption that excludes LGBTQ+ individuals, recent amendments to the Civil Code have made the process almost inaccessible to them. However, the discriminatory practices by the guardianship authorities have so far been remedied by the courts based on anti-discrimination legislation. Additionally, same-sex couples are excluded from assisted reproduction, a restriction that could potentially be challenged under the *Karner v. Austria* case⁵⁹. However, the ECHR has not yet directly addressed access to assisted reproduction for same-sex couples.

Italy

EU law has established a significant framework for safeguarding rainbow families in Italy, though its impact has been more gradual than transformative. Prior to the adoption of the Employment Equality Directive and the Recast Gender Equality Directive, sexual orientation and gender identity were not recognized as prohibited grounds of discrimination in Italian law. These directives initially introduced protections in employment and later gradually expanded them to housing, financial benefits, and access to goods and services. On the basis of these antidiscrimination provisions, the National Institute for Social Security, Italy's primary social security institution, has amended its interpretation of disability leave rules to reduce disparities between registered partnership and marriage. In July 2025, the Constitutional Court declared unconstitutional the provision that prevented a non-biological mother in a lesbian relationship from accessing

parental leave. The Court, however, did not rely on the EU's anti-discrimination provisions but found the provision to be contrary to the principle of equality (Article 3) of the Italian Constitution.

The ECHR has also influenced developments. In *Oliari v. Italy*⁶⁰, the Court ruled that the lack of legal recognition for same-sex couples violated Article 8, a decision broadly seen as prompting Parliament to adopt civil partnership legislation.

⁵² ECJ judgement C-147/08 – *Römer*, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj:JOC_2011_194_R_0002_01, (June 02, 2025).

⁵³ ECJ judgement C673/16 - *Coman*, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=202542&doclang=EN> (June 02, 2025).

⁵⁴ ECJ judgement C-490/20 - *Stolichna obshtina, rayon "Pancharevo"*, <https://curia.europa.eu/juris/liste.jsf?lgrec=fr&td=%3BALL&language=en&num=C-490/20&jur=C> (June 02, 2025).

⁵⁵ Commission of the European Communities, 2001 Regular Report On Hungary's

Progress Towards Accession, p. 29.

⁵⁶ Decision no. 37/2002. (IX. 4.).

⁵⁷ Commission of the European Communities, 2002 Regular Report On Hungary's Progress Towards Accession, p. 21.

⁵⁸ Decision no. 37/2002. (IX. 4.).

⁵⁹ *Karner v. Austria*, appl. no. 40016/98, judgment of July 24, 2003.

⁶⁰ *Oliari v. Italy* (Applications nos. 18766/11 and 36030/11, ECtHR), 21.7.2015.

6 Legislation in key areas

6.1 Marriage equality

Recognition of rainbow families has followed different paths in the four countries. Germany and Estonia have both achieved marriage equality. Germany advanced from registered partnerships in 2001 to same-sex marriage in 2017, while Estonia adopted the Registered Partnership Act in 2014 but did not implement its provisions. This incomplete implementation led to comprehensive family law amendments in 2023, which established marriage equality and addressed the Act's shortcomings. In contrast, Hungary and Italy continue to restrict recognition of same-sex relationships to registered partnerships. Both Hungary and Italy define marriage as a union between a man and a woman. Hungary has enshrined this definition in its constitution, while Italy has defined it in its Civil Code provisions. Although civil partnerships in both countries grant some rights associated with marriage, significant exceptions remain.

Estonia

With the adoption of the gender-neutral Registered Partnership Act, Estonia formally granted many core rights associated with marriage, including inheritance, joint property ownership, shared financial obligations, and stepchild adoption. In practice, however, the absence of implementing provisions left these rights largely inaccessible to same-sex couples. Consequently, they sought judicial remedies to secure recognition in areas such as healthcare coverage, a shared last name, and parental rights⁶¹. Gradually, court rulings affirmed that registered partners were entitled to have their rights recognized. Still, the reliance on litigation highlighted the insufficiency of the framework.

A decisive shift occurred in June 2023 when Parliament amended the Family Law Act to redefine marriage as gender-neutral. This reform addressed the shortcomings of the Registered Partnership Act and established marriage equality. The amended Family Law Act extended joint adoption to married same-sex couples and automatically recognized the parentage of children born to married lesbian couples via artificial insemination.

According to experts and rainbow families, marriage equality has resolved the main legal challenges that rainbow families previously faced. Although assisted reproduction remains limited for male couples, there have been no significant implementation issues, which marks a decisive step toward ending the legal limbo of the

partnership era.

Germany

Germany's pathway to marriage equality has been gradual but steady, evolving from recognition to full equality. The 2001 Civil Partnership Act (2001) provided the first legal framework for same-sex couples, granting them recognition and limited rights compared to marriage, while leaving many loopholes. Over time, many of these gaps were closed through legislative reforms and court rulings that extended rights in areas such as names (2005), maintenance (2007), inheritance and guardianship (2009), and taxes (2013). There were also reforms to civil status (2007) and pension equalization (2009)⁶². This incremental process paved the way for full marriage equality. In June 2017, the Bundestag voted to redefine marriage as gender-neutral, granting same-sex couples the same rights and obligations as opposite-sex spouses. The reform's most significant change concerned adoption, as same-sex couples could now adopt jointly.

However, same-sex couples can no longer enter into new registered partnerships. Existing partnerships are still valid and can be converted into marriages. This conversion can be applied retroactively, though questions remain about the tax and social implications. Those who remain in registered partnerships now essentially enjoy the same rights as married spouses, with the major exception of joint adoption. The Civil Partnership Act continues to apply to partnerships established abroad. Since the reform, over 84,000 same-sex marriages have been registered, indicating a broad uptake and societal acceptance⁶³.

Hungary

In Hungary, constitutional provisions explicitly preclude marriage equality. The 2012 Fundamental Law defines marriage as the union of a man and a woman, and a subsequent amendment has reinforced the idea that families are based on marriage and parent-child relations. This framework explicitly excludes rainbow families from access to marriage.

Instead, legal recognition has been granted through the 2009 Registered Partnership Act, which introduced a general reference rule extending most rights of spouses to registered partners, thereby ensuring some level of equality⁶⁴. However, significant exclusions remain, including marital name, joint or stepchild adoption, and access to reproductive services⁶⁵. While the Act narrowed formal inequalities, it simultaneously entrenched a differentiated institution, maintaining a symbolic and practical hierarchy between heterosexual marriage and same-sex partnerships.

Although the Act sought to equalize certain rights and benefits for same-sex and opposite-sex couples, shortcomings in its implementation have allowed

⁶¹ Interview with Kelly Grossthal: <https://civicus.org/index.php/media-resources/news/interviews/6463-estonia-legal-changes-deepen-the-cultural-shift-favourable-to-lgbtqi-rights>.

⁶² See service portal „lebenspartnerschaft.de“, „Unterschied Ehe und Eingetragene Lebenspartnerschaft“, <https://www.lebenspartnerschaft.de/unterschied-ehe-und-eingetragene-lebenspartnerschaft.html>, (June 24, 2025).

⁶³ Federal Statistical Office (Statistisches Bundesamt), press release, June 27, 2024, https://www.destatis.de/DE/Presse/Pressemitteilungen/2024/06/PD24_251_126.html (April 01, 2025).

⁶⁴ RPA, S. 3(1).

⁶⁵ RPA, S. 3(2–4).

discrimination to persist, particularly with regard to access to certain benefits. The lack of awareness among administrative bodies of the reference rule often forces same-sex couples to invoke the law to exercise their rights. Certain family allowances, such as the Advanced Housing Subsidy for Families, are unavailable to same-sex couples. Even fifteen years after the Act took effect, official information and government websites still contain misleading information and omit registered partners as beneficiaries. Thus, while the Registered Partnership Act was a milestone in legal recognition, its incomplete equality and inconsistent implementation have generated frustration among same-sex couples, highlighting the limitations of a parallel institution to marriage.

Italy

Italy has not yet legalized same-sex marriage, as several provisions of the Italian Civil Code still define marriage as a union between a man and a woman. The Constitutional Court has confirmed that the responsibility to recognize same-sex unions lies with the legislature. In comparison to other European countries, Italy was a latecomer in providing legal recognition to same-sex couples. In 2016, the Italian parliament adopted registered partnership law (Legge Cirinnà) in response to mounting judicial pressure and the *Oliari v. Italy* judgment of the ECHR. The reform was widely considered both long overdue and somewhat outdated⁶⁶.

The registered partnership, modeled on Germany's Civil Partnership Act, granted same-sex couples many of the rights enjoyed by opposite-sex married couples. However, there are notable exceptions, such as adoption, parenting rights, and access to assisted reproduction. A provision for stepchild adoption was removed from the final text, leaving only access to incomplete adoption, also known as "adoption in special cases." This type of adoption was originally designed to safeguard relationships when a child was already integrated into opposite-sex families or in a vulnerable environment. However, progressive interpretations of the law permitted same-sex couples to participate in adoption in special cases.

Implementation of the law has faced serious challenges from a few municipalities that have attempted to impose discriminatory conditions. The courts struck these conditions as unlawful⁶⁷. Additionally, marriages were automatically downgraded to registered partnerships when one spouse underwent gender transition. However, the Constitutional Court ruled in 2024 that this automatic dissolution was unconstitutional because it violated the right to personal identity.

6.2 Access to artificial fertilization

The regulatory framework for assisted reproduction varies widely across the four countries, ranging from inclusive to restrictive policies. Estonia has the most progressive

framework, offering all women, regardless of sexual orientation or marital status, access to reproductive techniques with public health coverage, as well as automatic recognition of parenthood for married lesbian couples. While Germany permits assisted reproduction for single women and couples regardless of sexual orientation, a lack of clear and uniform guidelines creates barriers for same-sex couples to accessing services, as it depends on individual doctors' discretion to perform the procedure. High costs and limited insurance coverage further restrict access, pushing many couples to seek treatment abroad or to turn to home insemination. In contrast, Hungary permits assisted reproduction for married and cohabiting opposite-sex couples, as well as single women, but explicitly excludes women in registered partnerships. Although single women can legally access these services, legal risks, bureaucracy, and long waiting times make it difficult in practice. Italy offers the most restrictive framework. Assisted reproduction is limited to married and cohabiting opposite-sex couples, while same-sex couples and single women are excluded. Despite judicial interventions that eased restrictions for heterosexual couples, rainbow families are still systematically denied access.

Estonia

The Artificial Insemination and Embryo Protection Act regulates access to assisted reproductive services⁶⁸. Since 2002, the Act has allowed all single women, regardless of their sexual orientation, to use donor gametes from either anonymous or identified donors or embryos. The law allows procedures for medical reasons or when no suitable male partner is available. While the Act does not explicitly mention the Reception of Oocytes from Partner (ROPA) method, it permits embryo transfer using another woman's ovum, thus making the method possible in principle.

The Health Insurance Fund provides coverage for in vitro fertilization (IVF), embryo transfer, and related medications free of charge for women up to the age of 40, ensuring broad access to these services. Additionally, fertility preservation methods, such as egg or sperm freezing, are covered under specific conditions. Transgender individuals may also access these services before beginning hormone replacement therapy. Overall, access to reproductive services is generally regarded as smooth, affordable, and supportive.

The amended Family Law Act introduced an important change to the Artificial Insemination and Embryo Protection Act, impacting lesbian couples. If one spouse consents to the artificial insemination of the other, she is automatically recognized as the child's legal parent, similar to the presumption of fatherhood in heterosexual marriages. This approach ensures equal recognition of parental rights at birth, eliminating the need for second-parent adoption.

⁶⁶ Winkler M. M. (2018), Same-Sex Marriage and Italian Exceptionalism, *ICL Journal* 2018, 12(4), pp. 431–456.

⁶⁷ Respectively decision no. 640/2016, 7.12.2016 and decision no. 1791/2016, 29.12.2016 available at <https://www.articolo29.it/2017/tar-lombardia-perche-le->

celebrazioni-delle-unioni-civili-e-dei-matrimoni-debbono-essere-uguali/.
⁶⁸ Artificial Insemination and Embryo Protection Act (Kunstliku viljastamise ja embrüokaitse seadus), RT I 1997, 51, 824.

Germany

Access to assisted reproduction is primarily regulated by the Embryo Protection Act (1990) and the Transplantation Act (2007), as well as related regulations⁶⁹. These regulations permit access to certain reproductive services for single women and same-sex couples, such as various assisted insemination procedures, IVF, and intracytoplasmic sperm injections⁷⁰, but surrogacy, egg donation, and the ROPA method remain prohibited. Although access for same-sex couples has generally improved over time, it remains highly inconsistent due to the absence of clear and harmonized guidelines. The decision to perform the service rests with the individual doctor, resulting in significant disparities in access. For instance, only the Hamburg Medical Association has explicitly authorized heterosexual insemination for same-sex couples. Some domestic sperm banks and fertility clinics are also reluctant to provide services to same-sex couples, which limits practical access for rainbow families despite formal legal availability.

Even if a doctor approves assisted reproductive services, statutory health insurance only partially covers fertility treatments for married heterosexual couples using their own gametes if they meet strict age and health criteria. Same-sex couples and single women are excluded from this coverage. However, five federal states provide them with limited financial support. Private health insurance may cover treatments, but eligibility for rainbow families remains uncertain. The high costs, inconsistent regulations, and lack of appeal mechanisms when doctors refuse treatment drive many same-sex couples to seek assisted reproduction abroad or home insemination (self-insemination without medical assistance).

While home insemination is lawful and relatively affordable, making it a viable option for lesbian couples, there are legal risks associated with the process. Private sperm donation can create legal conflicts because the biological father retains some of his rights. Agreements prior to the insemination regarding custody or child support are not enforceable. A private donor could assert custody claims years later. By contrast, registered donors at sperm banks and clinics are released from parental obligations. Since 2018, children conceived with donor sperm have had the right to know the donor's identity by the age of 16, which limits the use of anonymous foreign sperm banks⁷¹.

Hungary

The Health Care Act regulates access to artificial fertilization and permits the use of assisted reproductive technologies, such as in vitro fertilization (IVF) and intrauterine insemination, for married and cohabiting opposite-sex couples, as well as single women, regardless of their sexual orientation. However, the general reference

rule of the Registered Partnership Act explicitly excludes women living in a same-sex relationship from accessing reproductive services, such as cohabitation and registered partnerships. There is no legislation, however, that prohibits the use of assisted reproductive technologies abroad, where such procedures are legal for women in same-sex relationships.

Although single lesbian women can theoretically access reproductive services, they face many challenges. Those who lie about their partnerships may commit forgery of administrative documents or use of a forged private document, depending on the circumstances. Those in registered partnerships are in an even worse position because their relationship is easily traceable in the registry. Consequently, lesbian couples avoid or delay entering into registered partnerships to secure access to these services. The ROPA method is also unavailable to them. Although same-sex partners are considered next of kin under the law, designating a partner as the donor disqualifies the recipient from accessing assisted reproduction. Home insemination is classified as the illegal use of body parts because only a healthcare provider with the appropriate permissions can perform reproduction procedures, which further limits options for lesbian couples.

In recent years, state interventions have generally made assisted reproduction less accessible, further limiting the options available to lesbian women. For example, in 2015, Hungary's Chief Medical Office ruled that only fertility centers providing treatment could collect and use sperm. This made sperm import and banking illegal, leading to a sperm shortage. The Commissioner for Fundamental Rights issued a report urging Hungarian authorities to establish an effective system for anonymous sperm donation⁷². In 2019, the state nationalized some private fertility clinics, and by 2022, only state-run centers were permitted to provide fertility treatments. Although these procedures were made free of charge, long waiting lists emerged, and single women, including lesbians, have reported being given lower priority or being denied access altogether.

Italy

Access to assisted reproduction is regulated by the Rules on Medically Assisted Procreation (Law 40/2004), which restrict eligibility to opposite-sex couples of childbearing age who are either married or cohabiting. Same-sex couples and single women are still excluded. Although the law initially imposed very restrictive conditions, the framework has repeatedly been reshaped by interventions from the Constitutional Court.

The Constitutional Court first invalidated provisions limiting embryo creation to three and requiring their

⁶⁹ See German Bundestag, brief information "Legal Framework for Reproductive Medical Treatments in Germany", March 27, 2024, <https://www.bundestag.de/resource/blob/1001036/7441a8653835c14c2736f155626186a4/WD-8-019-24-pdf.pdf> (May 07, 2025). The following information in this section comes from the same source.

⁷⁰ See LSVD*, advice service, here with further explanations of the methods, their prospects of success, and the costs for the couples concerned,

<https://www.lsvd.de/de/ct/1372-Ratgeber-Kuenstliche-Befruchtung-bei-gleichgeschlechtlichen-Paaren> (May 08, 2025).

⁷¹ Bundesministerium der Justiz und für Verbraucherschutz, Samenspenderegistrierungsgesetz, <https://www.gesetze-im-internet.de/saregg/BJNR251310017.html>, (June 12, 2025).

⁷² Radó Nóra, "A környező országok tárt karokkal várják a meddő párokat, akiket a családbarát Magyarországon cserben hagy a rendszer," Qubit, April 10, 2024.

simultaneous transfer, thereby permitting greater flexibility in embryo production and implantation based on medical needs (Ruling No. 151/2009). Then the Court declared the ban on heterologous fertilization unconstitutional, allowing opposite-sex couples to use donor gametes (Ruling No. 162/2014). It also extended access to preimplantation genetic diagnosis to couples at risk of transmitting severe genetic conditions, not only infertile couples (Ruling No. 96/2015). It also ruled that a man's consent to reproductive services cannot be revoked once fertilization has occurred (Ruling No. 161/2023).

At the same time, the Constitutional Court upheld the exclusion of same-sex couples and single women. The Court confirmed the constitutional legitimacy of the ban on same-sex couples accessing assisted reproductive techniques, stating that the ban falls within the legislature's discretion (Ruling No. 221/2019). Similarly, the Court ruled that single women cannot use reproductive techniques because the provisions are intended to address the needs of infertile couples, who are in a different situation than a woman who wants to have a child without a partner (Ruling No. 69/2025).

6.3 Surrogacy regulations

All four countries prohibit surrogacy, but the scope and severity of the restrictions vary. Estonia and Germany prohibit domestic surrogacy and target mediators and doctors, though they do not criminalize intended parents or families who seek surrogacy services abroad. Estonia has not created obstacles to registering children born through surrogacy, but Germany's legal recognition of intended parents is uncertain. By contrast, Hungary's framework is stricter; surrogacy is viewed as a criminal activity, and those involved, including intended parents, could be punished. The ban also applies to Hungarian citizens seeking surrogacy services in countries where it is legal. Italy has the most restrictive framework. There, surrogacy is considered a crime under universal jurisprudence, which allows Italians to be prosecuted for surrogacy abroad.

Estonia

Estonia has a clear prohibition on surrogacy. The Penal Code criminalizes the transfer of a foreign ovum, embryo, or fetus that has grown from it to a woman who intends to give the child away after birth⁷³. The current legislation is not currently under political or public debate, and the issue is viewed as marginal within the LGBTQ+ community. The prohibition primarily impacts gay couples, who face challenges in having biological children in the absence of surrogacy. However, Estonian authorities have not created obstacles for families who have pursued surrogacy abroad.

Germany

Surrogate motherhood is prohibited in Germany with two key legislations. The Embryo Protection Act⁷⁴ makes doctors liable for prosecution for carrying out the procedures for surrogacy, while the Adoption Placement Act⁷⁵ prohibits surrogacy mediation and imposes fines or imprisonment for commercial arrangements. Importantly, intended parents and surrogate mothers are not criminalized, and surrogacy abroad is not criminalized.

Although seeking surrogacy outside Germany remains an option, the main challenge is the legal recognition of intended parents. Under the original framework, the surrogate mother was considered the legal mother, and if she was married, her husband was considered the legal father. This prevented intended parents from being recognized as legal parents. Over time, however, Federal Court of Justice rulings⁷⁶ have softened these strict rules, allowing for the legal recognition of intended parents. The Court ruled that, if parentage is transferred to the intended parents by the surrogate mother's home country, the German courts can recognize this arrangement, provided it is voluntary, adoption-like, and in the child's best interest. While courts have increasingly recognized the transfer of parentage by foreign courts or foreign authorities, the outcome of the recognition of parenthood is heavily dependent on the documents provided by the foreign bodies. As a result, the legal situation leaves families who pursue surrogacy abroad in an uncertain position.

Hungary

Surrogacy is implicitly prohibited under the Health Care Act, which outlines permissible reproductive procedures. Therefore, other procedures, including gestational surrogacy, are also banned. Additionally, surrogacy is generally considered a criminal activity and may be covered by the crime of human trafficking, illegal use of a human body, or a violation of family status. The violation of family status extends to the intended parents. For example, listing the intended mother instead of the birth mother on a birth certificate – or, in the case of same-sex couples, leaving the mother field blank or adding the non-biological father – would violate family status.

Since the Criminal Code applies to all Hungarian citizens, regardless of where the crime occurred, the ban also covers surrogacy undertaken by Hungarians abroad, even in countries where it is legal. In practice, however, the application of these criminal provisions is largely hypothetical, as there have been no known cases in which they have been applied to surrogacy. Even if a couple pursues surrogacy abroad, the child's legal registration is uncertain and could arouse suspicion among the authorities. Surrogacy is not a major issue for the LGBTQ+ movement, and no organization is actively advocating for its legalization for same-sex couples or more broadly.

⁷³ Penal Code (Karistuseseadustik), 06.06.2001, RT I 2001, 61, 364, available in English at: <https://www.riigiteataja.ee/en/eli/529122024005/consolide>.

⁷⁴ See Embryo Protection Act (Embryonenschutzgesetz), December 13, 1990, last amended by Article 1 of the Act of November 21, 2011 (Federal Law Gazette I, page 2228), <http://www.gesetze-im-internet.de/eschg/index.html> (May 11, 2025).

⁷⁵ Federal Ministry of Justice, Adoption Placement Act, https://www.gesetze-im-internet.de/englisch_advermig/englisch_advermig.html (June 10, 2025).

⁷⁶ See Federal Court of Justice (Bundesgerichtshof), judgment, <https://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=pm&Datum=2014&Sort=3&nr=69759&linked=bes&Blank=1&file=dokument.pdf> (May 12, 2025); See Bundesgerichtshof, judgment, <https://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&sid=d6c43e872a77e78f5921818a876e7378&nr=88279&pos=0&anz=1&Blank=1.pdf> (May 12, 2025).

Italy

Surrogacy is explicitly prohibited in Italy under Law 40/2004, which imposes severe penalties and imprisonment not only on those who advertise and organize surrogacy, but also on those who access it. These penalties include fines ranging from €600,000 to €1 million and prison sentences ranging from three months to two years. Originally, the Law 40/2004 applied only within Italy, and the prosecution of Italians who sought surrogacy abroad required special authorization from the Ministry of Justice.

However, in October 2024, Italy expanded the criminalization of surrogacy by adopting the Varchi Law, which established surrogacy as a crime subject to universal jurisdiction. This means that Italians can be prosecuted for surrogacy abroad, bypassing the long-standing principle of double criminality. Consular authorities have been instructed to report suspected surrogacy-related births abroad to Italian judicial authorities⁷⁷. The Varchi Law has been heavily criticized because crimes under universal jurisdiction are usually limited to the most serious international crimes, such as genocide or torture⁷⁸. Some argue that the law is incompatible with EU law and the Italian Constitution⁷⁹.

6.4 Adoption rights

The adoption rights of rainbow families vary greatly in these four countries. Only Estonia has an inclusive legal framework that is adequately implemented. It allows full adoption rights, including individual adoption and second-parent and joint adoption for same-sex couples. Germany has gradually expanded adoption rights for same-sex couples and now ensures all adoption procedures; however, it lacks proper implementation, making adoption challenging for same-sex couples.

In contrast, Hungary and Italy have imposed restrictive legislative frameworks that deny rainbow families meaningful access to adoption. In Hungary, both joint and second-parent adoption are closed to same-sex couples. Although individual adoption is legally possible, recent amendments to the Civil Code have made the process politically discretionary and nearly inaccessible to LGBTQ+ individuals. Italy also excludes same-sex couples from domestic adoption, restricting it to married opposite-sex couples. Same-sex couples who adopted abroad received some protection through adoption in special cases. However, recent rulings have paved the way for international individual adoption and the recognition of foreign court decisions that granted adoption.

Estonia

Estonia has an inclusive legal framework for rainbow

families regarding adoption. Same-sex couples have access to individual, second-parent, and joint adoption. Both the Family Law Act and the Registered Partnership Act regulate adoption in gender-neutral terms. However, the Family Law Act addressed the shortcomings of the Registered Partnership Act by providing same-sex couples with access to second-parent adoption. The Family Law Act allows married same-sex couples to adopt jointly.

The adoption provisions have been successfully implemented, ensuring equal conditions for same-sex and opposite-sex couples without any legal or institutional biases. The Social Insurance Board, the government agency responsible for adoption, has promoted fostering by sharing positive stories about rainbow families. Although formal requirements can be burdensome, rainbow families report that the process has become progressively easier and is perceived as supportive.

Germany

Germany has gradually expanded its adoption laws, creating uniform processes for opposite-sex and same-sex couples. Individual adoption has been available to LGBTQ+ individuals because adoption laws do not exclude them based on sexual orientation. However, same-sex couples have enjoyed stepchild adoption rights since 2005, successive adoption rights since 2013, and joint adoption rights since the introduction of marriage equality in 2017. Since 2020, stepchild adoption has been available for all unmarried couples under certain conditions⁸⁰. In principle, LGBTQ+ individuals can access all forms of adoption, and adoptive parents receive full legal parental status in all cases.

Despite the inclusive legal framework, the absence of implementation of these provisions makes it challenging for same-sex couples to adopt in practice. Same-sex couples encounter extensive procedures, opaque screening processes, and somewhat intrusive questions. They also encounter discriminatory behavior from authorities, including youth welfare offices, which continue to prioritize the traditional family model. Consequently, some same-sex couples abandon or cancel their adoption plans.

Hungary

Hungary's constitutional framework employs a restrictive definition of family, effectively excluding rainbow families and providing an almost insurmountable preference for spouses in adoption. Joint or second-parent adoption has never been available for same-sex couples. While individual adoption remains legally available for LGBTQ+ individuals, only the adoptive parent becomes the legal parent, and their partner is recognized only as a stepparent in registered partnerships or as a de facto parent in cohabitation. Same-sex couples are unequivocally

⁷⁷ See e.g. the webpage dedicated to Registration of Birth Certificates of the Italian Consulate in Philadelphia, <https://consiladelfia.esteri.it/en/servizi-consolari-e-visti/servizi-per-il-cittadino-italiano/stato-civile/trascrizione-atti-di-nascita/>.

⁷⁸ M. Pelissero, La maternità surrogata come delitto universale? Un esempio di simbolismo penale: l'inefficacia di una norma a servizio di un messaggio etico. Una premessa: ineffettività della disciplina e simbolismo penale, in *il Quotidiano*

giuridico, 2023, 11-17.

⁷⁹ B. Parenzo, Maternità surrogata, dignità e principio personalista, in *Persona e Mercato*, no. 4/2024, 1217-1245 <http://www.personaemercato.it/wp-content/uploads/2025/02/Parenzo.pdf>.

⁸⁰ See LSVD*, advice service, <https://www.lsvd.de/de/ct/1298-Ratgeber-Stiefkindadoption-bei-lesbischen-Regenbogenfamilien> (April 04, 2025).

disadvantaged in the adoption process due to restrictions on joint and second-parent adoption.

In 2020, Hungary further restricted individual adoption for LGBTQ+ individuals. The country amended the Civil Code, setting adoption by married couples as the general rule and allowing individual adoption "in cases of exceptional circumstances."⁸¹ In these instances, the guardianship and child protection offices may recommend suitability, but the final decision depends on special permission from the minister responsible for youth and family matters⁸². Crucially, the law does not establish transparent and substantive criteria for the minister's consent, leaving it entirely to the discretion of the political actor.

Since the restrictions on the individual adoption process took effect in 2021, registered same-sex couples have been declared systematically unsuitable for adoption. While the minister has not withheld consent so far⁸³, LGBTQ+ individuals have been blocked in earlier stages of the process by the local guardianship offices. The offices have also invoked the so-called 'child protection law'⁸⁴ – in reality, an anti-LGBTQ+ law – to argue that same-sex couples cannot provide the environment that fulfills the legal conditions for children⁸⁵.

Italy

Italy has a restrictive legal framework regarding adoption. Domestic adoption is reserved for married opposite-sex couples, excluding single individuals, regardless of their sexual orientation, and same-sex couples entirely. Although same-sex couples can participate in foster care, it is a temporary arrangement that does not establish full parental rights. The goal of foster care is typically to reunite the child with their biological family once a safe and stable environment has been established.

Some progress has been made through court rulings. Same-sex couples who adopted abroad have successfully petitioned the courts to recognize their parenthood through progressive interpretations of adoption in special cases (Law No. 184/1983, Article 44, paragraph 1, letter d). In 2021, the Court of Cassation ruled that recognizing the outcome of a foreign judicial decision granting adoption to a same-sex couple did not contradict public order. The court emphasized that a child's family composed of same-sex parents does not constitute an obstacle, provided that there was no surrogacy agreement underlying the parent-child relationship. Then, in March 2025, the Constitutional Court declared unconstitutional the relevant provisions of Law No. 184/1983, which excluded single individuals from accessing international adoption. Consequently, single individuals, irrespective of their sexual orientation, can adopt internationally, leading to a paradox where LGBTQ+ individuals can adopt abroad but registered same-sex couples cannot. Same-sex couples may choose to delay

entering into a registered partnership so that one partner can first pursue international adoption, after which the partnership can be formalized, and the other partner can apply for adoption in special cases.

6.5 Status of children in the rainbow families

The status of children and the recognition of parenthood for rainbow families vary significantly across the four countries. Estonia stands out with its explicit regulations that ensure equal parental rights and benefits, as well as automatic recognition of parenthood for **married** lesbian couples. In contrast, Germany, Hungary, and Italy only recognize the biological or adoptive parent by default. However, Italy has made progress after its Constitutional Court granted equal parental rights to female intended parents who underwent assisted reproduction abroad under foreign laws. The intended parent in a male same-sex couple has to go through adoption in special cases, which, if successful, guarantees equal rights and protections for children raised in rainbow families. Although the automatic recognition of parentage for same-sex couples has been on the German political agenda for years, intended parents still have to undergo a burdensome stepchild adoption process, leaving rainbow families in a state of legal uncertainty. While Hungary automatically recognizes the intended parent as a stepparent or a de facto parent, they cannot presume full parenthood. Instead, they remain in a relegated status with limited rights. Rainbow families often face legal barriers and the discriminatory application of existing rights, such as accessing benefits.

Estonia

Estonia has explicit regulations regarding the status of adoptive children, ensuring equality between those raised in rainbow families and those raised in opposite-sex families. According to the Family Law Act, parental rights and obligations stem from filiation. The law states that spouses have joint custody of their child, and this applies equally to both same-sex and opposite-sex marriages. When one partner conceives through assisted reproduction, the other spouse is automatically recognized as a legal second parent even before birth. This ensures that children born to two mothers enjoy equal protection, eliminating the need for stepchild adoption.

Rainbow families in Estonia now have the same parental rights and benefits as opposite-sex families. Since the adoption of marriage equality and the proper implementation of the Registered Partnership Act in 2023 (effective from 2024), the situation of rainbow families has improved significantly in terms of smooth parentage recognition and fully accessible family-related benefits.

⁸¹ Amendment to Section 4:121 of the Civil Code introduced by Act CLXV of 2020, in force since March 1, 2021.

⁸² Government Decree no. 149/1997 (IX. 10.).

⁸³ Electronic letter from the Ministry of Innovation and Culture dated May 23, 2024 in response to a freedom of information request. On file with the authors.

⁸⁴ In June 2021, the Hungarian parliament passed the so-called child protection law that conflates pedophilia and homosexuality. This legislation is strikingly similar to

Russia's infamous "gay propaganda law". It bans the portrayal and "promotion" of homosexuality and gender reassignment content to minors in schools, the media, advertisements, and bookstores.

⁸⁵ Act no. LXXIX of 2021 on stricter actions against pedophile offenders, and the amendment of certain laws for the protection of children. Hungary is subject to an infringement procedure on account of the law (Commission v. Hungary, C-769/22).

Previously, rainbow families often had to litigate to secure recognition and to access benefits.

Germany

Germany lacks explicit provisions regulating the status of children in rainbow families, creating significant gaps in protection. The current descent law in parent-child assignment is tailored to opposite-sex couples, as legal parenthood is automatically assigned to the birth mother and, if applicable, her male spouse or partner (father). However, same-sex couples do not benefit from automatic recognition⁸⁶. In two-mother families, for instance, the intended parent must undergo a lengthy and burdensome stepchild adoption process rife with ignorance and homophobia to obtain parental rights⁸⁷.

The absence of automatic parent-child assignment has wide-ranging consequences for intended parents. They are not legally protected in their care work, nor are they eligible for tax allowance or sick leave. Separation from or the death of a legal parent brings uncertainty regarding custody and visitation rights. At the very least, registered same-sex couples enjoy some benefits, such as parental leave and parental allowance.

Although reforming the descent law has been on the political agenda for years, initiatives have repeatedly stalled. Although the previous legislature considered reforming the descent law by enabling lesbian couples to become parents by virtue of marriage and introducing parenting agreements, these initiatives did not advance⁸⁸. Although the Federal Council has advocated for reform, the new government is unlikely to attempt to modify the law⁸⁹. Consequently, rainbow families must navigate a system that automatically recognizes heterosexual couples while requiring same-sex couples to undergo additional procedures to secure the same rights.

Hungary

There is no explicit legal provision in Hungarian law that would directly and explicitly confer rights on or regulate the status of children raised in rainbow families. However, the Fundamental Law's restrictive definition of family and marriage reflects the traditionalist vision of the Fidesz government. Rainbow families encounter legal discrimination, including the absence of full adoption rights, the lack of presumption of parenthood, and the discriminatory application of existing rights.

The Civil Code recognizes the intended parent (the registered partner of the biological or the adoptive parent) as a stepparent (*mostohaszülő*) and a de facto cohabiting partner as a de facto parent (*nevelőszülő*). Compared to biological parents, stepparents and de facto parents have limited rights and benefits, with crucial differences.

Stepparents have broader entitlements, including access to childcare allowances, parental leave for sick children, family benefits, and family tax benefits. De facto parents, on the other hand, have a narrower set of rights.

Despite these provisions, rainbow families often face a lack of recognition and legal barriers. While the Health Care Act contains a broad definition of next of kin that includes stepparents and de facto parents⁹⁰, these individuals do not have decision-making or accompanying rights⁹¹. Similarly, the Public Education Act does not define "parent"; thus, only legal parents have rights. Inheritance law also disadvantages children in rainbow families because they are not entitled to intestate succession after a stepparent or de facto parent. However, they can claim a waiver of inheritance revenue up to 20 million HUF. Same-sex families often need to submit petitions, public interest notices, or litigate to secure family allowances.

Italy

Although Italy lacks explicit regulations regarding the status of children in rainbow families, court rulings have advanced the recognition of parenthood for same-sex couples. The country can transcribe and recognize children born or adopted abroad by same-sex couples in its civil registry through adoption in special cases, provided that their birth certificates and foreign court rulings do not contravene public order.

Although recognizing the biological parent has never been an issue, the recognition of parenthood for female same-sex couples changed after the Constitutional Court ruled that denying recognition of the intended parent in cases of assisted reproduction carried out abroad under foreign laws was unconstitutional. This ruling enables the recognition of the intended female parent, ensuring that both female parents are granted equal parental status from birth.

Recognition of parenthood for male same-sex couples remains challenging because they still rely on adoption in special cases. While one parent may be recognized as the biological parent (or pursue individual adoption abroad), the other parent must undergo adoption in special cases. This process is lengthy, intrusive, costly, and may not guarantee recognition. Consequently, the lack of recognition creates an asymmetry between biological parents (who are recognized) and intended parents, which can affect children in several ways. For instance, children cannot acquire the intended parent's citizenship, inherit their estate, or establish family ties with the intended parent's relatives. However, the status of children raised in male rainbow families has greatly improved since the Constitutional Court's Ruling No. 79/2022⁹², which stated that adoption in special cases has the same status as

⁸⁶ See § 11/SGBB, Eltern-Kind-Verhältnis, <https://sbgg.info/artikel-11/>, (June 06, 2025).

⁸⁷ See B.I.G., campaign Rainbow Families of 2024, <https://big-regenbogenfamilien.de/kampagne-gleiche-rechte-fuer-queere-familien-rote-karte-fuer-die-stiefkindadoption/> (May 06, 2025).

⁸⁸ See Bundesjustizministerium, key points paper on the planned reform (law on parentage), January 16, 2024: https://www.bmj.de/SharedDocs/Downloads/DE/Themen/Nav_Themen/24_0115_Eckpunkte_Abstammungsrecht.pdf?__blob=publicationFile&v=2 (May 07, 2025).

⁸⁹ See Bundesrat, EntschlieÙung "Abstammungsrecht ändern: Zwei-Mütter-Familien stärken, May 23, 2025, https://www.bundesrat.de/SharedDocs/TO/1054/erl/5.pdf?__blob=publicationFile&v=1 (June 02, 2025).

⁹⁰ HCA, S. 3r.

⁹¹ HCA, S. 16(2) and 11(4).

⁹² See however the decision of the Tribunal of Bologna No. 70/2020 (3.7.2020), in

other forms of adoption. This decision ensures equal guarantees and protections for children and establishes legal kinship relationships with adoptive parents' relatives.

6.6 Cross-border recognition of parental rights

With the exception of Estonia, other countries offer limited recognition of parental rights and relationships across borders. Estonia has the most inclusive framework, recognizing foreign marriages, registered partnerships, and adoptions. Civil documents are routinely transcribed if the formal requirements are met. Although Germany has recognized foreign same-sex marriages since 2017, recognizing parenthood is not straightforward. Recognition depends on connecting factors, such as residence or citizenship, which leads to inconsistent practices. Some registry offices apply the "principle of favorability" to recognize intended parents directly under foreign law. However, others still require burdensome stepchild adoption procedures, leaving families in legal limbo.

By contrast, Hungary and Italy adopt more restrictive policies. In Hungary, same-sex marriages performed abroad are not recognized, not even as registered partnerships. Joint and second-parent adoptions are also not recognized; only the biological parent is registered on foreign birth certificates with two same-sex parents. Italy does not recognize same-sex marriages, but it does recognize them as registered partnerships. Recognition of parenthood for female same-sex parents is possible if the children are born in Italy through assisted reproduction abroad. Intended parents in a male same-sex couple still need to undergo adoption in special cases.

Estonia

Estonia has adopted an inclusive approach to cross-border recognition of parental rights. Following the adoption of marriage equality in 2023, the Private International Law Act (PILA) was amended to recognize foreign marriages and registered partnerships automatically⁹³. Both are considered valid if entered into in accordance with the laws of the registering state. Previously, recognition of same-sex marriages or partnerships established abroad required court rulings, but this reform eliminated that reliance on litigation. However, the PILA still distinguishes between marriage and registered partnerships, reflecting differing international practices regarding registered partnerships as opposed to marriage, which is more universally recognized⁹⁴.

Estonia recognizes same-sex adoptions granted abroad. The country recognizes the judgment of a foreign court that has granted adoption in accordance with Article 64 of the PILA. If an adoption is valid under the laws of the granting state, it is recognized in Estonia without requiring a separate domestic procedure. Estonia applies the 1993 Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, which ensures that intercountry adoption takes place in the best interests of the child. Therefore, while parental rights acquired through adoption abroad are recognized, those established through surrogacy are not automatically acknowledged.

The Vital Statistics Registration Act⁹⁵ governs the recognition of foreign civil status documents, such as birth, marriage, and adoption certificates. These documents can be transcribed into the Estonian population register if the formal requirements are met. The documents must be originals translated into Estonian, Russian, or English and legalized or apostilled. Since 2019, Estonia has applied EU Regulation 2016/1191⁹⁶, which simplifies the recognition of certain EU documents.

Germany

Germany takes a mixed approach to cross-border recognition of parental rights for rainbow families. Since marriage equality was introduced in 2017, same-sex marriages legally performed abroad have been recognized in Germany and can be registered in the marriage registry if at least one partner is a German citizen. Prior to 2017, foreign same-sex marriages and civil unions were recognized only as registered partnerships.

Recognition of parent-child relationships is a more complex process. German law employs several factors, including habitual residence, personal status (citizenship), and the marital status effect, to determine which country's laws apply⁹⁷. This creates uncertainty for children born or adopted abroad to same-sex couples⁹⁸. Consequently, the recognition of parenthood remains inconsistent, forcing intended parents to go through the stepchild adoption to obtain a German birth certificate, even if they are fully recognized abroad. In some cases, registry offices have applied Article 19(1) of the Introductory Act to the Civil Code (EGBGB) to directly recognize the intended parent under foreign laws, including Austrian, Spanish, Belgian, British, and Danish, citing the "principle of favorability." However, this practice is inconsistent, and some families are still required to complete adoption procedures.

Hungary

Hungary has a restrictive approach regarding the cross-border recognition of parental rights for rainbow families.

which the Tribunal argues that adoption in special cases should be interpreted as creating family ties between the adopted child and his/her new parent's relatives, <http://www.articolo29.it/2020/bologna-svolta-storica-verso-gli-effetti-pieni-delladozione-casi-particolari/>.

⁹³ Private International Law Act (Rahvusvahelise eraõiguse seadus), 27.03.2002, RT I 2002, 35, 217. In English available at: <https://www.riigiteataja.ee/en/eli/518122023001/consolide>. The law applies in situations where a legal relationship has a link to the law of more than one state.

⁹⁴ Available at: <https://www.riigikogu.ee/tegevus/eelnoud/eelnou/5fcb8fd-b3d9-47a4-b5c1-ed9959bf0c9c/perekonnaseaduse-muutmise-ja-selleiga-seonduvalt-teiste-seaduste-muutmise-seadus/>.

⁹⁵ Vital Statistics Registration Act (Perekonnaseisuõimingute seadus) RT I 2009, 30,

177. Available in English at: <https://www.riigiteataja.ee/en/eli/514102024001/consolide>.

⁹⁶ Regulation (EU) 2016/1191 of the European Parliament and of the Council on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012.

⁹⁷ See Introductory Act to the German Civil Code (Article 19, Paragraph 1 of the Introductory Act to the German Civil Code), <https://www.gesetze-im-internet.de/bgbeg/> (May 12, 2025).

⁹⁸ See also detailed legal guide from LSVD* with case studies, <https://www.lsvd.de/de/ct/1363-Ratgeber-Auslaendische-Ehen-und-Lebenspartnerschaften-im-Internationalen-Privatrecht> (May 12, 2025).

It applies the Act on Private International Law (Act No. XXVIII of 2017 on private international law, PILA) to the recognition of family relations. The central concept of the legislation is personal law, which refers to the law of the state in which the person is a citizen. However, it contains a general public order clause that allows authorities to reject the application of foreign law if it seriously violates the fundamental values and constitutional principles of the Hungarian legal system.

In practice, Hungary can systematically invoke the public order clause to deny recognition of same-sex marriages performed abroad. Same-sex marriages between Hungarian citizens or between a Hungarian citizen and a foreigner, even if valid abroad, are not recognized in Hungary. While there is no provision to recognize same-sex marriages as registered partnerships, foreign registered partnerships are recognized, regardless of the nationality of the parties or where the registered partnership was established, provided the couple resides in Hungary.

Hungary can deny the recognition of foreign birth certificates listing two same-sex parents and same-sex adoption on the grounds of the public order clause. In the case of a foreign birth certificate containing same-sex parents, Hungarian authorities only record in the Hungarian birth registry the biological father or mother, while the other parent is not registered, and is only recognized as a stepparent or a de facto parent. Adoptions are recognized only if valid under the personal law of both the adoptive parent(s) and the child. Consequently, individual adoption abroad is recognized, whereas second and joint adoption are not.

There is no explicit Hungarian legislation regarding the recognition of foreign civil status documents. Births, marriages, and registered partnerships of Hungarian citizens performed abroad must be registered in domestic records. Hungary only recognizes foreign court and administrative decisions that result in changes to civil status or documents if they align with the provisions of the PILA. In other words, Hungary can reject decisions made by a foreign court or authority if they violate Hungarian public order.

Italy

Italy takes a restrictive policy approach to the cross-border recognition of marriage and parenthood. The country's cross-border recognition is regulated by Private International Law (Law No. 218/1995) and the provisions of the Italian Civil Code, which is supplemented by relevant EU legislation. Key principles include the continuity of civil status principle (records established abroad must be recognized in Italy), the favor filiationis principle (prioritizing the child's right to continuity of filiation), the non-discrimination principle, and the international public

order principle. The latter allows authorities to deny recognition of foreign civil status acts deemed incompatible with the fundamental values of the Italian legal system (Article 16 of Law No. 218/1995). According to Article 33 of Law No. 218/1995, filiation is governed by the law of the child's nationality at birth. Italian nationality is automatically granted to children with at least one Italian parent.

Italy offers some forms of cross-coder recognition of same-sex relationships. In 2018, the Supreme Court ruled that a same-sex marriage between an Italian and a foreigner cannot be registered in the Italian civil status registry but can be converted into a registered partnership⁹⁹. While there is no regulation that stipulates that same-sex marriages between foreigners cannot be registered or must be converted into a registered partnership, Italy could invoke the international public order principle.

While cross-border recognition of parenthood has gradually evolved for female same-sex couples, it has devolved for male same-sex couples. While the biological parents have been recognized, the intended parents have turned to the courts. Since 2016, Italy has gradually permitted the transcription of foreign birth certificates naming two mothers through court rulings. In May 2025, the Constitutional Court made a landmark ruling that it is unconstitutional to deny recognition of intended mothers when children are born in Italy through assisted reproduction abroad. Intended mothers are registered as legal parents without undergoing adoption in special cases. However, surrogacy is treated differently. While some lower courts initially recognized birth certificates with two fathers, the Supreme Court declared surrogacy contrary to public order, requiring the non-biological father to pursue adoption in special cases¹⁰⁰.

⁹⁹ According to Article 28 of Law No. 218/1995 (see below §5.5), a marriage celebrated abroad is recognized in Italy if it complies with the substantive requirements established by the national law of the spouses. Additionally, Article 115 of the Italian Civil Code states that an Italian citizen marrying a foreign national must meet the conditions required by Italian law. For validity in Italy, the marriage certificate must be registered in the Italian civil status records (Article 18

of Presidential Decree No. 396/2000) unless it conflicts with public order (Article 16 of Law No. 218/1995).

¹⁰⁰ Decision No. 12193/2019, available in the database of article 29 with a comment of Dogliotti at the link <http://www.articolo29.it/2020/duo-padri-ordinanza-rimessione-sezioni-unite-della-cassazione/>.

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