Council of the European Union

Brussels, 16 February 2024
(OR. en)

6136/24
ADD 2

LIMITE

JUSTCIV 24
FREMP 53
JAI 178

PUBLIC

Interinstitutional File: 2022/0402(CNS)

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	15837/22 + ADD1 + ADD2 + ADD3 + ADD4 + ADD5
Subject:	Proposal for a COUNCIL REGULATION on jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and on the creation of a European Certificate of Parenthood - Comments from Member States

Delegations will find in the Annex comments by the Slovenian delegation in response to the questions set out in CM 1033/24.

ANNEX

1. Current legal framework:

a) What does the procedure for recognition of a parenthood established in a third State in your Member State entail? Which is the competent authority?

As the authority in charge of the of the Slovenian Register of Births, Marriages and Deaths, which is the register of all the changes in the civil statuses of citizens of the Republic of Slovenia, regardless of where they occurred (in the Republic of Slovenia or abroad), as well as births, marriages and deaths of foreign citizens under the condition that they occurred on the territory of the Republic of Slovenia, the Ministry of the Interior hereby explains that the information about the parents of a child, who is a citizen of the Republic of Slovenia born abroad is entered on the grounds of an extract from the register of births, marriages and deaths issued by the foreign competent authority. If a child's parents are not married at the time of the child's birth, a document acknowledging paternity (a notarial record, a will or other official document) must also be submitted in order to enter the name of the father or the other parent into the Register, or a court decision establishing the parenthood, as the extract on the birth itself does not suffice, even if it contains all the information about the parents. The Administrative Units are in charge of the entries into the Register.

b) What happens when a parenthood established in a third State is not recognised in your Member State? Are there alternative means to establish the non-recognised parenthood in your Member State?

Alternative means include a lodging of a recognition of parenthood with the competent authority of the Republic of Slovenia (Social work centres, Administrative units, Diplomatic missions and consular posts, notaries) or the establishment of parenthood in a court procedure. As for the births of foreign citizens that occurred on the territory of the Republic of Slovenia, which are also entered into the Register of Births, the legal presumption of parenthood is applied if the parents prove that they are married, or the parenthood is registered on the basis of another document on parenthood recognition issued by the country of the child's citizenship.

PUBLIC

c) What is, in your Member State the value of a recognised parenthood established in a third State? Does it have the same effects as an establishment of parenthood in your Member State?

If a parenthood, which was recognised in a third country is proven with adequate documents (i.e., a certified extract or a ruling of a foreign court recognised by the Slovenian court) its value in the Republic of Slovenia is equal.

d) How is this recognised parenthood registered in your Member State (e.g., transcription and/or registration in a civil status, population or tax register, new birth certificate, ...)?

As provided under section a), the Register of Births, Marriages and Deaths (which keeps records on the child's parents) records all births of Slovenian citizens, regardless of whether they took place in the Republic of Slovenia or abroad, and all births of foreign citizens that took place on the territory of the Republic of Slovenia. An extract on birth (containing the information on the child's parents) is issued from the Register of Births, Marriages and Deaths on the basis of the entry of birth in the Register.

2. In the context of the Regulation:

a) Should a parenthood that has been established in a third State and recognised in a Member State fall within or outside of the scope of the Regulation?

Slovenia agrees that, in order to avoid abuses, the Regulation should require Member States to recognize parenthood only if this has been established in a Member State, and not in a third State.

Therefor parenthood established in a third State and recognised in a Member State should fall outside of the scope of the Regulation.

PUBLIC

b) **If the answer would be outside of the scope, how could it be detected that the establishment of parenthood was made in a third State when, for example, an EU birth certificate is presented? Could it be detected by the place of birth in a third State or by any other means?**

Slovenia believes that the fact of recognition of parenthood established in a third State should be clear from the document presented (for example EU birth certificate). The fact is especially important in the cases when a Member State might apply the public policy exception (for example surrogacy).

Information on the place of birth in a third State may not suffice for establishing that parenthood has been established in a third State and furthermore that the case falls outside of the scope of the Regulation.

PUBLIC