

EN

P-001818/2024

Answer given by Mr McGrath
on behalf of the European Commission
(7.1.2025)

1. As explained in preliminary assessment letters sent to the complainants on 3 November 2023 (CPLT(2023)02024), 9 November 2023 (CPLT(2023)02272) and 19 January 2024 (CPLT(2023)01910), the issue related to the fact that only one parent is mentioned on the identity card of Polish children born of same sex parents required an in-depth analysis and internal discussions. This analysis has been finalised and its conclusions have been sent to the complainants.

2. According to this analysis, the reference to only one parent in the identity card of the children having same-sex parents does not seem liable to hinder the right of free movement of these children. In its judgement in case C-490/20 (V.M.A. v Stolichna obshtina, rayon ‘Pancharevo’), the Court of Justice of the EU considered that, to be able to exercise their right of free movement with their parents, children of same-sex parents could have to present two documents: a travel document, which the Member State of nationality is obliged to issue¹, and a document which mentions both parents as being entitled to travel with the child (if this information does not appear on the travel document). Such a document mentioning both parents may consist in a birth certificate, which the authorities of the Member State of birth may be best placed to issue.

3. The Commission sent a questionnaire to Member States on the possible amendments or adjustments that would be required to implement the V.M.A. judgment. Further contacts have been taken with some Member States when required based on their replies to the questionnaire. The Commission also relies on the complaints received. On that basis, the Commission is analysing the possible impact on the exercise of the rights derived from EU law of specific situations reported.

¹ The Member State of nationality is however not obliged to issue a birth certificate.