



European Association
for Family
and Succession Law

News about Family Law in Europe

June/December 2018

A. CASES

- 1. «Standstill» clauses and new restrictions of the right of residence by familiar member (decision of the European Court of Justice, August 7, 2018, C-123/17).**

The case submitted to the European Court refers to the possibility of placing restrictions to the right of residence of a non-European worker familiar member.

In the specific case, the European Court analyzes the presence of the prerequisites for the right to family reunification by looking at art. 7 of the decision no. 2/1976 adopted by the EU-Tunisia Association Council and the artt. 22-23 of the AufenthaltG.

(The decision and the comment can be read in Italian at <http://www.rivistafamilia.it/2018/09/12/clusole-standstill-nuovi-restrizioni-al-diritto-soggiorno-dei-familiari/>)

- 2. The right of appeal has to be guaranteed to the parents who are liable for the international abduction of their own minor children (decision of the European Court of Justice, September 19, 2018, C-325/18 and C-375/18).**

In the first place, the decision focuses on the question of competence of the States on international abduction cases of minors; secondly, on the violation of the parents' right of appeal, provided for in both art. 33 Reg. UE no. 2201/2003 and art. 47 EU Charter of Fundamental Rights.

In particular, the latter issue is linked to the enforcement of the return of the child order authorized prior to the service thereof.

(The decision and the comment can be read in Italian at <http://www.rivistafamilia.it/2018/10/31/ai-genitori-responsabili-della-sottrazione-internazionale-dei-propri-figli-minori-va-garantito-diritto-ad-un-ricorso-effettivo/>)



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B. LAW

1. **The “third option” to record the gender in the civil status register provided by the German draft law.**

The German legislator approved an amendment to the Law of Civil Status on August. Specifically, the draft law provides the possibility for intersexual persons to record “divers” as their gender. The purpose of such amendment is to avoid that the parents have to make a decision about their children’s gender.

(The comment can be read in Italian at <http://www.rivistafamilia.it/2018/09/17/la-terza-opzione-nel-disegno-legge-tedesco-sulla-registrazione-del-sesso-nello-civile/>)

2. **The legalization of surrogacy in Portugal.**

In Portugal, the Law of August 22, 2016 no. 25 and the Implementing Decree of July 31, 2017 no.6 entered into force. This law introduces the possibility for heterosexual couples to use the technique of surrogacy.

(The comment can be read in Italian at <http://www.rivistafamilia.it/2018/11/19/la-legalizzazione-della-surrogazione-maternita-portogallo/>)