

## Index

association agreements, 76-7, 83, 92 A.D.-K. v Poland, 178 A.M. v Norway, 191-4 EEC-Turkey Association Agreement. See EEC-Turkey Association Agreement; A.S. case material and emotional support, Turkey association citizenship, 81 adoption and adopted children, 25, 35, 217 association families, 81-2 asylum. See migration and asylum Austria, 166-7 best interests of the child principle, 187, Asylum and Migration Management Regulation, proposals for 192, 219 family member, concept of, 61 child protection, 212 Germany, 168 Asylum Directives intra-family adoption, 166, 173 family members, concept of, 67 recognition of, 118, 125 Austria assisted reproductive technology, 171, 200–2 same-sex relationships, 161, 166-8 Iida case, 31 step-children, 189-90 Alarape case, 69, 71 Karner case, 160-1, 164 Aldeguer Tomas v Spain, 162 P.B. and J.S. case, 161 anti-discrimination law, 5, 7, 21, 27 right to residence, 32 See also non-discrimination S.H. and others case, 171, 200-2 same-sex adoption, 166-7 principle assisted reproductive technologies same-sex partnerships, 153, 158, 160-1, 164, margin of appreciation, 201 assisted reproductive technology (ART) Schalk and Kopf case, 153, 158, Austria, 171, 200-2 165, 179 Belgium, 166-7, 169, 172 X. and others case, 166-7 egg donation, 200-2 Azoulai, L., 73 France, 169-71, 178, 186-7, 189, 193 Norway, 191-4 Banger case, 65-6, 143-6 rainbow families, 169-71 Baumbast case, 21, 25, 116 same-sex parenthood, 169-71 Belgium same-sex relationships, xxxiii, 151, 169-71, assisted reproductive technology, 166-7, 178, 186-7, 189, 193 169, 172 cross-border issues, 166, 169-71 Coman case. See Coman case See also surrogacy and surrogate-born Depesme and Kerrou case, 68 Gas and Dubois case, 166-7, 169 children. sperm donation, 200-2 reconstituted families, 68



282 Index

best interests of the child principle, 95, 112, national child protection systems, 14 perception of family, impact of, 212-13 adoption, 187, 192, 219 private international family law, 211, 213-15 contact rights, 172, 192, 219 public law child protection, 215-16 kafala guardianship, 126 transfers of jurisdiction over parental primacy of, 88, 211 responsibility proceedings, 218-20 See also rights of the child (Art. 24 EUCFR). Children's Commissioner (UK) Review into Family Life, 38-40, 47 surrogacy, 184 third country national mothers and rights of Citizens' Rights Directive (Directive 2004/38) residence, 114 same-sex partnerships, 155, 163-4, 176 transfers of jurisdiction over parental Citizens' Rights Directive (Directive 2004/38), 28, 119, 130 responsibility proceedings, 218-21 birth certificates, 34, 128, 168, 175-8, 242 adopted children, 125 surrogacy, 186-91 application, 102 Bonnaud and Lecoq v France, 172, 174 core versus extended family members, breakdown of parental relationships 133-7 child protection, 210, 215-16, 218, 221 direct descendants concept, 33-4, 74, 125-6 Brexit families, 78, 92-6 effective judicial protection. See effective Brexit, impact of, 37-8 judicial protection principle (Citizen's Brighouse, Harry, 49-50, 52-3 Rights Directive) broad approach to 'family' family member, concept of, 12-13, 29, 31-4, 37, 60, 62-6, 132-7 other personal relationships, 48 Brussels II Regulations, 64, 120 inconsistency, 65-6 application, 102 kafala guardianship, 127 child protection, 216-21 polygamous marriage, 127-8 transfers of jurisdiction over parental procedural safeguards, 136-8 responsibility proceedings, 218-20 entry refusal and expulsion decisions, **Budget Conditionality Regulation** 138-41 (2020/2092), 244-5 rights of entry and residence, 132-7 Bulgaria. See V.M.A. v Stolichna obshtina, same-sex partnerships, 6, 30, 70, 120-4 substantive principles, 13, 136-7 rayon 'Pancharevo Burke, Edmund, 51 termination/withdrawal of rights, 136 unmarried partners, 61 Callamand v France, 173, 179 family reunification rights, 30 care proceedings, 213, 217-20 citizenship status, 12, 99-101, 111-16, 129, caring function of family, 67, 73 214-15, 228 economic nature of relationships, 68 children, 178 free movement and migration norms, 67-8 TFEU, 100 right of residence, 69 Clauder case, 85 cohabitation, 20, 24, 30, 60, 64, 196See also Carpenter case, 7, 25, 68, 99, 103, 105, 114 CD v ST, 183, 185 unmarried partners, Charron and Merle-Montet v France, 170 Coman case, 6-7, 32, 72, 108-9, 120-1, 123, Chavez Vilchez case, 114, 116 164-5, 259 material and emotional support role, 73 Art. 7 EUCFR, 123-4 EU Citizenship Directive, 121, stability of social relations, 74 child protection, 225-6 family reunification rights, 32-3, 69-70, cross-national cooperation, 14, 216-21 163-4, 176, 179 cultural differences, 223-5 free movement rights, 120-4 ECtHR, 211-12 spouse, concept of, 29, 155, 163 EU law, 221-3 stability of social relations, 74 TFEU citizenship rights, 121-3 free movement rights, relationship with, 213-15



	D
competence	Depesme and Kerrou case, 68, 71
EU legislative competence, 4–5, 7, 9, 20,	material and emotional support role, 73
110, 158, 171, 181, 183, 215, 221–3,	stability of social relations, 74
227, 249–50, 257	Derin case, 81
member states, 35, 110, 121, 128, 154, 157,	derived right of residence, 70, 115, 121–4,
164-5	164
non-discrimination principle, 106, 108,	derogations
111, 258	Citizens' Rights Directive, 137
conditional families, 81	descendants, concept of, 176
connections	direct descendants, 33-4, 74, 119, 125-6,
family reunification, 169, 185, 218	133-4
Coordination of Social Security Systems	early EU law, 25
(Reg. 883/2004)	Free Movement Directive, 33
family member, concept of, 63	deterrence effect and language of 'family', 64
'core' family members	Digital Rights Ireland case, 102
Citizens' Rights Directive (Directive 2004/	direct descendants concept, 33-4, 74, 119,
38), 133–7	125–6, 133–4 Directive 2003/109. <i>See</i> Long-term
Council Implementing Decision 2022/382	
family member, concept of, 61–2, 68	Residents Directive (Directive
Court of Justice of the EU (CJEU), 249, 258–9	2003/109)
family, concept of, 5–8, 37	Directive 2003/86. See Family
Polydor doctrine, 11See also EU law.	Reunification Directive (Directive
surrogacy and surrogate-born children,	2003/86)
182–6	Directive 2004/38. See Citizens' Rights
Croatia	Directive (Directive 2004/38)
Pajic case, 163	Directive 64/221. See movement/residence of
same-sex partnerships, 164	foreign nationals justified on public
cross-border disputes, 14	policy, public security or public health
See also child protection.	grounds (Directive 64/221)
cross-border recognition of (same-sex)	diversity in family forms, 20-2
marriages, 7	divorce, 31, 37
rainbow families, 175–8	Brussels IIb Regulation, 120, 217
same-sex marriages, 164-6	child protection, 211
same-sex parenthood, 175–8	custody and guardianship of dependent
same-sex relationships, 164–6	children, 216–17
custody and guardianship of dependent	ideological divisions within the EU,
children, 37, 172, 210, 216	250–1
kafala guardianship, 12, 74, 126	legal parenthood, 203
Citizens' Rights Directive, relationship	right to residence, 135
with, 127	Rome III Regulation, 229
SM v Entry Clearance Officer, 124–8	social assistance and welfare rights, 136
	Dogan case, 89
D and Kingdom of Sweden v Council of the	domestic violence and abuse
European Union, 107–8, 153, 157	child protection, 221–3
D. v France, 189–91	Commission's Strategy on the Rights of the
D.B. and others v Switzerland, 178	Child, 221, 225
Demirkan case, 82	Dublin Convention 1990
Denmark	family member, concept of, 60
family reunification rights, 89	Dublin III Regulation 604/2013
registered partnerships, 252	family member, concept of,
same-sex marriage, 253	61, 67



284 Index

EC-Switzerland Agreement on the Free Movement of Persons, 82 EEC-Turkey Association Agreement (Ankara Agreement) See also Turkey. Turkey, 80-3, 88-91 effective judicial protection principle (Art. 47 EUCFR), 12, 131-2, 141-3 effective judicial protection principle (Citizen's Rights Directive), 131-2, 141-3, 145-7 entry refusal and expulsion decisions, 138-41 extended family members, 143-5 effectiveness principle, 115, 140, 144-5 EFTA Court Clauder case, 85 Jabbi case, 86 egg donation, 200-2 England and Wales child protection proceedings, 219-20 divorce law, 251 judicial review, 144 transfers of jurisdiction over parental responsibility proceedings, 219 entry refusal decisions effective judicial protection principle under Citizen's Rights Directive, 138-41 equal treatment principle, 108, 133, 135, 152, 157, 258 equivalent families, 83-6 same-sex marriage, 253 EU Charter of Fundamental Rights (EUCFR), xxxiii, 6, 101-2, 116-17, 228, 249 ECHR, relationship with, 105 effective judicial protection principle (Art. 47). See effective judicial protection principle (Art. 47 EUCFR) field of application (Art. 51), 103 implementation of EU law at national level., legality of EU secondary norms, 102 respect for private and family life. See right to respect for family and private life (Art. 7 EUCFR) review of Member State actions, 103 TFEU/TEU, relationship with, 104-5 EU citizenship. See citizenship status EU identity, creation of, 248 EU integration, 76-8, 95-6

EU law family member, concept of, 63-6 family, concept of, 5-10, 19-22 individuals, rights of, 4 regulating family relationships, 4, 75See also Court of Justice of the EU. European Certificate of Parenthood, 255 European Commission Strategy on the Rights of the Child, 221, 225 European Convention on Human Rights (ECHR) negative obligations, 3 positive obligation, 3 right to marry and found a family (Art. 12), 37. See also right to marry and found a family (Art. 12 ECHR) right to respect for family and private life (Art. 8), 8, 37. See also right to respect for family and private life (Art. 8 ECHR) European Court of Human Rights (ECtHR), 259-60 marriage, concept of, 31 same-sex relationships, 3, 8, 152 surrogacy and surrogate-born children, 8, 186-94 European Economic Area (EEA), 12 European Family Law concept, 257-8 Institutional EU Family Law, 258 Institutional European Family Law, 258 EU-UK Withdrawal Agreeement, 91–4See also Brexit, impact of; Brexit families. ex parte Shingara, 139 ex parte Yiadom, 139-40 expulsion decisions effective judicial protection principle under Citizen's Rights Directive, 138-41 'extended' family members Citizens' Rights Directive (Directive 2004/ 38), 133-7 effective judicial protection principle, 143-5 non-familial relationships, status of, 48See also private goods of the family,

Facebook Ireland (Schrems) case, 102 families of more than two parenting adults, 20 family activities and practices, 66–7, 69–70 caring function, 67–9 family member, concept of, 11, 38, 56, 59

Asylum and Migration Management Regulation, proposals for, 61



Index 285

Citizens' Rights Directive (Directive 2004/ 38), 12–13, 29, 31–4, 37, 60, 62–6, 132-7 conceptual confusion, 65-6 Coordination of Social Security Systems (Reg. 883/2004), 63 core versus extended family members, 133-7, 143-5 Council Implementing Decision 2022/382, 61-2,68Dublin Convention 1990, 60 Dublin III Regulation, 61, 67 EU legal norms, 57-8, 62, 75 Family Reunification Directive, 67 fluidity/instability of concept, 60 fragmentation of legal sources, 61-2, 75 Free Movement of Workers Regulation, 68 objective of the law, 62-3 Relocation Decision 2015, 67 status of family members, 71 temporal evolution, 60-1 Temporary protection Directive for people from Ukraine, 61-2, 68 Family Reunification Directive (Directive 2003/86), 28-9 family member, concept of, 67 unmarried partners, 61 family reunification rights civil partnership status, 24 cross-border recognition of marriages, 7 Family Reunification Directive. See Family Reunification Directive (Directive 2003/86) free movement rights, 22-5 Iida case, 31-2 marriage, 24, 27 material and emotional support role, 73 Regulation 1612/68, 22 family member, concept of, 60 Return Directive, 114 same-sex partnerships, 161, 163-4, 179 TFEU, relationship with, 115 unmarried partners, 24 family, concept of, 1, 10-11, 19, 54-5, 261 Children's Commissioner (UK), 38–40 CJEU, 5-8 consanguineous co-residential individuals, 40 Court of Justice of the EU (CJEU), 37 early EU law, 22-5 East/West divide, 253-7 EU law, 5-10, 19-22, 36

formal definition of 'family', 46-7 functional definition, 46 global North, 40 harmonised conception of 'family', 58 idealised definition of 'family', 46 moral, religious, social, and political factors, 2-2 official definition, lack of, 1-2 ordinary, common-sense usage, 45-6 Raymond Williams, 40 secondary legislation, 28 See also family member, concept of, self-definition approach, 46 social, legal, demographic, and biological developments, 40-4, 56-60, 64 special social worth of 'family', 46-7 TEU, 28 TFEU, 28 Fedotova and others v Russia, 159, 179 fiduciary duty of care for children, 37, 52-3 financial responsibilities of spouses, 37, 52-3 Finland divorce law, 251 Hämäläinen case, 156 Korkein hallinto-oikeus case, 216 parental responsibility, 217 trans rights, 156 formal definition of 'family', 46-7 foster carers, 197, 212, 217 fragmented nature of family law in the EU, 11, 57, 60–1, 75, 151, 179, 223, 261 assisted reproductive technology and samesex couples, 169-71, 178, 186-7, 189, Bonnaud and Lecoq case, 172, 174 Callamand case, 173, 179 Charron and Merle-Montet case, 170 D. case, 189-91 Depesme and Kerrou case, 68 domestic prohibition of surrogacy, 186-9 Hallier and others case, 174 joint parental authority, 172 Manenc case, 161, 164 Mennesson case, 171, 178, 186-7, 189, 193 Pacte civil de solidarité (France), 160 parental responsibility, 172-3 reconstituted families, 68 registered partnerships, 173, 179 same-sex partnerships, 160 joint parental authority, 172



Free Movement Directive. See Citizens' Rights	Hart, H.L.A., 45
Directive (Directive 2004/38)	Hay v Crédit Agricole, 160, 162, 179
Free Movement of Workers Regulation	Herring, J., 1, 45
(Regulation 492/2011)	homoparental families, 13See also same-sex
family member, concept of, 68	parenthood.
free movement rights, 5, 7, 12, 78–80	Honner case, 173–4
caring function, value of, 67–9	Hungary, 14
family reunification, 22–5	illiberalism
Gunnarsson case, 85	constitutionalisation of traditional notion
Jabbi case, 86	of family, 237
V.M.A. case, 7	gender and family, 234–5
functional definition of 'family', 46, 54	role of women within society, 235–6 social welfare and family policies, 236–7
Gas and Dubois case, 161, 166-8	social wehate and family policies, 230-/
Genc case, 89	Ibrahim case, 69
genetics	ideological divisions within the EU, 14
automatic recognition of ties, 194	divorce, 250–1
surrogacy	East/West divide, 251–3
gendered effects of genetics, 189–91	North/South divide, 250–1
legal fatherhood, 182	Protestant versus Catholic ideologies, 250–
legal motherhood, 186–9	same-sex relationships, 251-3
Mennesson case, 186–9	<i>Iida</i> case, 31–2
trumping of genetics, 191–4	illiberalism, 14, 248
Germany	EU action against
Boeckel and Gessner-Boeckel case, 168	Commission infringement procedures,
egg donation, 201	241–6
Iida case, 31	European Parliament resolutions, 241-2
Maruko case, 108, 160, 258	familialism and biopolitics, 233-4
pension rights, 160, 258	familism and role of the family, 232-3
right of residency, 31	Hungary
Römer case, 160	constitutionalisation of traditional notion
same-sex adoption rights, 168	of family, 237
same-sex parenthood, 169	gender and family, 234-5
'goods' language associated with family	role of women within society, 235-6
goods, private and public distinguished, 48	social welfare and family policies, 236-7
non-familial relationships, status of, 48See	meaning, 230–1
also private goods of the family.	Poland, 238
Goodwin v UK, 107, 153, 260	constitutionalisation of traditional notion
Grant case, 107–8	of family, 240–1
guardianship. See kafala guardianship; legal	education, 239–40
guardianship	role of women within society, 239
Gunnarsson case, 85	social welfare and family policies, 238–9
	war on gender, 231–2
Hague Convention on the Civil Aspects of	immigration policy, 22, 29, 78, 87
International Child Abduction 1980,	Europeanisation, 87–8
216	Hungary, 235–6
Hallier and others v France, 174	Return Directive, 114See also Family
Hämäläinen v Finland, 156	Reunification Directive,
harmonisation of EU family law, 9, 38, 54, 63,	infringement actions
210–11, 223–5, 227	illiberalism, 243–5
harmonised conception of 'family', 58	integrated families, 87–91



intra-family adoption, 166, 173	Manenc v France, 161, 164
Ireland	margin of appreciation
Digital Rights Ireland case, 102	assisted reproductive technologies, 201
divorce, 250	parental leave, rights of, 174
Facebook Ireland (Schrems) case, 102	rights of same-sex couples, 158, 164-5
pension rights, 162	social assistance and welfare systems, 63
same-sex marriage, 162, 253	step-child adoption, 190
Islamic law	marriage
kafala guardianship, 12, 74, 124–8	same-sex relationships compared, 107–11
Italy	marriage annulments, 136
divorce, 250	Brussels IIb Regulation, 120
Oliari and others v Italy, 158	marriages of convenience, 136
Orlandi and others v Italy, 155, 165, 179	Martínez Sala case, 111, 116
same-sex marriage, 155, 165–6, 179	Maruko case, 108, 160, 258
same-sex partnerships, 158	Mata Estevez v Spain, 161, 164
1.,.)	mater semper certa est rule, 13, 182, 184-6,
Jabbi case, 86	192, 194, 196, 201
joint parental authority, 33, 71, 128–9, 172–3	rigidity of application, 182, 187, 195–204
, , , , , , , , , , , , , , , , , , ,	material and emotional support
K.B. case, 106–7	social membership conception of family, 73–4
KA case, 114–15	maternity leave, 181
kafala guardianship, 12, 74, 126	surrogacy, 182–4, 205
Citizens' Rights Directive, relationship	medically assisted procreation (MAP). See
with, 127	assisted reproductive technology (ART)
SM v Entry Clearance Officer, 124–8	Mennesson v France, 171, 178, 186–7, 189, 193
Karner v Austria, 160, 164	migration and asylum, 5, 61, 67, 210See also
Kemper, Andreas, 233	Family Reunification Directive.
kinship placements, 212, 217, 220	minimum procedural safeguards, 138
Kozak v Poland, 161	Morgan, David H.J., 59, 66, 70
Nozak v Lotana, 101	movement/residence of foreign nationals
legal (un)certainty, 57	justified on public policy, public
non-recognition of family ties, 187	security or public health grounds
legal fictions and transnational surrogacy,	(Directive 64/221), 138–41, 146
194–6	MRAX case, 99
gendered and discriminatory nature, 196–200	wire tr case, 99
legal guardianship, 37, 240	national procedural autonomy principle, 140, 145
See also kafala guardianship.	negative influences of the EU on family law,
LGBTIQ Equality Strategy 2020-2025 (EU),	
255–6	72–4 Netherlands
Long-term Residents Directive (Directive	
2003/109), 88, 91	Banger case, 65–6, 143, 146 family reunification rights, 27
Lounes case, 115–16	
Luxembourg	same-sex marriage, 153, 165, 252 social assistance and welfare benefits, 114
<u> </u>	non-discrimination principle, 111, 140, 246
parent–child relationship, 68	
M.R. v. Socretary of State for Work and	Art. 21 EUCFR, 100, 105–11, 144–5, 249, 258
M.B. v Secretary of State for Work and	Norway
Pensions, 156–7	A.M. v Norway case, 191–4, 199
Maastricht Treaty 1993	assisted reproductive technology, 191–4
EU citizenship, 214 Malta	recognition of intended motherhood,
	191–4, 199
divorce, 250	same-sex marriage, 253



288 Index

Oliari and others v Italy, 158 polygamous marriages, 29, 127-8 Orbán, Viktor primary carer, concept of, 71 early EU law, 25-7, 69 illiberal democracy concept, 231 See also Hungary. private goods of the family Orlandi and others v Italy, 155, 165, 179 family as a social institution, 50-1 'other close relatives' concept intimate relationships concept, 49-50 vagueness, 62 private international family law, 14, 200 child protection, 213-15, 220 P.B. and J.S. v Austria, 161 harmonisation, 211, 221-4 Pacte Civil de Solidarité (France), xxxiii, 160 procedural safeguards paedophilia Citizens' Rights Directive, 66, 136-7, 144-6 conflation with homosexuality entry refusal and expulsion decisions, Hungary, 233, 237 138-41 Pajic v Croatia, 163 minimum procedural safeguards, 138 parental child abduction, 214 prohibition on torture and inhuman and Hague Convention, 216 degrading treatment (Art. 3 ECHR), 211 parental responsibility, 217 proportionality, 116, 122, 156, 174 Regulation 2201/2003, 64 protection of family life (Art. 33 EUCFR), 100, SM v Entry Clearance Officer, 124-8 105-6 parent-child relationships. See adoption and Protestant versus Catholic ideologies adopted children; step-children divorce, 250-1 parenthood, 52 public goods of the family, 51-3 determination of legal parenthood, 194-6 public health gendered nature of, 185-6 movement/residence of foreign nationals surrogacy. See surrogacy and surrogate-born (Directive 64/221), 138-41, 146 Treaty-based limitations, 135 children Parliament v Council, 102 public policy Parris v Trinity College Dublin, 158, 162 movement/residence of foreign nationals pater est quem nuptiae demonstrant rule, 13, (Directive 64/221), 138-41, 146 182, 200 Treaty-based limitations, 135 legal fictions, 195-6 public security openness to flexibility, 196-7 movement/residence of foreign nationals paternity leave (Directive 64/221), 138-41, 146 equivalent second parents, 35, 174-5 Treaty-based limitations, 135 pension rights registered partnerships, 259 qualifying families, 82-3 same-sex partnerships, 108, 156-7, 161-2, 258 R.F. and others v Germany, 169 trans partners, 106 rainbow families, 20 Poland, 14 assisted reproductive technology, 169-71 family reunification rights, 175-7 A.D.-K. case, 178 illiberalism, 238 recognition and protection, 152 constitutionalisation of traditional notions recognition of parenthood established of family, 240-1 abroad, 175-8 same-sex parenthood, 166-9 education, 239-40 role of women within society, 239 shared parental responsibility, 171-3 social welfare and family policies, 238-9 social assistance and welfare benefits, 174-5 Kozak case, 161 Rawls, John, 48 same-sex parenthood, 178 recognition of intended motherhood, 186-9, same-sex partnerships, 161 191-4 Polydor doctrine, 11, 82 precarity of, 194



recognition of legal motherhood/fatherhood,	Rome III Regulation, 229
189–91	Römer case, 160, 259
recognition of parenthood established abroad,	Royer case, 139
175–8	Ruiz-Zambrano. See Zambrano case
recognition of same-sex marriages celebrated	rule of law deterioration, 100
abroad, 164–6	EU's responses to, 241-7
reconstituted families, 20, 25, 36, 68	See also illiberalism.
Reed case, 24-5	Rzecznik Praw Obywatelskich case, 255
refugees. See migration and asylum	,
registered partnerships, 20, 252	same-sex marriages, 151
family member, concept of, 28–30, 60, 62,	Coman case, 120–4
118–20, 133	See also Coman case.
official recognition as a right, 157-9	mobility rights, 69–70
pension rights, 162, 258–9	recognition of same-sex marriage celebrated
same-sex registered partners, 27, 151, 163,	abroad, 164–6
179–80	right to marry (Art. 12 ECHR), 153
adoption, 166–8	See also right to marry and found a family
social assistance and welfare system, 159–61	(Art. 12 ECHR).
termination, 136	right to marry (Art. 9 EUCFR), 153–4
trans rights, 156	See also right to marry (Art. 9 EUCFR).
Relocation Decision 2015	transgender spouses, 156–7
family member, concept of, 67	same-sex parenthood, 20, 166–9
removed families, 91–5	assisted reproductive technology, 169–71
Rendón Marín case, 26, 113–14 Return Directive (Directive 2008/115), 114	family reunification rights, 175–7 recognition and protection, 152
•	
Reyes case, 70	recognition of parenthood established
right of residence, 70, 81, 84–5, 164	abroad, 175–8
care of family members, 67–9, 71	shared parental responsibility, 171-3
Germany, 31	social assistance and welfare benefits, 174–5
mothers and best interests of child, 114	V.M.A. case, 128–9
TFEU, 121–4	same-sex relationships, 13, 179
right to marry (Art. 9 EUCFR), 100, 105–6	adoption and adopted children, 161, 166–8
Art. 7 EUCFR, relationship with, 106–11, 116	assisted reproductive technology, xxxiii, 152
same-sex marriages, 153–4	family reunification rights, 163–4
trans individuals, 106–7	ideological divisions within the EU, 251–3
right to marry and found a family (Art. 12	legal recognition, 3–4
ECHR), 37, 153–5	marriage compared, 107–11
same-sex marriages, 153	non-discrimination, 107
right to respect for family and private life (Art. 7	recognition of same-sex marriage celebrated
EUCFR), 99–101, 105	abroad, 164–6
Art. 8 ECHR, relationship with, 105	registered partnerships, 157–9
Art. 9 EUCFR, relationship with, 106–11	right to marry, 153–5
citizenship rights, relationship with, 111–16	See also same-sex marriages; same-sex
right to respect for family and private life (Art. 8	parenthood.
ECHR), 8, 37	social assistance and welfare systems, 159–62
Art. 7 EUCFR, relationship with, 105	trans rights, 156–7
child protection, 212	Schalk and Kopf v Austria, 153–5, 158, 165, 179
rights of the child (Art. 24 EUCFR), 100,	self-definition approach to 'family', 45-6,
105-6, 112-16	59–60
Romania	sex education in schools, 243
Coman case, 120-1, 163	shared parental responsibility, 171-3



single-parent families, 20	ECtHR, 186–94
SM v Entry Clearance Officer	genetics
free movement rights, 124-8	gendered effects of genetics, 189–91
parental authority and responsibility, 74, 124-8	legal fatherhood, 182
social assistance and welfare systems	legal motherhood, 186–9
Citizens' Rights Directive, 135-6	Mennesson case, 186–9
registered partnerships, 159-62	trumping of genetics, 191-4
same-sex partnerships, 159–62	Sweden
See also pension rights.	care proceedings, 217
transgender spouses, 156–7	cohabitation, 119
social cohesion, 11, 73, 75, 91	D and Kingdom of Sweden v Council of the
social membership conception of family	European Union, 107–8, 153, 157
material and emotional support role, 73-4	divorce, 251
stability of social relations, 74	same-sex marriage, 253
Spain	same-sex relationships, 107–8, 153
Aldeguer Tomas case, 162	Swift, Adam, 49–50, 52–3
dependency, concept of, 113	Switzerland, 87
	,
divorce, 250–1	D.B. and others case, 178–9
Mata Estevez case, 161, 164	surrogacy, 178–9
pension rights, 161–2, 164	Taldonosi and McCall open 162 160
Rendón Marín case, 113	Taddeucci and McCall case, 163, 168
same-sex marriage, 253	TB case
same-sex parenthood, 128, 175	material and emotional support, 73
V.M.A. case, 6–7, 34, 72, 109–10, 128–9,	Teixeira case, 69
169, 175–7, 255	material and emotional support, 73
special social worth of 'family', 46–7	Temporary Protection Directive for people
sperm donation, 200-2	from Ukraine
spouse, concept of, 24, 29, 60, 134	family member, concept of, 61–2, 68
See also Coman case.	termination of a registered partnership, 136
standalone pleas, 244–6	third-country nationals (TCNs), 5, 11–12,
step-children, 25	76–8, 80, 96
adoption, 189–90	association agreements, 83
primary carers, 25	family reunification, 78, 114–15
substantive family law, 227, 259	integrated families, 87–90
child protection, 211	traditional nuclear family ideal, 6-7, 20-2,
divorce, 211	46
harmonisation, 9, 54, 211	criticisms of CJEU, 37
surrogacy, 181	current EU legal framework, 28–36
substantive principles, 225	early EU law, 22–8
Citizens' Rights Directive, 13, 136–7	growing illiberalism
succession rights, 45, 128–9, 178, 188	EU response to, 241–7
pension rights	Hungary, 234–7
same-sex partnerships, 108, 161–2, 258	Poland, 238–41
trans partners, 106	Regulation 1612/68, 22-5
same-sex partnerships, 160	trans rights
surrogacy and surrogate-born children, 8,	right to marry, 106-7, 156-7
13–14, 181–2	Treaty on European Union (TEU), 101
birth certificates, 186–91	EUCFR, relationship with, 104-5
CJEU, 182–6	family, concept of, 28
determination of legal motherhood/	rule of law, challenges to, 244
fatherhood, 189–91	standalone plea, 245–6



Index 291

Treaty on the Functioning of the EU (TFEU), citizenship rights, 100, 103, 111, 118 substance of rights test, 113 citizenship status, 100 Coman case, 121-3 EU Citizens' Directive, relationship with, EUCFR, relationship with, 104-5 family reunification rights, relationship with, 115 family, concept of, 28 indirect beneficiaries, 119 right of residence, 79, 86, 121-4 Turkey, 12, 92 EEC-Turkey Association Agreement (Ankara Agreement), 80-3, 88-91 right of residence, 81, 84-5 United Kingdom, 12 See also Brexit, impact of; Brexit families; EU-UK Withdrawal Agreement, United Kingdom v Council, 82 unmarried partners EU protections, 30, 61, 65 family reunification rights, 24-5, 61-2

same-sex partners, 54, 107, 160-1

See also cohabitation.

V.M.A. v Stolichna obshtina, rayon 'Pancharevo, 6-7, 34, 72, 109-10, 168, family reunification rights, 175-7 free movement rights, 128-9 Valcheva case, 67 von der Leven, Ursula, 261 family concept and the EU, 253-7 LGBTQI rights, 177, 243 Williams, Raymond, 40 women discrimination in CJEU jurisprudence, reconciliation of professional and family lives, 35-6 Work-Life Balance Directive (Directive 2019/ 1158), 35 same-sex couples shared parental responsibility, 174-5, 179 Z v Government Department and the Board of Management of a Community School, 183, 185 Zambrano case, 7, 112-13, 116 Ziebell case, 82 ZZ v Secretary of State for the Home

Department, 141, 146