

Who are we ?

The members of the **European Network for Binational-Bicultural couples and families (ENB)** act for the defence of the rights of binational couples.

BELGIQUE/BELGIË/BELGIEN

- **Amoureux, vos papiers !**
- **Kleur-Rijk**

CONFÉDÉRATION SUISSE/
SCHWEIZERISCHE
EIDGENOSSENSCHAFT/
CONFEDERAZIONE SVIZZERA/
CONFEDERAZIUN SVIZRA

- **IG-Binational**

DANMARK

- **ÆUG Ægteskab Uden Grænser**

DEUTSCHLAND

- **IAF Verband binationaler Familien und Partnerschaften**

ESPAÑA

- **Asfamix Asociación de Familias Mixtas de España**

FRANCE

- **Ardhis**
- **Les Amoureux au ban public**

ITALIA

- **Aifcom Associazione Italiana Famiglie e Coppie Miste**

KONINKRIJK DER NEDERLANDEN

- **Loving Day NL**

ÖSTERREICH

- **EOG Ehe ohne Grenzen (Marriage with out borders)**
- **Verein FIBEL Fraueninitiative Bikulturelle Ehen und Lebensgemeinschaften**



Europe, 14/02/2021

Dear MEP,

The hashtag *#LovesNotTourism* unveils the difficulties that cross-border couples encounter (experience) due to the current health crisis. Today separated by the rules imposed by the pandemic international management, but also for years by the migration legal provisions and their implementation, these couples have been experiencing distance, waiting period and cumbersome expensive legal formalities. They have often had to consider or take drastic measures to be together. This is because of the migration policy conducted by the European member states that our advice associations have come together within the *European Conference for Binational/Bicultural Relationships* established in 1990. The network changed its name into the *European Network for Binational-Bicultural Couples and Families (ENB)* in 2016.

We start our letter with an overview of the situation concerning binational couples in the European Union. Approximately, 8 to 12 million individuals are concerned. The available data considers only married couples; it is hard in fact to find data for civil union couples or *de facto* couples. This data is partial, outdated and difficult to equitably compare between states.

Context

Unless otherwise specified, we consider couples composed of two persons of different nationalities, including same sex, in partnership or married.

- **In Europe, 1 person out of 12 is part of a binational couple (partnerships not included)¹**
- **In Austria, 23% of couples are binational (Austrian-foreigner) (partnerships not included)²**
- **In Belgium, 309,245 binational couples i.e. about 1 couple out of 7³**

1 Source: 2012; <https://ec.europa.eu/eurostat/fr/web/products-statistics-in-focus/-/KS-SF-12-029>

2 Source: 16/07/2020; 2018-2019; Statistik Austria

3 Source: 2020; Statbel

- In Denmark, 15,243 binational couples (Danish-foreigner)⁴
- In France, 27% of couples are binational (French-foreigner) (partnerships not included)⁵
- In Germany, 7% of couples are binational i.e. about 1,5 million couples (German-foreigner) (not included same sex partnerships)⁶
- In Italy, 17,3% of couples are binational i.e. about 700,000 couples (Italian-foreigner) (partnerships not included)⁷
- In the Netherlands, no statistics available on the binational couples⁸
- In Switzerland, 36,3% of couples are binational (Swiss-foreigner)⁹

Arguments

Rules relating to the checking of the validity of a marriage are supposed to be applied to all couples, regardless of the partners' nationality. In reality, these rules are used as a control: they prevent, or at least hinder or delay unions between European nationals and non-European partners. In all International and European conventions, matrimonial freedom is a fundamental right and a right of residency for the foreign spouse has to be recognized. Successive legal reforms have been with the intent to restrict these human rights.

Getting married has become an obstacle path. Every application is expensive, full of unnecessary and restrictive time consuming red tape and bureaucratic complexity. Every fact or reason for the application becomes an opportunity to uphold or withhold approval. A foreign person that wants to marry a European citizen is often considered as a suspect.

To illustrate this point, here are some examples taken from "*Marriages of convenience and false declarations of parenthood. Misuse of the right to family reunification*", a study conducted by the European Migration Network in 2012. In the report, we can read: "[Member] States face many common challenges in identifying a marriage of convenience from a genuine marriage. Not only is this a sensitive matter in terms of respecting fundamental rights, and the [Member] States are fully committed to their obligations in this respect, but also an investigation tends to be time and resource intensive with the burden of proof most often placed on the [Member] State authority¹⁰."

The theme mentioned in this extract is linked to the broad corpus of prejudices existing on migration through marriage (i.e.: sham marriage, organised fraud, economic migration, etc.) that, in practice, forms a biases against bi-national couples and families, and that bias is often relayed by the media and social networks.

4 Source : 2017; Danmarks Statistik; Between 2010 and 2017, 19,160 visas have been granted for family reunification. <https://www.dst.dk/da>

5 Source: 2015; Insee, Première enquête n° 1638, 2019 <https://www.insee.fr/fr/statistiques/2656612> 2019; Ardhis; Survey report 'Des amours, cent frontières' on binational same-sex/LGBT couples <https://ardhis.org/wp-content/uploads/2019/07>

6 Source: 2019; Federal Statistical Office <https://www.destatis.de> Pressemitteilung Nr. 36 vom 4. September 2018: Wiesbaden

Please note that persons with dual nationality (German and foreigners) are indicated as Germans.

7 Source: 2018; ISTAT – Territorial difference: 1 out of 4 binational marriages in the North and Center, 1 out of 10 marriages in the South and Islands. Gender difference: Italian man/foreign woman and Italian woman/foreign man represent 9.1% and 3.1% of all marriages respectively.

8 Statistics are only available on ethnically mixed marriages of certain groups (Turkish and Moroccan) (foreign-born persons) (partnerships not included)

9 Source: 2018; Office fédéral de la statistique, Newsletter Démos 1/2017 ; <https://www.bfs.admin.ch/bfs/fr/home/statistiques/population/effectif-evolution/age-etat-civil-nationalite.assetdetail.4042379.html>

10 European Migration Network, *Marriages of convenience and false declarations of parenthood*, European Commission, Luxembourg, Publication Office of the European Union, June 2012, p. 57

Texts That Underpin Our Action

The Universal Declaration of Human Rights, the European Convention on Human Rights, the International Covenant on Civil and Political Rights all stress the obligation to protect individuals against arbitrariness. The protection of public order and the restriction of individual liberties and rights cannot be used as a justification against these fundamental individual rights.

In the European Union's framework, the Maastricht and Amsterdam treaties have generated important progress in terms of fundamental rights. In 2012, the Charter of Fundamental Rights has reinforced their principles.

Beyond these fundamental documents, our actions are based on 2003 and 2004 directives, and relevant case law/jurisprudence of the European Court of Justice.

In our daily work with binational couples, we come across several situations attesting of the non-respect of these conventions and texts. During our meetings with bi-national couples seeking the right to live and work together in the one country, we have noticed the following dysfunctions:

- Cumbersome discretionary administrative and judiciary situations
- A financial hardship and or stressful financial dependence amongst couples and their families and each other, due to the ban or the limitation for the foreigner regarding work
- Inequities experienced due to gender or handicap when a minimal income is demanded to sponsor the foreigner partner/spouse
- Institutional systemic racism
- Differential treatments according to nationalities, origins, gender and age, even to the place of residence
- The ongoing burden of colonialism and rejection of bi-national couples by society against the general norms of their individual human right
- Double penalty often imposed, due to the application of the vaguely worded and irrelevantly applied unproven fear of a "disturbance of public order"

We hereby request you acknowledge and appropriately monitor the difficult situations experienced by bi-national couples and their families of whom are participating fully in the European construction as any other citizens.

We thank you in advance for the serious attention you will give to this demand and we further request the opportunity to meet with appropriately delegated and authorised officers of your organization to discuss our concerns further.

To love !

Ardhis (France)

ÆUG Ægteskab Uden Grænser (Denmark)

AIFCOM - Associazione italiana famiglie e coppie miste (Italy)

Amoureux, vos papiers ! (Belgium)

EOG Ehe ohne Grenzen (Austria)

Les Amoureux au ban public (France)

Loving Day NL (The Netherlands)

Verband binationaler Familien und Partnerschaften (Germany)

Verein FIBEL – Fraueninitiative Bikulturelle

Ehen und Lebensgemeinschaften (Austria)

Quoted Articles

2012 – European Charter of Fundamental Rights

Article 9 - Chapter II: *Right to marry and right to found a family*

The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.

Article 21 - Chapter III: *Non-discrimination*

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.

Article 41 - Chapter V : *Right to a good administration*

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.
2. This right includes:
 - the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
 - the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;
 - the obligation of the administration to give reasons for its decisions.
3. Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

http://data.europa.eu/eli/treaty/char_2012/oj

2003 - Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003L0086>

2004 - Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC)

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004L0038>

1997 – Amsterdam Treaty establishing the European Community

Article 13: Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

http://data.europa.eu/eli/treaty/tec_1997/oj

1966 – International Covenant on Civil and Political Rights

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

1950 – European Convention on Human Rights/for the Protection of Human Rights and Fundamental Freedom Article 8: *Right to respect for private and family life*

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

https://www.echr.coe.int/Documents/Convention_ENG.pdf

<https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c=>

1948 – Universal Declaration of Human Rights

<https://www.un.org/en/universal-declaration-human-rights/index.html>