



### **Draft speech for NELFA workshop at ILGA conference**

Good morning! My name is Magdi Birtha and I am working for COFACE Families Europe. I am very sorry that I cannot be at this important conference in person, but I am delighted to address you at least through this video message. COFACE Families Europe is a pluralistic and independent network, that represents all types of families. Our membership includes important civil society organisations from 23 EU Member States to raise the voice of families and defend their interest at European level. As of this year, we are delighted to welcome NELFA, the Network of European LGBTIQ\* Families Associations in our network.

For COFACE Families Europe, the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities, as well as the EU Charter of Fundamental Rights, are the starting point for our European advocacy, in line with our core values which are pluralism, non-discrimination, equal opportunities, social inclusion and solidarity. We all know that the way in which families are formed, function and evolve varies from country to country. But in each culture families provide the natural structure in which people and especially children receive emotional, financial and material support that is of great importance to their development.

Families have also evolved greatly in the course of time. There is actually everywhere in Europe a great diversity in family forms, so a uniform family model is less relevant than ever. COFACE advocates for all family forms and we always take into account the special needs of families in vulnerable situations, which need targeted support, including one-parent families, migrant and refugee families, families where a member is disabled, or rainbow families.

### **Today, you will be discussing freedom of movement from different angles.**

European Union citizens have the right to move freely and live in another EU country, subject to any conditions set out in the EU's treaties. This free movement of people is one of the EU's fundamental principles cherished by its citizens. In 2004, the EU adopted a new Directive on the right to free movement of citizens of the Union and their family members to move and reside freely within the territory of the Member States. In prior to that, EU law limited the right to free movement to those moving for the purposes of work, or self-employment. Since the 1990s, free movement rights were extended to students, retired persons and economically self-sufficient persons too (for a maximum 3 months' time without registering with the local authorities). The central issue in the negotiations was the **definition of families** – a number of EU Member States resisted to include an inclusive definition of families in the text of the Directive. It is still unclear whether same-sex married partners are included or not in the definition of spouse.

National rules regarding rights and obligations, and the right for same-sex couples to get married differs from country to country. At the moment, not all EU Member States recognizes same-sex marriage. At least in those countries where registered partnership exists, broadly the



same rights are still guaranteed to same-sex couples, however they would not be regarded as married and would face barriers for instance if they want to adopt a child. There are still Member States, where same-sex couples cannot even enter registered partnership. This can potentially violate the right of their children in many ways, including the right to grow up in a family, if they live in one of these countries. However, it is not only same sex couples, who face obvious legal challenges in terms of their right to marry, but also persons with disabilities under guardianship and others. It would be good if different grass-root human rights movements (representing the homeless, women, LGBTQI people, disabled people, or refugees) fought together when they face common challenges. Allies should actively get together at different levels, as every little change can make a difference.

Substantive family law remains under the sole competence of EU countries, but the EU is empowered to take measures concerning family law with cross-border implications on the basis of a special legislative procedure. The EU therefore has limited competence to act when it comes to the recognition of family forms.

In 2017, there are still a great number of people whose right to free movement is violated for one reason, or another.

### **Social barriers**

Earlier this year, COFACE organized a conference ‘Families on the Move’ in Brussels. Families are moving in Europe economically, digitally, geographically, socially, and these represent big challenges that require immediate action in the form of policy, legislation and support services to empower families. One of the workshops particularly focused on inequalities for families who are moving internally in the EU and the challenges they face in accessing social benefits and services. Despite the EU’s effort to coordinate social security, Member States can still design policies that may undermine this effort and hinder citizen’s access to their social rights and benefits.

Regulatory and institutional complexity hides barriers to access and export social security benefits. Some specific challenges also derive from the different definitions of ‘family’ in EU Member States, attitudes, or from different operational conditions (e.g. a Member State requires certain documents to prove eligibility to entitlements, which simply don’t exist in another Member State).

Dr. Mara Yerkes, Assistant Professor from Utrecht University provided an overview of the barriers and challenges faced by diverse families building on the findings of the bEUcitizen project. The research has been filling an important gap by collecting data on the attitudes towards the mobility of EU residents and their citizenship rights. Their questionnaire focused on which civil and social rights should be granted and to whom (married vs cohabitating couples; heterosexual vs homosexual couples) and what role the respondents feel the EU should play in guaranteeing those rights. Preliminary research results showed polarization between traditional (i.e. Italy and Croatia) and less traditional (Spain, Denmark, the Netherlands) countries, with a greater gap in traditional countries between approval of rights



for married, heterosexual couples versus other family forms. Respondents more clearly support a harmonizing role for the EU when it concerns civil partnership rather than marriage, both for heterosexuals and homosexuals. Yet, differences in attitudes towards marriage and civil partnership appear stronger in those countries where a legal recognition of civil unions does not exist or is recent, such as in Italy, Spain and Croatia. No differences emerged in the Netherlands and Denmark, where culturally and institutionally, marriage and civil partnership are equally recognized. To sum it up, attitudes present a barrier to improve the enjoyment of civil and social rights for mobile families in the EU, especially for diverse families. That probably doesn't surprise you. However, more data would be needed to assess the real impact of this barrier and to see how EU initiatives could improve the situation.

At the end of that workshop, participants agreed on some common challenges and necessary actions that could be taken to improve the situation and remove currently existing barriers from the mobility of families in Europe, with special regard to vulnerable families. That includes the following challenges:

- Lack of common definitions across the EU (e.g. family, worker)
- Information gap, lack of knowledge of social rights
- Administrative barriers
- Attitudes in society
- Lack of mutual recognition of entitlements
- Lack of communication and cooperation between services

At the moment, COFACE Families Europe is assessing these challenges and look into how it should shape our future work in the area of freedom of movement and social protection. We will continue working towards breaking down key legal and practical barriers for all families.

I hope this brief message gave you some food for thought. I wish you a great workshop and conference and I hope to stay in touch with all of you in the future.