

Who are we ?

The members/friends 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**
- **ASABP - Association de soutien aux Amoureux au ban public**

ITALIA

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

KONINKRIJK DER NEDERLANDEN

- **Loving Day NL**

ÖSTERREICH

- **EOG Ehe ohne Grenzen (Marriage without borders)**
- **Verein FIBEL Fraueninitiative Bikulturelle**



Europe, 09/05/2021

Dear MEP,

The hashtag *#LovesNotTourism* unveils the difficulties that cross-border couples encounter due to the current health crisis. Today separated by the rules imposed by the international management of the pandemic, but also for years by the legal provisions on migration and their implementation, these couples have been experiencing distance, a waiting period as well as cumbersome and expensive legal formalities. They have often had to consider or take drastic measures to be together. The reason behind this is the migration policy conducted by the European member states, hence the coming into play of our supporting associations grouped together to form 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.

Approximately 32 millions of individuals are in a binational couple in the European Union¹ (Appendix 1). The available data below considers marriages and registered partnerships; it is hard in fact to find data for *de facto* couples.

Line of argument

Check-rules 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 means of 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 considered a fundamental right and a right of residence for the foreign spouse ought to have been recognised. Successive legal reforms have been implemented with the intention to restrict those human rights.

¹ Source: 2019; https://ec.europa.eu/info/sites/info/files/190129_international_couples_factsheet.pdf

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

To illustrate this point, here are a few 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 this report, one 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 authority²."

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

Texts that underpin our action

The Universal Declaration of Human Rights, the European Convention on Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the Convention relating to the Status of Refugees 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 those fundamental individual rights and freedoms.

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 the 2003 and 2004 directives, and on relevant case law/jurisprudence of the European Court of Justice.

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

- Cumbersome discretionary administrative and legal situations
- A financial hardship and/or stressful financial dependency amongst couples and their families and between each other, due to the ban or the limitation for the foreigner to work
- Inequalities experienced due to gender or handicap when a minimal income is demanded to sponsor the foreign partner/spouse
- Institutional and systemic racism
- Differential treatments according to nationality, origin, gender and age, even to the place of residence
- The ongoing burden of colonialism and rejection of binational couples by society against the general norms of their individual human rights
- Double penalty often imposed, due to the ill-application of the vaguely worded as well as unsubstantiated fear of a "disturbance of public order"

² European Migration Network, *Marriages of convenience and false declarations of parenthood*, European Commission, Luxembourg, Publication Office of the European Union, June 2012, p. 57

We hereby request you to acknowledge and appropriately monitor the difficult situations experienced by binational couples and their families who are fully participating in the European construction as any other citizens.

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

To the 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)

IG-Binational (The Swiss Confederation)

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)

Appendix 1

Figures for binational couples in Europe

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

This data is partial, outdated and difficult to equitably compare between States.

- ***In Europe, 1 person out of 12 is part of a binational couple (partnerships not included)***³
- *In Austria, 23% of couples are binational (Austrian-foreigner) (partnerships not included)*⁴
- *In Belgium, 309,245 binational couples, i.e. about 1 couple out of 7*⁵
- *In Denmark, 15,243 binational couples (Danish-foreigner)*⁶
- *In France, 27% of couples are binational (French-foreigner) (partnerships not included)*⁷
- *In Germany, 7% of couples are binational, i.e. about 1.5 million couples (German-foreigner) (not including same-sex partnerships)*⁸
- *In Italy, 17,3% of couples are binational, i.e. about 700,000 couples (Italian-foreigner) (partnerships not included)*⁹
- *In the Netherlands, no statistics are available on binational couples*¹⁰
- *In Switzerland, 36,3% of couples are binational (Swiss-foreigner)*¹¹

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

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

5 Source: 2020; Statbel

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

7 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>

8 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.

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

10 Statistics are only available on ethnically mixed marriages of certain groups: Turkish and Moroccan (Dutch-foreigner) (partnerships not included)

11 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>

Appendix 2

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

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>

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>

1989 - Convention on the Rights of the Child (CRC)

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

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>

1951 – Convention relating to the Status of Refugees

<https://www.ohchr.org/en/professionalinterest/pages/statusofrefugees.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>