

# Index

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

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

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

- 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
- Estonia  
 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., 102–3
- 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, 75 *See 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 Agreement, 91–4 *See 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, 48 *See 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

- 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, 68
- Dublin 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
- Lida* 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, 2–3
- 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
- France
- assisted reproductive technology and same-sex couples, 169–71, 178, 186–7, 189, 193
- 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 Directive (Directive 2004/38)
- Free Movement of Workers Regulation (Regulation 492/2011)
- family member, concept of, 68
- free movement rights, 5, 7, 12, 78–80
- caring function, value of, 67–9
  - family reunification, 22–5
  - Gunnarsson* case, 85
  - Jabbi* case, 86
  - V.M.A.* case, 7
- functional definition of 'family', 46, 54
- Gas and Dubois* case, 161, 166–8
- Genc* case, 89
- genetics
- automatic recognition of ties, 194
  - surrogacy
    - gendered effects of genetics, 189–91
    - legal fatherhood, 182
    - legal motherhood, 186–9
    - Mennesson* case, 186–9
    - trumping of genetics, 191–4
- Germany
- Boeckel and Gessner-Boeckel* case, 168
  - egg donation, 201
  - Iida* case, 31
  - Maruko* case, 108, 160, 258
  - pension rights, 160, 258
  - right of residency, 31
  - Römer* case, 160
  - same-sex adoption rights, 168
  - same-sex parenthood, 169
  - 'goods' language associated with family
    - goods, private and public distinguished, 48
    - non-familial relationships, status of, 48 *See also* private goods of the family.
  - Goodwin v UK*, 107, 153, 260
  - Grant* case, 107–8
  - guardianship. *See kafala* guardianship; legal guardianship
  - Gunnarsson* case, 85
- Hague Convention on the Civil Aspects of International Child Abduction 1980, 216
- Hallier and others v France*, 174
- Hämäläinen v Finland*, 156
- harmonisation of EU family law, 9, 38, 54, 63, 210–11, 223–5, 227
- harmonised conception of 'family', 58
- Hart, H.L.A., 45
- Hay v Crédit Agricole*, 160, 162, 179
- Herring, J., 1, 45
- homoparental families, 13 *See also* same-sex parenthood.
- Honner* case, 173–4
- Hungary, 14
- illiberalism
    - constitutionalisation of traditional notions of family, 237
    - gender and family, 234–5
    - role of women within society, 235–6
    - social welfare and family policies, 236–7
- Ibrahim* case, 69
- ideological divisions within the EU, 14
- divorce, 250–1
  - East/West divide, 251–3
  - North/South divide, 250–1
  - Protestant versus Catholic ideologies, 250–1
  - same-sex relationships, 251–3
- Iida* case, 31–2
- illiberalism, 14, 248
- EU action against
- Commission infringement procedures, 241–6
  - European Parliament resolutions, 241–2
- familialism and biopolitics, 233–4
- familism and role of the family, 232–3
- Hungary
- constitutionalisation of traditional notions of family, 237
  - gender and family, 234–5
  - role of women within society, 235–6
  - social welfare and family policies, 236–7
- meaning, 230–1
- Poland, 238
- constitutionalisation of traditional notions of family, 240–1
  - education, 239–40
  - role of women within society, 239
  - social welfare and family policies, 238–9
- war on gender, 231–2
- immigration policy, 22, 29, 78, 87
- Europeanisation, 87–8
  - Hungary, 235–6
- Return Directive, 114 *See also* Family Reunification Directive,
- infringement actions
- illiberalism, 243–5
- integrated families, 87–91

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

- Oliari and others v Italy*, 158
- Orbán, Viktor  
illiberal democracy concept, 231  
See also Hungary.
- Orlandi and others v Italy*, 155, 165, 179  
‘other close relatives’ concept  
vagueness, 62
- P.B. and J.S. v Austria*, 161
- Pacte Civil de Solidarité (France), xxxiii, 160
- paedophilia  
conflation with homosexuality  
Hungary, 233, 237
- Pajic v Croatia*, 163
- parental child abduction, 214  
Hague Convention, 216
- parental responsibility, 217  
Regulation 2201/2003, 64  
*SM v Entry Clearance Officer*, 124–8
- parent–child relationships. See adoption and adopted children; step-children
- parenthood, 52  
determination of legal parenthood, 194–6  
gendered nature of, 185–6  
surrogacy. See surrogacy and surrogate-born children
- Parliament v Council*, 102
- Parris v Trinity College Dublin*, 158, 162
- pater est quem nuptiae demonstrant* rule, 13, 182, 200  
legal fictions, 195–6  
openness to flexibility, 196–7
- paternity leave  
equivalent second parents, 35, 174–5
- pension rights  
registered partnerships, 259  
same-sex partnerships, 108, 156–7, 161–2, 258  
trans partners, 106
- Poland, 14  
*A.D.-K.* case, 178  
illiberalism, 238  
constitutionalisation of traditional notions of family, 240–1  
education, 239–40  
role of women within society, 239  
social welfare and family policies, 238–9  
*Kozak* case, 161  
same-sex parenthood, 178  
same-sex partnerships, 161
- Polydor* doctrine, 11, 82
- polygamous marriages, 29, 127–8
- primary carer, concept of, 71  
early EU law, 25–7, 69
- private goods of the family  
family as a social institution, 50–1  
intimate relationships concept, 49–50
- private international family law, 14, 209  
child protection, 213–15, 220  
harmonisation, 211, 221–4
- procedural safeguards  
Citizens’ Rights Directive, 66, 136–7, 144–6  
entry refusal and expulsion decisions, 138–41  
minimum procedural safeguards, 138
- prohibition on torture and inhuman and degrading treatment (Art. 3 ECHR), 211
- proportionality, 116, 122, 156, 174
- protection of family life (Art. 33 EUCFR), 100, 105–6
- Protestant versus Catholic ideologies  
divorce, 250–1
- public goods of the family, 51–3
- public health  
movement/residence of foreign nationals (Directive 64/221), 138–41, 146  
Treaty-based limitations, 135
- public policy  
movement/residence of foreign nationals (Directive 64/221), 138–41, 146  
Treaty-based limitations, 135
- public security  
movement/residence of foreign nationals (Directive 64/221), 138–41, 146  
Treaty-based limitations, 135
- qualifying families, 82–3
- R.F. and others v Germany*, 169
- rainbow families, 20  
assisted reproductive technology, 169–71  
family reunification rights, 175–7  
recognition and protection, 152  
recognition of parenthood established abroad, 175–8  
same-sex parenthood, 166–9  
shared parental responsibility, 171–3  
social assistance and welfare benefits, 174–5
- Rawls, John, 48
- recognition of intended motherhood, 186–9, 191–4  
precarity of, 194



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

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

- Treaty on the Functioning of the EU (TFEU),  
 227  
 citizenship rights, 100, 103, 111, 118  
   substance of rights test, 113  
 citizenship status, 100  
*Coman* case, 121–3  
 EU Citizens' Directive, relationship with,  
   118–20  
 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,  
 255  
   family reunification rights, 175–7  
   free movement rights, 128–9
- Valcheva* case, 67
- von der Leyen, Ursula, 261  
   family concept and the EU, 253–7  
   LGBTQI rights, 177, 243
- Williams, Raymond, 40
- women  
   discrimination in CJEU jurisprudence,  
     26–7  
   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

