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## The draft recommendation on the rights and legal status of children and parental responsibilities

### Written question No. 607 to the Committee of Ministers

by Mr Luca VOLONTÈ, Italy, Group of the European People's Party

The draft recommendation on the rights and legal status of children and parental responsibilities, which is currently under preparation, aims to set common legal principles concerning the legal status of children and parental responsibilities “taking into account the legal, social and medical developments of the last decades” regarding family life and medically assisted procreation. Its main purpose is to provide for common rules concerning affiliation and parental responsibilities for couples, in particular same-sex couples, wishing to adopt their partner’s children, or to procreate through artificial procreation, including using surrogate motherhood and heterologous *in vitro* fecondation (with sperm or ova donation from a third donor). Those rules implement the concept of “social or psychological parenthood” along with or over the biological model of family. It is not in line with the European Court of Human Rights case law, which stipulates that member states are free not to grant access to marriage or civil partnership to same-sex couples, and that there is no right to have children through adoption or procreation techniques or to have access to medically assisted procreation techniques.

The draft recommendation abusively presupposes the social and moral acceptability of practices and situations that it regulates, and ignores the very fact that most of those practices and situations are illegal and contrary to the public order in the majority of the member states. Such document ultimately gives the message that the Council of Europe recommends the legalisation of those practices and obliges the member states to recognise them in their territory when they concern foreign citizens. This draft recommendation is also contrary to Article 15.a of the Statute of the Council of Europe, as there is no common ground for a common policy on this matter.

Therefore, Mr Volontè,

To ask the Committee of Ministers:

1. Will the Committee of Ministers consider the deletion of the provisions concerning practices and situations that are illegal in the majority of the member states?
2. Will the Committee of Ministers consider including a new provision in the recommendation (and not only in the explanatory memorandum) expressing unambiguously that member states are free not to legalise, recognise or give effect to status accepted by another state, as well as to reserve access to adoption and medically-assisted procreation techniques to heterosexual couples?

