

## Co-parenting before conception. The Low Countries' approach to intentional multi-parent families

**Prof. dr. Ingrid Boone** \*

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## I. Introduction

Medical and societal developments have led to a new family form involving more than two persons who make the conscious decision to have and raise a child together. Before the conception of the child, co-parenting arrangements are made covering the role of each parent in the child's life and the division of care and financial obligations. These intentional multi-parent families exist in various forms. They may involve a lesbian or a heterosexual couple that conceives a child with the help of a known donor, or a single woman who wishes to co-parent with a male same-sex couple. Some male same-sex couples also co-parent with female same-sex couples.

What these persons all have in common is the desire to create a family, which they cannot do on their own, and the wish to involve both biological parents in the upbringing of the child. These families combine a number of phenomena that have become increasingly familiar in recent years: artificial procreation, parenting by single persons or same-sex couples, the separation of parenting from the relationship between parents, and the rearing of children in two households. New in this regard is the involvement of three and sometimes even four intended parents in the parental project. Intentional multi-parent families pose new challenges to family law. Both in Belgium and the Netherlands, as in most other legal systems, the number of legal parents vested with custody of the child is limited to two. This two-parent model does not protect the relationship between the child and each of its parents in a multi-parent family. Consider, for instance, a female same-sex couple that co-parents with

a known donor. Belgian and Dutch law allow the mother's female partner to be registered as a legal parent (co-mother) of the child, and thus exercise parental responsibilities together with the mother. A child with a mother and a co-mother cannot, however, have a legal father. The question arises whether the law should be adjusted to accommodate multi-parent families, and if so, how. The Belgian Senate recently accepted that this question should be subjected to parliamentary debate. In 2014 the Netherlands tasked the Government Committee on the Reassessment of Parenthood with evaluating whether the law should allow more than two persons to be a child's legal parents and share parental responsibilities. In its recently published report, the Government Committee advises legal multi-parenthood be statutorily regulated, subject to certain conditions.<sup>1</sup>

This contribution addresses two questions. The first one concerns the legal position of persons who have entered into multi-parenting arrangements. We answer this question by examining the Belgian rules on legal parentage and parental responsibilities. Second, we explore how family law might accommodate intentional multi-parent families. For this question, we focus on the recommendations the Dutch Government Committee formulated on legal multi-parenthood.

## **II. Legal position of persons involved in multi-parenting arrangements**

Most intended parents who enter into a multi-parenting project make arrangements establishing how the child will be cared for and where it will reside.<sup>2</sup> This is often a slow process and one that the intended parents devote ample attention to since they want to be certain that they are all on the same page. Having to agree on future arrangements forces the intended parents to consider the consequences of the adventure they are embarking upon, making this an important and valuable phase of the process if only for this reason.<sup>3</sup> The intended parents wish to establish certainty on their mutual position and their position vis-à-vis the child. Such arrangements, however, offer no legal certainty since the validity of multi-parenting arrangements is problematic. The below discussion of the Belgian rules on legal parentage and parental responsibilities further illustrates this.<sup>4</sup>

### ***A. Legal Parentage***

As is the case in almost all Western legal systems<sup>5</sup>, a child can only have a maximum of two legal parents under Belgian law.<sup>6</sup> Parental responsibilities are tied to legal parentage.<sup>7</sup> According to the Belgian Civil Code, the legal parents of the child automatically have parental responsibilities, which they should exercise together, even if they do not live together.<sup>8</sup>

This two-parent model is explained by historical and biological

factors. Parentage traditionally constituted the legal relationship between children and their parents. This relationship as a rule was governed by the blood ties between persons created after one person engaged in sexual intercourse with another person, which resulted in the conception of the child. A distinction was made between legal motherhood and legal fatherhood because both a man and a woman were needed for a successful conception.<sup>9</sup>

Blood ties continue to play an important role in modern-day filiation law. Still, the law has increasingly started to acknowledge that legal parentage does not necessarily reflect biological realities.<sup>10</sup> In the event of medically assisted reproduction, the intention of the future parents (their desire to conceive a child and become that child's parents) provides the basis for their legal parentage relation with the child. A donor cannot claim legal parentage.<sup>11</sup> This means that the result ultimately remains the same for a heterosexual couple using donated sperm cells and/or egg-cells: they become the mother and father of a child they wished to have and that they are raising as their child. The concept of the nuclear family thus remains intact, even if at least one of the two parents lacks a genetic bond with the child.

Access to medically assisted reproduction, however, is not limited to heterosexual couples. A single woman can decide to become a parent using medically assisted reproduction techniques, provided she meets the applicable legal requirements (e.g. the age requirements<sup>12</sup>). She can have a child using sperm from a donor, without this child having a legal father. Intentional deviations from the two-parent model are thus allowed under the law, albeit only in the form of a decrease of the number of parents from two to one.

The Belgian Civil Code in addition allows same-sex couples to both become the parents of a child. Until recently, this was only possible by means of adoption.<sup>13</sup> The legislator further extended the rules for lesbian couples. Since 2015, a child can have a legal parentage relation with two women from birth: the mother and her female partner.<sup>14</sup>

Legal co-motherhood is automatically attributed to the woman who is married to the mother at the time of birth.<sup>15</sup> If the child's mother is not married, her female partner can become the legal parent by recognising the child or following judicial determination of co-motherhood.<sup>16</sup>

The introduction of co-motherhood pushes the legal enshrinement of the intention to parent one step further.<sup>17</sup> The parenthood of the mother's female partner is based solely on her consent to the conception. The legislator at the same time kept the rule that a child can have no more than two parents.<sup>18</sup> The law is thus ignoring the arrangements that sometimes exist between a lesbian couple and a child's biological father, in which case a child can in fact have three parents (two mothers and a father).

## ***B. Adoption***

Adoption establishes a relationship between the adopter and the adopted child with legal consequences that strongly resemble those of legal parentage. In case of strong adoption, the relationship to the adoptive parents replaces that between the child and its original parents.<sup>19</sup> Belgian law also provides for simple adoption, in which case the child retains its original filiation ties. A child adopted through simple adoption has one or two adoptive parents in addition to its original parents. A child can thus have up to four legal parents. Simple adoption this way represents a form of multi-parenthood.<sup>20</sup> Still, simple adoption cannot resolve situations in which three or more adults wish to exercise parental responsibilities toward a child, since it results in the transfer of parental responsibilities to the child's adoptive parents.<sup>21</sup> The original parents no longer have parental responsibilities. When a child is adopted by a stepparent, the original parent and his spouse or partner who adopted the child hold (joint) parental responsibilities.<sup>22</sup> The child's other original parent in this case is no longer holder of parental responsibilities. A two-parent limit thus continues to apply as far as parental responsibilities is concerned.<sup>23</sup>

Consider, for instance, the example of a homosexual couple that wishes to have a child with a single woman. The woman conceives a child with semen from one of the two men. Legal motherhood is established on the basis of the birth certificate with indication of the name of the birthmother.<sup>24</sup> With consent of the mother, the biological father recognises the child and this way becomes its legal father.<sup>25</sup> His partner has no legal parentage relation with the child. He could become the child's parent by means of adoption, provided all the applicable legal requirements are met.<sup>26</sup> Such an adoption, however, would compromise the legal mother-child relationship, since the two fathers would then have parental responsibilities, to the exclusion of the mother.<sup>27</sup>

### ***C. Parental responsibilities***

According to Belgian law, a child has at most two parents with parental responsibilities: a mother and a father, a mother and a co-mother, or two fathers (after adoption). These parents cannot share their legal rights and duties vis-à-vis the child with someone else,<sup>28</sup> not even with a person who is genetically related to the child and who has helped raise the child from birth. Consider, for instance, a man who has entered into a co-parenting arrangement with a lesbian married couple. The child was conceived with his sperm. The woman who gave birth to the child and her spouse are the child's legal parents (mother and co-mother) and automatically are holders of parental responsibilities. The co-motherhood of the mother's spouse cannot be contested if she consented to the conception of the child.<sup>29</sup> Consequently legal fatherhood cannot be established, which in turn means that the man involved in the co-parenting arrangement cannot

be holder of parental responsibilities. Legally speaking, he is a third party, an outsider to the child.<sup>30</sup> This carries important consequences. Only legal parents who exercise parental responsibilities have the right to have the child reside with them and to make daily decisions over the child's life.<sup>31</sup> A child's parents can of course allow it to temporarily stay with another person, but they can end such stays at any given moment. Legal parents also have the right to make important decisions concerning the child's health, education, religious upbringing, etc.<sup>32</sup> Similarly, legal parents have the capacity to make certain important decisions about the civil status of the child, such as the right to consent to the child's adoption and to the child's marriage, the right to choose the child's name or to make a request to change it. Furthermore, a child's parents are entitled to manage its property and to represent the child in legal matters as well as in legal proceedings.<sup>33</sup> Third parties cannot claim such rights. They are merely entitled to have personal contact with the child.<sup>34</sup>

According to article 203 of the Belgian Civil Code, legal parents are bound to provide for the housing, maintenance, health, supervision, upbringing, education and the development of their children. This duty for legal parents to provide for their children is one of public order.<sup>35</sup> Therefore it is not up to the parents to transfer this responsibility to other persons, either fully or partially. Except for stepparents<sup>36</sup>, other persons hold no obligations to contribute to the maintenance of the child.<sup>37</sup>

#### ***D. Front and backseat parents***

Multi-parenting arrangements cannot validly establish that the rights and duties of legal parents are to be shared with non-legal parents. Still, this does not mean that multi-parenting arrangements cannot work in practice, since they can be upheld on a voluntary basis. The arrangements, however, will not be enforceable should disagreements between the parties arise. In such cases, the non-legal parents are left out in the cold. The non-legal parents then again cannot be forced to uphold the commitments they previously made to raise and financially support the child.

The two-parent limitation can also create problems in the absence of disagreements. It can cause the persons concerned to feel as if they are not on equal footing – with “frontseat parents” and “backseat parents” instead. The child's legal parents are, so to speak, in the front of the car. They have custody and thus the competence to make decisions concerning the child. The non-legal “backseat parents” do have a voice in the discussion but their position is a subordinate one. The “frontseat parents” always have the final say.<sup>38</sup> The absence of a legal parent-child relation can also produce practical problems, for instance, in dealings with public authorities, schools and hospitals. Nor can any guarantees be offered that the non-legal parents will be able to continue raising the child if its legal parents are deceased or

incapable of caring for the child.

### III. Legal multi-parenthood

The two-parent model mirrors the traditional nuclear family. In practice, children are raised in diverse sorts of living situations, and it can occur that more than two persons have a child together. The Low Countries have recently showed a willingness to explore legal options to go beyond the narrow framework of the two-parent model.

#### *A. Exploratory report on multi-parenthood in Belgium*

The Belgian Senate published an exploratory report on multi-parenthood at the end of 2015.<sup>39</sup> The starting point for this exploratory report was that any person should be able to freely choose their family form and enjoy legal certainty whatever their choice. The Senate notes that more than two persons can decide to have and raise a child together, yet it is impossible to grant parenthood to more than two persons or to have more than two parents exercise parental authority.<sup>40</sup> The fundamental question, then, is whether this possibility should be provided for under the law.<sup>41</sup> The Senate also mentions a number of specific questions, including the following: Is there a need to grant parenthood and thus parental responsibilities to more than two persons? If yes, which legal possibilities should be provided? How should important decisions be made in the case of legal multi-parenthood? Is legal multi-parenthood in the interest of the child?<sup>42</sup> The exploratory report and the questions it raised was meant to be the first step toward future parliamentary work. No concrete legislative initiatives had been taken, however, at the time of submission of this paper.

#### *B. Multi-parenthood recommendations issued by the Dutch Government Committee on the Reassessment of Parenthood*

##### **a. General**

The Dutch government appointed a Government Committee on the Reassessment of Parenthood in 2014. Composed of multidisciplinary experts, this committee was tasked with investigating whether existing Dutch laws on parentage and custody still meet the needs of contemporary society and future generations. In accordance with UNCRC Article 3, the Government Committee was instructed to take the best interests of the child as its paramount consideration. The Government Committee published its report, “Child and Parents in the 21st century”, on 7 December 2016.<sup>43</sup> After discussing a number of relevant developments and observations in the legal, pedagogical, societal and medical-ethical sphere, the Government Committee formulates its views on the desired adjustments to Dutch policies and

regulations. These views were translated into 68 recommendations. The Government Committee consistently asked which rights and interests a child has in a particular situation. It ultimately distinguished seven core elements of “good parenting” that all children should be able to benefit from, namely: “(1) unconditional personal commitment, (2) continuity in the child-rearing relationship, (3) care for bodily welfare, (4) raising to independence, and social and societal participation, (5) organising and monitoring the upbringing of the child in the family, (6) the creation of a parent-child identity and (7) ensuring contact moments with persons who are important to the child, including the other parent.”<sup>44</sup>

The Government Committee takes as its starting point that legislation should offer protection and respect for the individual rights of the child in parent-child relationships and child-rearing situations. This may require conditions to be imposed on the creation of parent-child relationships or attribution of custody. The law should provide flexibility for current and future diversity in society – structured after the most common situations, but allowing sufficient flexibility for diversity. Children after all have a right to equal protection and, as much as possible, an equal position regardless of the family situation in which they are being raised.<sup>45</sup>

## **b. Legal multi-parenthood**

One of the most remarkable and ground-breaking proposals formulated by the Government Committee is its call for the introduction of legal multi-parenthood.

The Government Committee believes that the provisions of kinship law should reflect social realities, even if they currently only relate to a relatively small group. The Committee also notes that the choice of intended parents to have and raise a child is in principle a beautiful and positive decision. The Committee consequently argues that if more than two people have made the conscious decision to raise and care for a child, and they factually undertake these responsibilities, there is no good reason not to offer the child the same protection with respect to his or her factual situation as a child raised in a family unit with one or two legal parents.<sup>46</sup> Legal parentage can protect social parentage and consequently contribute to the continuity of parent-child relationships and the improvement of both the factual and the legal situation of the child. The Government Committee thus advises the statutory regulation of legal multi-parenthood, subject to certain conditions.<sup>47</sup>

## **c. Conditions and limits to legal multi-parenthood**

The Government Committee believes it to be evident that legal multi-parenthood will make child-rearing situations more complex (also in legal terms). This increased complexity justifies the imposition of the

following conditions to legal multi-parenthood.

- Legal multi-parenthood should only be allowed when all the intended parents intend to be the child's parents on an equal and joint basis. This means that legal multi-parenthood cannot be granted if there is no common agreement on the role each person will fulfil in the child's life.
- The intended multi-parents need to have drafted their agreement prior to the conception of the child. A multi-parenthood contract needs to stipulate the arrangements with regard to the division of care and upbringing duties, the child's main place of residence, each parent's respective financial obligations and the surname the child will take. Furthermore, agreement needs to be reached on how the child will be informed of his or her origin story and how the intended parents plan to address possible disputes as well as requests to adjust the agreement.
- A maximum limit of four legal parents in a maximum of two households should be imposed. A multi-parenthood contract should only be open to a child's birth mother, genetic parents and their life companions. This corresponds to the most commonly described situation of multi-parent families.
- Multi-parenthood contracts must be assessed by a court. The court needs to review the multi-parenthood contract in its entirety and ascertain that the best interests of the child are central to the intended multi-parent family. The future child should be appointed a guardian *ad litem* to ensure that the multi-parenthood contract is assessed in full by the court. The guardian *ad litem* is to inform the court in what manner the best interests of the child were taken into account by the intended parents when the arrangements were designed.
- After court approval of the multi-parenthood contract and successful conception, the intended multi-parents need to ask the civil registrar to draft deeds of acceptance of parenthood (recognition). When the child is born, the three or four parties to the agreement are registered as parents on the birth certificate on the basis of these documents. The multiple parents are simultaneously vested with custody of the child.<sup>48</sup>

The Government Committee underlines that there is little experience available on multi-parenting families around the world at this moment. Fears that multi-parenting will lead to an increase in conflicts are not illogical but they have until now not been backed by



academic research.<sup>49</sup> All custodial parents have access to the dispute resolution provision (art. 253a, Book 1, Dutch Civil Code) should conflicts arise over the shared exercise of custody. A court may reduce the number of custodial parents at the request of one or more custodial parents should the parents disagree on the exercise of joint custody. Should disputes arise in the context of a multi-parenting situation, a court will probably more readily conclude that a child is likely to start to feel torn or lost between the parents, or that reducing the number of custodial parents is otherwise necessary in the best interests of the child.<sup>50</sup>

#### **d. Comments on the multi-parenthood recommendation**

The Dutch Minister of Justice responded positively to the recommendations formulated in the report. He agrees with the Government Committee that multi-parenthood should be legalised and he finds the conditions proposed by the Government Committee to be reasonable at first sight. He will further develop the recommendations and examine the public support for them.<sup>51</sup>

The Ministry of Justice organised a conference in February 2017 to examine the public support for the recommendations.<sup>52</sup> The participants in this conference (judges, researchers, stakeholders...) responded mainly positive to legal multi-parenthood. Not all of them however agreed with the Government Committee that multi-parenthood should automatically imply multi-parent custody. The requirement of a multi-parenthood contract was considered positive, because it forces the intended parents to think thoroughly on how they will arrange multi-parenting. There was more discussion about how the agreement should be assessed by court.

Besides this conference, a group of 8 children, between 8 and 14 years old, have been heard on their experience with growing up in intentional multi-parent families.<sup>53</sup> It appears that these children consider the three or four adults who raise them from birth as their parents. The children make no distinction between biological and non-biological parents. What matters to them is that their parents take good care of them. They experience family life with more than two parents as natural and normal. The children feel at home in all of their parents homes.

### **IV. Evaluation & Conclusion**

Situations in which more than two adults choose to have and raise a child together are part of today's reality. These multi-parent families constitute a limited but growing group.<sup>54</sup> The absence of an adequate legal framework does not deter intended parents from entering into multi-parenting arrangements, but it does create a level of uncertainty that may ultimately come at the expense of the relationship between

the child and its parents. A number of authors consequently believe that legally protecting the relationship between the child and its parents is in the interest of children, even when there are more than two parents. Increased legal certainty on their relationship would not only benefit intended parents but also the children themselves.<sup>55</sup> Expanding the number of legal parents with parental authority nonetheless may also result in a number of adverse effects, with the potential for conflicts chief among them. The risk of conflicts may increase when multiple parents have a legal relationship with a child – “*too many cooks in the kitchen*”. This potential increase in conflicts may negatively affect the child’s well-being.<sup>56</sup> Still, it is not necessarily accurate to assume that the number of conflicts increases when the number of holders of parental authority does.<sup>57</sup> The fact that multi-parenting arrangements are usually only concluded after extensive deliberations between the concerned parties may indicate that they are actually better prepared to resolve potential disagreements and avoid conflicts.<sup>58</sup>

There are also concerns about what will happen to the child in the event of a divorce. Couples involved in multi-parenthood contracts can also separate, prompting nightmare scenarios of children tugged back and forth between three or four homes.<sup>59</sup> The arrangements made prior the child’s conception should anticipate such separations. A multitude of events, however, can occur in a person’s life and there are only so many things one can anticipate on.

Ethicists note that the interests of the child do no warrant objections against the legal recognition of multi-parenting.<sup>60</sup> They note that families that depart from the nuclear family with two parents of opposite sexes are not better or less suited to help the child develop healthy attachment, which is critical to their further development. This observation dovetails with findings in socio-psychological research into the well-being of children in new family forms. The child’s well-being appears to be determined by the quality of the relationship between the child and those raising it rather than by the family form. Children are most likely to flourish in families that provide love, support and safety, irrespective of family structure.<sup>61</sup> Parents involved in multi-parenting arrangements often made considerable efforts to realise their desire to have children, which makes it likely that they will be highly committed to their children. Still, caution is in order. Little is as of yet known about the well-being of children who grow up in intentional multi-parent families. How is the child to develop its identity with three or four parents? Will children in a multi-parenthood arrangement be able to manage the complexity of their family situation? Having more than two parents also means that the child is expected to entertain personal relations with more than four and potentially up to eight grandparents. This might require a fair amount of time management, and this when children of course also simply want to be left alone sometimes. The Low Countries have adopted pioneering family law reforms more

than once in the past. The Netherlands for instance became the first country in the world to open marriage to same-sex couples in 2001, while Belgium followed suit just two years later. In 2014, Dutch legislation made it possible for the female partner of a child's mother to be the child's legal parent from birth. Belgium adopted a similar provision one year later. At the end of 2016, the Dutch Government Committee on the Reassessment of Parenthood issued a recommendation on the introduction of legal multi-parenthood. The Netherlands would again play a pioneering role in family law reforms in Europe should this ground-breaking proposal result in legislation. Whether such legislation will indeed be adopted remains to be seen. What is certain, in any case, is that this will require thorough public and political debate.

## Noten

\* This paper was presented at the World Congress on Family Law and Children's Rights (Dublin, 4-7 June 2017) and at the 16th World conference of the International Society of Family Law (Amsterdam, 25-29 July 2017).

**1** *Kind en Ouders in de 21ste eeuw. Rapport van de Staatscommissie Herijking Ouderschap*, The Hague, 2016, p. 427-434. English summary of the report available at <https://www.government.nl/documents/reports/2016/12/07/child-and-parent-in-the-21ste-century> (hereafter: *Report Government Committee*).

**2** Empirical research from the Netherlands demonstrates that almost 90% of intentional multi-parent families (established through the birth of a child in a lesbian relationship conceived with the help of a known donor) make arrangements prior to the child's conception (M.V. Antokolskaia, W.M. Schrama, K.R.S.D. Boele-Woelki, C.C.J.H. Bijleveld, C.G. Jeppesen de Boer and G. Van Rossum, *Meeroudergezag: een oplossing voor kinderen met meer dan twee ouders? Een empirisch en rechtsvergelijkend onderzoek*, the Hague: Boom Juridische Uitgevers 2014, p. 23).

**3** M. Vonk, 'The role of formalised and non-formalised intentions in legal parent-child relationships in Dutch Law' in: K. Boele-Woelki (ed.), *Debates in family law around the globe at the dawn of the 21st century*, Antwerp: Intersentia 2009, p. 195.

**4** This section of the paper is based on a part of my inaugural speech, published in 2016: I. BOONE, *Gedeeld geluk. Ouderschap in intentionele meeroudergezinnen*, *Acta Falconis XIII*, Antwerp, Intersentia, 71 p.

**5** See K. Sikorska, T. Kruger and F. Swennen, *Meerouderschap en*

*meeroudergezag, Onderzoek uitgevoerd in opdracht van de staatscommissie Herijking ouderschap, Onderzoeksgroep Persoon & Vermogen University of Antwerp 2015, p. 19-39.*

**6** See, however, *infra*, B. Adoption.

**7** Constitutional Court 8 October 2003, nr. 134/2003; Y.-H. Leleu, *Droit des personnes et des familles*, Brussels: Larcier 2016, p. 745; T. Wuyts, *Ouderlijk gezag. Een coherente gezagsregeling voor minderjarigen*, Antwerp: Intersentia 2013, p. 87, 127-129 and 671.

**8** Article 373 and 374, § 1 Belgian Civil Code.

**9** J. Monballyu, *Geschiedenis van het familierecht. Van de late middeleeuwen tot heden*, Leuven: Acco 2010, p. 91.

**10** F. Swennen, *Het personen- en familierecht. Een benadering in context*, Antwerp: Intersentia 2017, p. 435; G. Verschelden, *Handboek Belgisch Personen- en familierecht*, Bruges: die Keure 2016, p. 5-6.

**11** Article 27 and 56 Act of 6 July 2007 on Medically Assisted Reproduction.

**12** Article 4 Act on Medically Assisted Reproduction.

**13** Act of 18 May 2006 amending a number of provisions of the Civil Code in order to enable adoption by persons of the same sex, *Belgisch Staatsblad* 20 June 2006.

**14** Act of 5 May 2014 on the establishment of the filiation of the co-mother, *Belgisch Staatsblad* 7 July 2014, entry into force 1 January 2015.

**15** Article 325/2 Belgian Civil Code.

**16** Article 325/4 and 325/8 Belgian Civil Code.

**17** L. Pluym, 'Belgisch afstammingsrecht, quo vadis?' in: Vlaamse Conferentie bij de Balie te Gent (ed.), *Personen- en familierecht*, Brussels: Larcier 2015, p. 138-139.

**18** Article 329 Belgian Civil Code.

**19** Article 356-1 Belgian Civil Code. In case of strong adoption by a stepparent, the child does not cease to be part of the family of the spouse or the partner of the adopter (article 356-1 Belgian Civil Code).

**20** F. Swennen, 'Wat is ouderschap?', *Tijdschrift voor Privaatrecht*

2016 vol. 1, p. 77.

**21** Article 353-8 Belgian Civil Code.

**22** Article 535-9 (simple stepparent adoption) and article 356-1 Belgian Civil Code (strong stepparent adoption).

**23** L. Brunet and J. Sosson, 'L'engendrement à plusieurs en droit comparé: quand le droit peine à distinguer filiation, origines et parentalité' in: H. Fulchiron and J. Sosson (eds.), *Parenté, Filiation, Origine. Le droit et l'engendrement à plusieurs*, Brussels: Bruylant 2013, p. 35; G. Hiernaux, 'L'autorité parentale et le rôle des tiers' in: N. Gallus (ed.), *Les recompositions familiales. Nouveaux enjeux de la parentalité et de la filiation*, Limal: Anthemis 2015, p. 84-85; T. Wuyts 2013, p. 917.

**24** Article 312 Belgian Civil Code.

**25** Article 319 and 329bis Belgian Civil Code.

**26** Article 343, § 1 and 344-1 et seq. Belgian Civil Code.

**27** Article 353-9 Belgian Civil Code.

**28** F. Swennen, 'Rechten van niet-ouders met betrekking tot minderjarigen' in: P. Senaeve, F. Swennen and G. Verschelden (eds.), *Ouders en kinderen*, Antwerp: Intersentia 2013, p. 266.

**29** Article 325/3, § 3 Belgian Civil Code.

**30** S. Cap and J. Sosson, 'La place juridique du tiers au lien de filiation' in: J.-L. Renchon and J. Sosson (eds.), *Filiation et parentalité, Actes du XIIIe colloque de l'Association Famille & Droit*, Brussels: Bruylant 2014, p. 267.

**31** T. Wuyts 2013, p. 320.

**32** See article 374, § 1 Belgian Civil Code.

**33** Article 376 Belgian Civil Code.

**34** Article 375bis Belgian Civil Code.

**35** Cass. 27 September 2009, *RW* 1990-91, p. 1089.

**36** See article 203, § 3, art. 221 and article 1477, §§ 3 and 5 Belgian Civil Code.

**37** Constitutional Court 8 October 2003, nr. 134/2003.

**38** *Report Government Committee*, p. 427.

**39** Informatieverslag betreffende een onderzoek van de mogelijkheden voor een wettelijke regeling van meeouderschap. Addendum, *Parl.St.* Senate 2015-16, nr. 6-98/3.

**40** *Parl.St.* Senate 2015-16, nr. 6-98/3, p. 2-3.

**41** *Parl.St.* Senate 2015-16, nr. 6-98/3, p. 3.

**42** *Parl.St.* Senate 2015-16, nr. 6-98/3, p. 5-6.

**43** *Report Government Committee*, 637 p.

**44** *Report Government Committee*, p. 375-376.

**45** *Report Government Committee*, p. 377-378.

**46** *Report Government Committee*, p. 428.

**47** *Report Government Committee*, p. 428.

**48** *Report Government Committee*, p. 446.

**49** *Report Government Committee*, p. 445.

**50** *Report Government Committee*, p. 447.

**51** Letter to Parliament including the Government's response to the "Child and Parents in the 21st century" report from the Government Committee on the Reassessment of Parenthood ([www.rijksoverheid.nl/ministeries/ministerie-van-veiligheid-en-justitie/documenten/kamerstukken/2016/12/07/tk-kabinetsreactie-op-rapport-kind-en-ouder-in-de-21e-eeuw-van-de-staatscommissie-herijking-ouderschap](http://www.rijksoverheid.nl/ministeries/ministerie-van-veiligheid-en-justitie/documenten/kamerstukken/2016/12/07/tk-kabinetsreactie-op-rapport-kind-en-ouder-in-de-21e-eeuw-van-de-staatscommissie-herijking-ouderschap)).

**52** Congress "Child and Parents in the 21st century" ([www.rijksoverheid.nl/regering/inhoud/bewindspersonen/stef-blok/documenten/rapporten/2017/05/09/tk-bijlage-i-congres-kind-en-ouder-in-de-21ste-eeuw](http://www.rijksoverheid.nl/regering/inhoud/bewindspersonen/stef-blok/documenten/rapporten/2017/05/09/tk-bijlage-i-congres-kind-en-ouder-in-de-21ste-eeuw)).

**53** Child meetings on the recommendations issued by the Government Committee ([www.rijksoverheid.nl/regering/inhoud/bewindspersonen/stef-blok/documenten/rapporten/2017/05/09/tk-bijlage-i-congres-kind-en-ouder-in-de-21ste-eeuw](http://www.rijksoverheid.nl/regering/inhoud/bewindspersonen/stef-blok/documenten/rapporten/2017/05/09/tk-bijlage-i-congres-kind-en-ouder-in-de-21ste-eeuw)).

**54** J.M. Scherpe, *The Present and Future of European Family Law*, Cheltenham: Edward Elgar Publishing 2016, p. 118.

**55** See for instance M. Antokolskaia, 'Legal embedding planned lesbian parentage. Pouring new wine into old wineskins?', *Familie en Recht* February 2014, DOI:10.5553/FenR/.000015; M. Dimsey, 'Multi-parent families in the 21st century' in: K. Boele-Woelki and T. Sverdrup (eds.), *European Challenges in Contemporary Family Law*, Antwerp: Intersentia 2008, p. 101-112; M. Jacobs, 'Why Just Two? Disaggregating Traditional Parental Rights and Responsibilities to Recognize Multiple Parents', *Journal of Law & Family Studies* 2007 vol. 2, p. 309-339; F. Kelly, 'Multiple-parent families under British Columbia's new Family Law Act: A challenge to the supremacy of the nuclear family or a method by which to preserve biological ties and opposite-sex parenting?', *U.B.C.L. Rev.* 2014, p. 569-576; M.S. Lewis, 'Biology, genetics, nurture, and the law: the expansion of the legal definition of family to include three or more parents', *Nev. L.J.* 2016, p. 743-773; J.M. Scherpe 2016, p. 100, 107 and 112-119; F. Swennen 2016, p. 65-67; M. Vonk, 'Een huis voor alle kinderen. De juridische verankering van intentionele meeroudergezinnen in het afstammingsrecht', *Nederlands Juristenblad* 2013, p. 2249.

**56** E. Pfenson, 'Too many cooks in the kitchen? The potential concerns of finding more parents and fewer legal strangers in California's recently proposed multiple-parents bill', *Notre Dame Law Review* 2012-13, p. 2058-2063; L. Smith, 'Tangling the web of legal parenthood: legal responses to the use of known donors in lesbian parenting arrangements', *Leg.Stud.* 2013, p. 377.

**57** D. Cutas, 'On triparenting. Is having three committed parents better than only having two?', *J. Med. Ethics* 2011, 735-738; J.M. Scherpe 2016, p. 110.

**58** M. Lotz, 'The two parent limitation in ART parentage law' in: D. Cutas and S. Chan (eds.), *Families - Beyond the Nuclear Ideal*, London: Bloomsbury 2012, p. 34-48.

**59** L. Smith 2013, p. 377.

**60** M. Lotz 2012, p. 45-46; C. Munthe and T. Hartvigson, 'The Best Interest of Children and the basis of family policy: The issue of reproductive caring units' in: D. Cutas and S. Chan (eds.), *Families - Beyond the Nuclear Ideal*, London: Bloomsbury 2012, p. 49-63.

**61** S. Golombok, *Modern Families. Parents and Children in New Family Forms*, Cambridge: Cambridge University Press 2015, p. 202 and 214.

