

MEDIA RELEASE

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For immediate release

European Court of Human Rights: ban on same-sex second-parent adoption is discriminatory



Today the European Court of Human Rights delivered its judgment in the case of [X and Others v. Austria \(application 19010/07\)](#) and ruled that Austria's Civil Code discriminates against a partner in a same-sex relationship by making it legally impossible to adopt the biological child of the other partner while permitting second parent adoptions for unmarried heterosexual couples.

The organisations that provided written submissions in this case (FIDH (1), ICJ (2), ILGA-Europe (3), BAAF (4), NELFA (5), and ECSOL (6)) welcome this judgment and consider it a landmark judgment applying the European Court of Human Rights' case law on equal treatment of unmarried couples to same-sex couples applying for second-parent adoption.

Children in same-sex families are highly vulnerable due to a lack of legal recognition and their inability to establish legal links to both of their parents.

Currently, second-parent adoption is possible in 11 European countries: Belgium, Denmark, Finland, Germany, Iceland, the Netherlands, Norway, Slovenia, Spain, Sweden and Great Britain. New legislation that would allow it is planned in France, Luxembourg and Switzerland. Moreover, as a result of the Court's judgment, it would follow that the legislation of Austria, Andorra, parts of Bosnia and Herzegovina, Liechtenstein, Portugal and Romania should be amended to allow same-sex couples to apply for second-parent adoption, because these countries already permit unmarried heterosexual couples to do so.

Quotes:

Martin K.I. Christensen, Co-Chair of ILGA-Europe's Executive Board:

"This is a very significant and important victory for rainbow families in Europe. We hope that this judgment will pave the way towards the removal of the remaining legal barriers for these families in Europe. The lack of recognition and the inability for

partners in same-sex families to establish legal links to their children is not only discriminatory and creates a number of legal uncertainties, but also has a profound and detrimental impact on the everyday lives of these families and the wellbeing of the children in those families. The principle of the best interests of the child needs to be upheld without exception.”

Alli Jernow, Senior Legal Adviser, International Commission of Jurists, stated:
“With today’s decision, the Court clearly asserts that families are families, regardless of the sex of the parents, and that barriers to legal recognition and protection based on sexual orientation serve the interests of neither parents nor children.”

Souhayr Belhassen, President of FIDH, said:

“The Court recognised the right of a partner in same-sex couple to adopt another partner’s biological child when such adoptions are available for heterosexual couples. This is an important step forward towards the application of the principle of non-discrimination based on the sexual orientation and strengthening legal security and certainty for children. This ruling should guide not only domestic courts, but also the legislator in European states that have not yet amended their legislation in that direction”.

Juha Jämsä, the Vice-President of NELFA, said:

"This is an important day for European LGBT families. We feel very hopeful that this case will lead to our children’s rights gaining better recognition throughout Europe. No group of children should be discriminated against because of their parents’ sexual orientation, gender identity or gender expression”

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Notes for editors:

- (1) [Fédération Internationale des ligues des Droits de l'Homme](#)
- (2) [International Commission of Jurists](#)
- (3) [The European Region of ILGA, the International Lesbian, Gay, Bisexual, Trans and Intersex Association](#)
- (4) [British Association for Adoption and Fostering](#)
- (5) [Network of European LGBT Families Associations](#)
- (6) [European Commission on Sexual Orientation Law](#)
- (7) [Link to ECHR media release](#)
- (8) [Link to ECHR judgment](#)