

All Over for Same-Sex Couples

# Ministry of Interior Prohibits Residence Permits

**Rechtskomitee LAMBDA: „Directive to the City of Vienna is scandalous aggression“**

While Austria's Minister of Interior vehemently fights the introduction of registered partnership his ministry now even stopped the few ways same-sex partners had up to now to live a joint life in Austria. Rechtskomitee LAMBDA (RKL), Austria's civil rights organisation for homo- and bisexual as well as transgender women and men, criticizes this as an act of aggression unheard of.

Minister of Interior, Günther Platter, consistently opposes registered partnership for same-sex couples which would be an equivalent to (mixed-sex) marriage. The reason: according to the EU-freedom-of-movement-directive registered partners have to be treated on the same footing as married partners if, according to national law, registered partnership is an equivalent to marriage. This is what the conservative minister wants to prevent.

But not enough with refusing any improvement for binational same-sex couples the Ministry of Interior these days even stopped the few very limited opportunities same-sex couples up to now had to live a joint life in Austria.

Since 2001 same-sex partners could gain a residence permit on a (mere) "private" basis. As of 2006 this option was restricted to very rich couples. But a residence permit "next of kin" could be issued if two requirements were fulfilled. First, there already had to be a stable partnership before the foreign partner came to Austria. Second, the Austrian partner had to pay alimony to his partner prior to his arrival in Austria.

Since the foreign partner the first 5 years has no access to the labour market this was only a way for wealthy couples. But at least for such couples it was an opportunity if they accepted that the foreign partner for the first 5 years leads the life of a house-wife. The Ministry of Interior now destroyed even this tender plantlet.

In a directive to the City of Vienna the Ministry of Interior says that a residence permit "next of kin" must only be granted if the Austrian partner and his/her foreign partner for a long time lived in a joint household in the country of origin of the foreign partner and if both had their center of vital interests there. The effect of this is, that a joint life can be realized in Austria only in those cases where an Austrian emigrates, for a long time lives with a foreign partner in the country of emigration and then brings his partner when returning to Austria. Only a very small portion of binational same-sex couples could fulfill these criteria.

## Act of Aggression

Not enough, the Ministry of Interior in addition requires that the Austrian not only alimonies the partner. The partner must also be dependent upon this maintenance. So the Ministry acts on the principle: "Welfare cases in, wealthy couples out". A special absurdity given the very raison d'être of immigration legislation.

The Ministry's new directive violates human rights. The European Court of Human Rights established a right to a residence permit if it cannot be reasonably expected from the partners that they live their partnership anywhere else, which is the case for most binational same-sex couples. In addition opposite-sex couples have the opportunity to marry and by that (if they are not welfare-cases) immediately get a residence permit and full access to the labour market. Same-sex couples don't have this opportunity. Austria still forbids them to marry.

„It is hard to bear that Austria different then the other Western European states doesn't grant any improvement to binational same-sex couples“, says *Dr. Helmut Graupner*, president of *Rechtskomitee LAMBDA (RKL)*, “But to even take back the few ways they up to now had to live their life in Austria is an act of aggression unheard of”.

*Rechtskomitee LAMBDA (RKL)*, founded in 1991, on a supra-partisan and denominational level is working for the implementation of human rights for homo- and bisexual men and women. In its honorary board it convenes so prominent members as Prime Minister *Dr. Alfred Gusenbauer*, President of Federal Parliament *Mag. Barbara Prammer*, former Minister of Justice *Mag. Karin Gastinger*, former President of the Parliamentary Assembly of the Council of Europe *Peter Schieder*, Federal Ombudsman *Mag. Terezija Stoisits*, Director of Public Security *Dr. Erik Buxbaum*, the former President of National Judges Association *Dr. Barbara Helige*, the Vice-President of the Vienna Bar-Association *Dr. Elisabeth Rech*, the President of D.A.S.-legal expenses insurance company *Dr. Franz Kronsteiner*, the President of Weisser Ring *Dr. Udo Jesionek*, the Secretary General of Amnesty International Austria *Mag. Heinz Patzelt* and the well-known human-rights experts *Dr. Lilian Hofmeister* and *Univ.-Prof. Dr. Manfred Nowak*, the constitutional law professors *Univ.-Prof. Dr. Christian Brünner*, *Univ.-Prof. Dr. Bernd-Christian Funk*, *Univ.-Prof. Dr. Heinz Mayer* and *Univ.-Prof. Dr. Ewald Wiederin*, famous child- and adolescent psychiatrist *Univ.-Prof. Dr. Max Friedrich* and the Vienna Child- and Youth-Ombudspersons *DSA Monika Pinterits* and *Dr. Anton Schmid*, sexologists *Univ.-Prof. Dr. Josef Christian Aigner*, *Univ.-Prof. Dr. Rotraud Perner* and *Univ.-Lekt. Mag. Johannes Wahala*, theologist *Univ.-Prof. Dr. Kurt Lüthi*, Life-Ball-Organisor *Gery Keszler*, Entertainer *Günter Tolar* and many more. October 2<sup>nd</sup>, 2006, RKL's 15 years anniversary has been celebrated in historic Ceremonial Act “Against Sexual Apartheid” in the lower chamber of Austrian federal parliament. This first honouring of an lgbt organisation in a national parliament worldwide took place in attendance of over 500 guests including highest representatives from the judiciary, administration and politics (<http://www.rklambda.at/festakt/index.htm>).

More information: Rechtskomitee LAMBDA, (++43/1/876 30 61), [office@RKLambda.at](mailto:office@RKLambda.at); [www.RKLambda.at](http://www.RKLambda.at)

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