

Same-Sex Couples

Welcome in the Past Century!

Rechtskomitee LAMBDA (RKL): "Austria adopted worst partnership law in Europe"

Austrian federal parliament (the "Nationalrat") today (on the International Day of Human Rights) passed a law on registered partnership for same-sex couples (110 : 64 votes). When the law enters into force on 1st Jan 2010 Austria will become the 18th state in Europe legally recognizing same-sex couples. *Rechtskomitee LABDA (RKL)*, Austria's civil rights organisation for homo- and bisexual as well as transgender women and men, welcomes that Austria finally found its way into the 20th century, and deplors that it did not make it into the 21st century.

The new law enshrines 43 differences (at a minimum) to marriage. This is the worst partnership-law for same-sex couples in Europe. Besides France, Luxemburg and Andorra (which introduced registered partnership for hetero- and homosexual couples, a completely different concept) no other European country made so many distinctions between marriage and registered partnership.

The Conservative Party invested remarkable energy in the prevention of all references to family and children. Any rights and benefits married partners receive for their step-children are thought to be withheld from registered partners or granted under greater restrictions than for married step-parents (even in the context of leave for hospice care).

Artificial insemination (available even to unmarried heterosexual couples) will be explicitly outlawed for same-sex couples and step-parent adoption prohibited.

Sexual apartheid

Registered partnership requires a minimum age of 18 while marriage can be entered into as of 16. And same-sex couples are banned from the civil registry ("Standesamt") where civil marriages are performed. Same-sex partnerships have to be registered in different offices, the so-called District Administrative Authorities ("Bezirksverwaltungsbehörden"), where passports, id-cards, residence-permits, driving-licences and trade-licences have to be applied for.

While marriages have to be performed in a (decent) way that corresponds to the importance of a wedding, there is no such provision for registered partnerships. In addition registration of partnerships must take place in the bureau of the authority while marriage may be performed at any other places like palaces, ships, hotels etc..

Forced Outing

One of the most absurd discriminations is the one regarding family names. Austrian law so far knows two categories of names: forenames and family-names. Every person has (at least) one forename and one family-name.

The bill on registered partnership creates a new (a second) category of second-names: the "surname". And such (new) "surnames" are only for persons entering into a registered partnership.

Who enters into a registered partnership will lose his/her family-name. Both registered partners' will keep their second-names, but this name will cease to be a "family-name" and *ex lege* be changed into a "surname". If "Müller" and "Mayer" enter into a registered partnership they are

keeping their names "Müller" and "Mayer", but not as "family-names" (as before registration) but (new) as "surnames".

Public branding

Registered partnership will be available only for same-sex couples. And "surnames" will only be given to registered partners. All other people keep their second-names as family-names. So at each occasion where the second-name has to be provided (as in official forms like for the residence-register, for tax-declarations, for applications for unemployment-benefits etc.), registered partners are obliged to provide not (as all other people) a "family-name" but a "surname", and by that are forced to out themselves as part of a gay couple.

Already the refusal of opening up of marriage and the creation of a separate legal institution lead to forced outing of same-sex couples whenever they have to declare their family-status (not "married" but "in registered partnership"). But forced outing now will be even extended to those occasions where not family-status but (family-)name has to be provided (as in applications for passports, id-cards, driving-licences, registration of dogs etc.).

"Today we have passed from 'no rights' to sexual apartheid", says *Dr. Helmut Graupner*, president of *Rechtskomitee LAMBDA (RKL)*, "From now on we will fight for marriage for all as real equality, for the realization of the basic principle of justice which we all have learned already as children on the playground: One law for everyone!".

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 former Prime Minister Dr. Alfred Gusenbauer, President of Federal Parliament Mag. Barbara Prammer, former Minister of Justice Mag. Karin Gastinger, the Honorary President of the Parliamentary Assembly of the Council of Europe Dr. Peter Schieder, Federal Ombudsman Mag. Terezija Stoisits, former 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, theologian Univ.-Prof. Dr. Kurt Lüthi, Life-Ball-Organisator Gery Keszler and many more. October 2nd, 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>).

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