

Marriage Certificate

Constitutional Court Confirms Transsexuals' Forced Outing

Rechtskomitee LAMBDA announces application to European Court of Human Rights

The Constitutional Court of Austria confirmed forced outing of transsexuals by marriage certificates. Rechtskomitee LAMBDA (RKL), Austria's civil rights organisation for homo- and bisexual as well as transgender women and men, hopes for the European Court of Human Rights.

Due to a 2006 Constitutional Court's judgment married transsexuals need not get divorced anymore in order to gain recognition in their new gender. They can stay being married and get all their documents adapted to their new name and their new sex.

Also marriage certificates are changed that way. But the Minister of Interior never adapted Austria's civil-status-ordinance. That is why the spouses, which (after the change of legal sex of one of them) are of the same sex, in marriage certificates continue to be called „man“ and „woman“. This is not only false but also leads to unconsented outing of the transsexual spouse each time when he/she has to present the marriage certificate.

Since Austria still doesn't allow same-sex marriages, it can only be a transsexual marriage, if an Austrian marriage certificate establishes two men or two women being married.

No reasoning

If in a marriage certificate one of the two women is called „man“ (or one of the two men called „woman“), it is laid open that this spouse is the transsexual spouse, which had a different sex before.

Transsexual spouses therefore have to disclose their transsexuality every time they are presenting their marriage certificate. A situation which the European Court of Human Rights found in violation of human rights (*B. v France* 1992).

The Austrian Constitutional Court saw no violation. It refused to deal with an application saying that it obviously lacked prospect of success (VfGH 20.09.2010, B 1500/09). This way the judges saved themselves giving reasons why the forced outing should be in conformity with human rights.

„At least we had expected a reasoning“, says president of Rechtskomitee LAMBDA (RKL) and counsel of the applicant, *Dr. Helmut Graupner*, and announces an application to the European Court of Human Rights.

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 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 former 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 Br nner, 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, 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 the

plenary session hall of 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>). Since 2010 RKL is a member of the Fundamental Rights Platform of the European Union Agency for Fundamental Rights (www.fra.europa.eu).

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