

Marriage Certificate

Administrative Supreme Court Ends Transsexuals' Forced Outing

Rechtskomitee LAMBDA delighted

The Administrative Supreme Court of Austria spoke out against 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, expresses delight.

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 unconsensual 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.

Resistance by the Minister of Interior?

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. This is a situation which the European Court of Human Rights found in violation of human rights (*B. v France* 1992).

The Austrian Administrative Supreme Court considered that and decided that the marriage-certificate-forms (displaying „Man“ and „Woman“) proscribed by the Minister of Interior are not to be used in such cases (VwGH 29.11.2010, 2010/17/0042).

Last year the Minister of Interior (visibly as a result of this law suit) changed the marriage-certificate-forms. Now they are not displaying „Man“ and „Woman“ anymore. Instead the Minister ordered that the certificates have to list the (former) man always first and the (former) woman always second. So again it can be seen from the certificate who is the transsexual spouse. Marriage-certificates still out transsexuals.

„We are delighted by this landmark-judgment of the Administrative Supreme Court and we hope that we won't need a second round before the highest court, as we needed to repeal mandatory surgery“, says the president of Rechtskomitee LAMBDA (RKL) and counsel of the applicant, Dr. Helmut Graupner.

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 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, Life-Ball-Organisor 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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