

NEWS REPORT

Date: 3 April 2009
Expert: Per Norberg
Title: Amendment of the law to allow the marriage of same-sex couples
Country: Sweden

Context

Issue at stake: Marriage of same-sex couples
Ground of discrimination: of sexual orientation
Source: legislation
Field: Social advantages
Legislative provisions: Marriage Code (1987:230) The Registered Partnership Act (1994:1117).

Content

In Sweden the Registered Partnership Act provides for a civic union with almost identical consequences as that of a marriage. However, in not using the term marriage, the civic union of same-sex couples is not truly equal to that of heterosexual couples. At the time of the Act's inception, same-sex couples were not treated as families equal to heterosexual couples. Today they are considered equal. If, for instance, a regional authority offers fertilisation aid to heterosexual couples the same aid must be given to same-sex couples wanting a child.

On the 1st of April 2009 the Swedish Parliament decided to amend the Marriage Code to allow two persons to marry regardless of whether they belong to the opposite sex or not. This modification will enter into force on 1st of May 2009. At the same time the Registered Partnership Act will be abolished. This is done in order to emphasise that a homosexual family of parents and children is essentially the same as a heterosexual family.

Marriage ceremonies in Sweden can be performed either by civil servants or by faith-based organisations. Such organisations will not be required to perform marriage ceremonies of same-sex couples if it is against their faith. This is criticised by many including the new Equality Ombudsman. The act of declaring two persons to be married has many legal consequences both with regard to the state and between the spouses. Many argue that if faith-based organisations are given the power to decide on the performance or not of marriage ceremonies, which



obviously has many legal consequences, the state must insist that they perform this function in a non-discriminatory manner, this meaning to perform marriage ceremonies of same-sex couples of the organisation's faith.