



NEWS REPORT

Date:	6 September 2010
Expert:	Mahlmann, Matthias
Title:	Same sex partnerships and law of succession
Country:	Germany
Context	
Issue at stake:	Equal treatment of same sex partnerships in law of succession
Ground of discrimination:	sexual orientation
Source:	Decision of the German Federal Constitutional Court (Bundesverfassungsgericht), 1 BvR 611/07; 1 BvR 2464/07
Field:	Law of succession
Legislative provisions:	Art. 3 Basic Law

Content

Case: The case concerns the question whether unequal treatment of registered same sex partnerships (*eingetragene Lebenspartnerschaft*) in comparison to marriages in the law of succession before a legal reform in 2008 was constitutional or not. The law in question included tax exemptions for married persons but not for same sex partners and higher tax rates for the latter. The constitutional complaint was submitted by survivors of registered same sex partnerships taxed according to these regulations.

Decision of the Court: The Federal German Constitutional Court, decided that the unequal treatment between survivors who had lived in a registered same sex partnership and survivors who had lived in a marriage concerning tax exemptions and tax rates violated Art. 3.1 Basic Law, guaranteeing general equality. This guarantee demands - in the view of the court - a strict scrutiny of such unequal treatment. As there was no justification discernable for the unequal treatment, the provisions were held to be unconstitutional.

Internet link source and additional information: www.bverfg.de