



NEWS REPORT

Date: 25 February 2011
Expert: Matthias Mahlmann
Title: Adoption in same sex partnerships
Country: Germany
Context
Issue at stake: Adoption in same sex partnerships
Ground of discrimination: Sexual orientation
Source: National court decision 2 Wx 23/09, 22 December 2010
Field: Family law, Adoption
Legislative provisions: Sec. 9.7 Law on Life Partnership (Lebenspartnerschaftsgesetz)

Content

Case/law/political development: The partner of same-sex couple registered into a partnership wished to adopt the adopted child of the other partner so that both partners were in a parental position in relation to the child. This is not foreseen by the current regulation in Sec. 9.7 Law on Life Partnership (*Lebenspartnerschaftsgesetz*):

Decision of the Court: The higher Regional Court of Hamburg (2 Wx 23/09, 22 December 2010) considered the current regulation of adoption by same sex partners which allows the adoption of the natural child of the one partner by the other partner but not the adoption of the adopted child of the one partner by the other partner to be unconstitutional as violating Article 3 of the Basic Law. It argued that there was no objective justification for such a different treatment, especially as it had been shown that there was no reason to believe that the well-being of children suffers if growing up in a same-sex partnership. It referred the matter for decision to the Federal German Constitutional Court.

Internet link source and additional information: none yet.

