



NEWS REPORT

Date: 29 December, 2009
Expert: Latraverse, Sophie
Title: Tribunal de Besançon, Berthet, n° 0900299, 10 November 2009
Country: France

Context

Issue at stake: Right of an homosexual woman to adopt under the scheme applicable to single parents
Ground of discrimination: of Sexual orientation
Source: National court decision
Field: Other- Adoption

Content

Case: The Petitioner was denied the administrative authorization to adopt as a single parent on account of her sexual orientation. She appealed the decision all the way to the European Court of Human Rights. The European Court concluded that since France had put in place an adoption scheme for single parents, it could not deny access to adoption on the ground of absence of heterosexual parental reference, without discriminating on the ground of sexual orientation (CEDH, n°43546/02, 22/01/2008, E.B. c/ France).

Further to the European Court decision, the petitioner presented, again, a request for administrative authorization to adopt as a single parent. The Departmental authorities thereby evaluated the Petitioner's financial, material, emotional and educational capacity to raise a child. The evaluation report concluded that the Petitioner's couple was stable and constituted a real family unit but underlined that the Petitioner's partner was positioning herself as a remote party in the mother / child relationship. This request was again denied on the basis that her partner was not sufficiently emotionally engaged and in phase with the Petitioner's parental project.

Decision of the Court: The request having been presented by the Petitioner as a single parent, it is her situation that must be examined. The report shows that it provides all the requirements demanded of adopting parents. The Court orders the annulment of the Departmental authorities' denial of authorization and orders the issuance of the authorization.