A.D.-K. & Others v. Poland

Case Law, Legal Protection, Adoption, European Court of Human Rights, Family, Poland

Adoption

(Application No. 30806/15), 25 July 2019

Find here the communicated case.

AD-K v. Poland Download

- The application concerns second-parent adoption, one means of creating a legal relationship between a child and her mother's female partner, who is socially her second mother. One of the applicants in this case gave birth in a London hospital in 2011. The child's original birth certificate indicated the second applicant as her mother and the first applicant as her parent. However, the Polish authorities refused to register the child's birth certificate in the Polish Civil Status Register.
- ILGA-Europe together with FIDH, PSAL, NELFA and ECSOL submitted the following:
    - In its *Advisory Opinion of 10 April 2019,* the ECtHR considered that the **best interest of the child** are paramount and he or she accordingly has an Article 8 right to the possibility of a legal parent-child relationship with the intended (non-genetic) mother. Member States are free to choose the means to create such legal relationship; such means may include adoption.
    - Sexual orientation is a prohibited ground of discrimination under **Article 14 ECHR** and discrimination on this ground is considered 'suspect' and subject to 'particularly severe scrutiny'. There is no justification for discrimination against families composed of a same-sex couple and the children they are raising together.
    - There is a clear European and international trend concerning the possibility that a child may have two legal parents of the same sex after a second-parent adoption. Judicial reasoning in European and other democratic societies supports an obligation not to discriminate against same-sex couples and their children. A number of national courts have concluded that the best interests of children being raised by same-sex couples are served by permitting second-parent adoption.