

Philippe Fretté v. France

[Case Law](#), [Legal Protection](#), [Adoption](#), [European Court of Human Rights](#), [Family](#), [France](#), [Strategic Litigation](#)

Adoption

(Application No. 36515/97), 15 June 2000

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- The applicant alleged that the **rejection of his application for authorisation to adopt** was implicitly based on his **sexual orientation** alone.
- ILGA-Europe submitted the following:
 - By denying Mr. Fretté an “approval as eligible” to adopt a child as an unmarried gay male individual, when it would have been granted had the authorities believed he was an unmarried heterosexual male individual, France discriminated against him on the ground of his sexual orientation.
 - The Court should require “very weighty reasons” to justify a difference in treatment based solely on sexual orientation. Besides, there is no scientific evidence that lesbian and gay parents pose any “psychological danger” to children. The absolute exclusion of lesbian and gay persons is grossly disproportionate, and is not in the **best interests of children** needing adoptive parents.
- The European Court of Human Rights delivered its [judgment on 26 February 2002](#).
- The Court conceded that the reason given by the French administrative and judicial authorities for their decision was the applicant’s “choice of lifestyle”. However, that criterion implicitly yet undeniably made the applicant’s homosexuality the decisive factor. The Court considered that the **scientific community was still divided** over the possible consequences of a child being adopted by one or more homosexual parents. The national authorities were entitled to consider that the right to be able to adopt on which the applicant relied was limited by the **interests of children** eligible for adoption. The justification given by the Government was enough to consider that the difference in treatment complained of was not discriminatory within the meaning of Article 14 of the Convention.
- It has to be noted that the **Court changed its approach in the case of [Karer v. Austria](#), in which ILGA-Europe intervened.**