

X & Others v. Austria

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

Adoption

(Application No. 19010/07), 1 August 2012

[Find Court's judgement here.](#) (Violation of Article 14 of the Convention taken in conjunction with Article 8 when the applicants' situation is compared with that of an unmarried different-sex couple in which one partner wishes to adopt the other partner's child + award of damages)

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- The applicants were two women living in a stable relationship together with the son of one of them. They complained that they were being **discriminated** based on their sexual orientation. They submitted that there was no reasonable and objective justification for allowing **adoption** of one partner's child by the other partner as far as heterosexual couples are concerned, while prohibiting the adoption of one partner's child by the other partner in case of same-sex couples.
- In their joint submissions, ILGA-Europe, together with The International Federation for Human Rights, International Commission of Jurists, British Association for Adoption and Fostering, Network of European LGBT Families Associations and The European Commission on Sexual Orientation Law argued that it is clearly in the **best interests of children** being raised by unmarried same-sex couples that they enjoy the same possibility, as children being raised by unmarried different-sex couples, of establishing a legal relationship with the two adults who are raising them.
- The European Court of Human Rights delivered its [judgement on 19 February 2013](#).
- In its judgement, the Court referred to the third party intervention by ILGA-Europe and partners (paras 78-80), particularly the demonstration that there is no reasons why a child should not be raised by a lesbian or gay individual living with a same-sex partner and that Articles 14 and 8 prohibit member States from extending the right to adopt to one group but not to another on **discriminatory grounds**.
- The Court held that the Government had failed to adduce particularly weighty and convincing reasons to show that excluding second-parent adoption in a same-sex couple, while allowing that possibility in an unmarried different-sex couple, was necessary for the protection of the family in the traditional sense or for the protection of the interests of the child. The **distinction** was therefore **incompatible** with the Convention and amounted to a violation of Article 14 taken in conjunction with Article 8.