Green Paper on the right to family reunification of third-country nationals living in the EU

Policy Paper, Inclusion and Equality, European Union, Family

The European Commission should take into consideration the difficulties that are currently experienced by same-sex partners, trans and intersex people, and their children when implementing the current EU legislation and when formulating new policy initiatives to amend it or to provide Member States with interpretation guidelines.

The European Union should adopt interpretative guidelines on a human rights sensitive application of Directive 2003/86/EC, with a focus on non-discrimination. These guidelines should in particular assist Member States in the implementation of European legislation in the case of LGBTI families. They should take into account the structures of inequality on the grounds of sex, sexual orientation, gender identity and gender expression.

In addition:

- ILGA-Europe believes that it should be made clear that the reunification of married couples applies equally to same-sex and opposite-sex married couples
- ILGA-Europe believes that the directive should be amended in order to make sure that unmarried or registered partners are clearly included in the scope of the family covers covered by the directive (to date, this is only an optional clause). Member States should be offered guidance on how to define transparent and non-discriminatory criteria to determine what evidence is required to demonstrate the existence of such family relationships, including when it comes to trans people's families
- Provisions covering the children and adopted children of unmarried partners should also stop being optional
- The directive should also address the case of family reunification of all beneficiaries of international protection (refugees and subsidiary protection). Sensitive guidance should be provided to take into consideration the families of LGBTI people who were granted protection because of persecution based on sexual orientation and gender identity
- Finally, ILGA-Europe considers that no reopening of the Directive should happen if that would lead to greater restrictions and harsher conditions to the detriment of migrants seeking reunification

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