

COMBATING DISCRIMINATION BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY

” Adequate
and equal
legal protection
for the family unit

The Council of Europe standards and mechanisms seek to promote and ensure respect for the human rights of every individual. These include equal rights and dignity of all human beings, including lesbian, gay, bisexual and transgender (LGBT) persons.

FACTS:

- In 23 Council of Europe member states same-sex couples can be officially recognised under registered partnership or marriage legislation.
- In 11 Council of Europe member states, same-sex couples have access to joint adoption. In 14 member states second parent adoption is possible for partners in a same-sex couple.
- In 11 Council of Europe member state same-sex couples have access to medically assisted insemination and in 22 Council of Europe member states single women have access to medically assisted insemination without discrimination on grounds of sexual orientation.

Committee of Ministers Recommendation (2010)5 to member states on measures to combat discrimination on the grounds of sexual orientation or gender identity.

- Ensure that the rights and obligations of same-sex partnerships are equivalent to those of different sex couples in a comparable situation.
- Consider possibilities to provide legal or other measures to address practical problems related to same-sex partnerships that are not recognised by law.
- Ensure that in all decisions about parental responsibility or guardianship, primary consideration should be given to the child's best interest, without discrimination on grounds of sexual orientation or gender identity.
- Safeguard the child's best interest in decisions regarding adoption. States where single persons can be considered as adoptive parents should ensure that this is done without discrimination on ground of sexual orientation or gender identity
- Ensure that where single women have the right to assisted reproductive treatment, access is guaranteed without discrimination on grounds of sexual orientation.
- Consider case law of the European Court of Human rights: Where states allow second-parent adoption to unmarried different-sex couples they should also ensure this right also to unmarried same-sex couples without discrimination.