



Helsinki, 24 septembre 2013

NELFA DIT A VIVIAN REDING, COMMISSAIRE EUROPEEN : LES ENFANTS DE PARENTS LGBT NE DEVRAIENT PAS PERDRE LEURS DROITS EN FRANCHISSANT UNE FRONTIERE ! VOUS POUVEZ LE CHANGER.

Le Vice-Président du Réseau européen des associations de familles LGBT (NELFA), Juha Jämsä, a remis aujourd'hui, 24 septembre, à Helsinki, Finlande, une pétition publique de la part des 21 associations membres du NELFA, demandant une réelle liberté de mouvement dans l'Union européenne pour les parents LGBT et leurs enfants.

A cette occasion, Catalina Pallàs, la Présidente du NELFA, a commenté : « *Aujourd'hui, dans l'Union européenne, certains enfants risquent de perdre leurs parents quand leurs familles franchissent la frontière pour se rendre d'un Etat membre, où l'égalité du mariage et de la famille est assurée, à un autre Etat membre, où ce n'est pas le cas. Comment est-il possible que certains enfants soient victimes d'incertitudes légales au point d'avoir deux parents légaux dans un Etat membre mais seulement un ou aucun dans un autre ?* »

Juha Jämsä, Vice-Président du NELFA, ajouta, « *Nous sommes préoccupés par le fait que les circonstances actuelles ont créé une catégorie d'enfants de deuxième classe dans l'Union européenne, simplement parce que ces enfants ont deux parents de même sexe* ».

Dans la pétition, les membres du NELFA ont demandé à la commissaire Reding d'introduire une proposition légale pour assurer l'égalité de traitement des enfants de parents LGBT dans toute l'Union européenne. Une façon de l'accomplir serait que les Etats membres reconnaissent automatiquement les effets d'actions légales prononcées par un Etat membre, telle que la déclaration de naissance, les jugements d'adoption, les certificats de mariage, etc, qui confirment le statut de famille.

Le NELFA invite la commissaire Reding à prendre une position claire en faveur des enfants de parents LGBT.

Luis Amorim, un père portugais habitant en Belgique : « *Avec un tel changement ce serait possible pour une famille avec deux pères légaux en Belgique de 'continuer à les avoir' si la famille décide de déménager en Pologne ; et pour un enfant avec deux mères légales en Espagne, de 'toujours avoir' leurs mères en Italie si la famille y va en vacances. C'est assez clair que les enfants devraient avoir droit à leurs familles peu importe où ils habitent.* »

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Pour éditeurs : (en anglais)

Encart 1: 4 histoires de vie de familles LGBT avec enfants dans l'UE

Encart 2: Informations sur le Réseau européen des associations de familles LGBT (NELFA - Network of European LGBT Families Associations)



Enclosure 1

REAL LIVES – REAL FAMILIES – REAL CHILDREN

Case 1

Current country: **Germany**
Civil status: Civil partnership
Children: Yes

J. and H. are two women in a civil partnership from the **UNITED KINGDOM**. They are both **UK** nationals. J. is employed by the British Army and currently posted in **GERMANY**. She is the biological mother of W., born in 2011 in Germany, and H. is named on their son's birth certificate as his other legal parent.

Months after W's birth, J. and H. applied for kindergarten - something all couples with children in the British Army obtain from the German administration. The application was made in H's name, since J cannot claim the benefit being in the army.

Their application was refused on the grounds that J. and H. are not married, and the administration do not recognise J. and H. as spouses (same-sex marriage is not possible in Germany).

When motivating their refusal, the German authorities stated that "W. is neither H's biological child nor can he be considered a stepchild". In effect, this means W. is in a legal limbo, which prevents him from going to kindergarten.

Case 2

Current country: **France**
Civil status: Civil partnership
Children: Yes

T. is a **FINNISH** national. She lives in **FRANCE** with her female partner, a **FRENCH** national. T. and her partner are in a **FRENCH** civil partnership (PACS) since 2004. They have two children, born in 2000 and 2006 in **FRANCE**.

Since T. is their biological mother and France doesn't recognise her partner as the other parent, the two children are Finnish nationals.

To obtain joint parental authority until their majority, T. and her partner had to go through a court decision. But this legal guardianship prevents their children from inheriting from T's partner, using her surname, and obtaining her French citizenship.



Should T. die while the children are minors, her partner's guardianship will end automatically, the children would be considered orphans and a judge would decide whether or not her partner may adopt them.

The guardianship may also end before their majority on either T. or her partner's unilateral request, and possibly counter to the children's best interests. The children are thus not guaranteed to keep contact with both their parents, nor to receive financial assistance from them both before they turn 18.

While second-parent adoption is possible under Finnish law, Finnish courts refuse recognising T.'s partnership because French partnerships differ substantially from Finland's.

Case 3

Current country: **Belgium**

Civil status: **Married**

Children: **Yes**

L. and J. are two married men; L. is a **PORTUGUESE** national, J. a **SWEDISH** national. They live together in **BELGIUM**. They adopted their daughter G., born in the **UNITED STATES** in 2005. Both men are recognised as the legal fathers of their daughter by both Belgian and Swedish authorities. Their daughter has a Swedish passport, as well as a Belgian ID card.

When L. inquired in 2007 about the possibility for their daughter to obtain Portuguese nationality, the Portuguese consulate in Belgium stated that since G. had two legal fathers, it would not be possible for them to recognise the adoption.

Consulate officials were not able to clarify what would be G.'s legal status while in Portugal. The family spends holidays in Portugal on a regular basis and the lack of certainty as to the legal status is of particular concern to G.'s parents.

G. has thus two legal fathers in her country of residence (Belgium) and in one of her legal fathers' country of origin (Sweden). However, her legal status is unclear in her other legal father's country (Portugal).



Case 4

Current country: **Spain**
Civil status: **Married**
Children: **Yes**

R. is a **SPANISH** national and L. is an **ITALIAN** national. The two women live together in **SPAIN** with one son, T., born in Spain in 2011 via medically assisted reproduction (MAR) techniques. L. provided the egg and R. carried the baby. The two women used an anonymous donor. Their son was automatically given Spanish nationality and recognised by Spanish authorities as having two legal mothers.

Following T's birth, his mothers requested Italian nationality for him via the Italian consulate in Spain. In September 2012, after several documents being requested and provided, the Italian consulate informed R. and L. that their request had been refused by Turin's Registrar of Births, based on the legal opinion of the Italian Public Prosecutor's Office. They argued that (a) MAR techniques can only be used by heterosexual couples; (b) only the woman who gave birth to the child can be considered his mother, and (c) the fact that T. has two mothers goes against Italian public policy.

Therefore while in Spain, T. has two legal mothers, but only one legal mother in Italy (his Spanish mother). Moreover, T. is not eligible to obtain Italian nationality, despite one of his two legal mothers being an Italian national herself.



Enclosure 2

The **Network of European LGBT Families Associations (NELFA)** is the only European platform bringing together LGBT parents and their families.

NELFA represents 14 European countries (13 E.U. Member States + Switzerland).

Our members are present in the following countries: Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

NELFA represents at European level 21 national organisations, together representing more than 10.000 individuals, of which 3.500 are LGBT families with children. NELFA is a member of ILGA-EUROPE (<http://www.ilga-europe.org/>).

NELFA's Facebook page: www.facebook.com/nelfa.aisbl

The Board of NELFA is composed of:

President: *Catalina PALLÀS* – member of *FLG-Associació de Famílies Lesbianes i Gais* (Spain)

Vice-president: *Juha JÄMSÄ* – member of *Sateenkaariperheet* (Finland)

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