



Chamber Hearing concerning the refusal of a woman's application to adopt her female partner's child

The European Court of Human Rights is holding a Chamber hearing today **12 April 2011 at 9 a.m.** in the case of **Gas and Dubois v. France** (Application no. 25951/07)

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int).

After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicants, Valérie Gas and Nathalie Dubois, are French nationals who were born in 1961 and 1965 respectively and live in Clamart (France). They have been cohabiting since 1989. In September 2000 Nathalie Dubois gave birth in France to a daughter, A., who had been conceived in Belgium by means of medically-assisted procreation with an anonymous donor. The child does not have an established parental tie with the father, in accordance with Belgian law. She has lived all her life in the applicants' shared home. In April 2002 Ms Gas and Ms Dubois entered into a civil partnership agreement.

On 3 March 2006 Ms Gas applied to Nanterre tribunal de grande instance for a simple adoption¹ order in respect of her partner's daughter; her partner had given her express consent before a notary. On 4 July 2006 the court observed that the legal conditions for the adoption had been met and that it had been demonstrated that Ms Gas and Ms Dubois were actively and jointly involved in the child's upbringing, caring for and displaying affection towards her. However, it refused the application on the grounds that the adoption would have legal implications which ran counter to the applicants' intentions and the child's best interests by transferring parental authority to the adoptive parent and hence depriving the biological mother of her rights in respect of the child. The Versailles Court of Appeal upheld the refusal, taking the view that the legal consequences of the requested order were not compatible with the child's best interests. The applicants appealed on points of law but did not pursue the appeal to its conclusion, believing that it had no prospect of success in view of the recent case-law of the Court of Cassation on the subject.

The applicants complain of the refusal of Ms Gas's application to adopt Ms Dubois' child. They maintain that this decision had infringed their right to respect for their private and family life and was discriminatory, in breach of Article 14 (prohibition of discrimination)

¹ *Simple* adoption is a form of adoption which enables a second legal parent-child relationship to be established in addition to the original parent-child relationship based on blood ties (as opposed to *full* adoption, where the new legal relationship replaces the original one). The adopted child retains the rights, including inheritance rights, arising out of the original relationship. Simple adoption also creates a parent-child relationship equivalent to a relationship of legitimate descent between the adoptive parent and the adoptee. It entails reciprocal obligations in respect of maintenance, the creation of a reserved portion of the estate (*réserve héréditaire*) and marriage restrictions, as well as the transfer of the adoptive parent's surname to the child (by adding it to the child's surname or by replacing it). Where an adopted minor is concerned, simple adoption results (in accordance with Article 365 of the Civil Code) in the transfer of parental authority to the adoptive parent; the biological parent or parents thus cease to exercise parental authority. However, the law (the same article of the Civil Code) provides for an exception to the transfer of parental authority where the adoptee is the child of the husband or wife: in such cases, the adoptive parent exercises parental authority jointly with his or her spouse. This exception does not apply to the parties in a civil partnership.

taken in conjunction with Article 8 (right to respect for their private and family life) of the European Convention on Human Rights.

Procedure

The application was lodged with the European Court of Human Rights on 15 June 2007. It was [communicated](#) to the French authorities on 19 May 2009 and [declared admissible](#) on 31 August 2010.

The International Federation for Human Rights (FIDH), the International Commission of Jurists (ICJ), the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe), the British Association for Adoption and Fostering (BAAF) and the Network of European LGBT Families Associations (NELFA) have been authorised to intervene – jointly – as third parties in the proceedings (Article 36 of the Convention). On 7 February 2011, they were authorised to take part in the hearing.

Composition of the Court

The case will be heard by a Chamber, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,
Jean-Paul **Costa** (France),
Karel **Jungwiert** (the Czech Republic),
Boštjan M. **Zupančič** (Slovenia),
Mark **Villiger** (Liechtenstein),
Isabelle **Berro-Lefèvre** (Monaco),
Ganna **Yudkivska** (Ukraine), *Judges*,
Angelika **Nußberger** (Germany),
Ann **Power** (Ireland),
Elisabet **Fura** (Sweden), *Substitute Judges*

and also Claudia **Westerdiek**, *Section Registrar*.

Representatives of the parties

Government

Anne-Françoise **Tissier**, *Co-Agent*,
Jean-Christophe **Gracia**, *Counsel*,
Clémentine **Blanc**, Marie-Aude **Recher Lambey**, Aurore **Talbot**, Marianne **Schultz**,
Josiane **Spiteri** and Emmanuelle **Topin**, *Advisers*;

Applicants

Caroline **Mecary** and Yann **Streiff**, *Counsel*,
Tewfik **Bouzenoune**.

Third parties

Robert **Wintemute**, *adviser*.

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Press contacts

echrpess@echr.coe.int | tel: +33 3 90 21 42 08

Frédéric Dolt (tel: + 33 3 90 21 53 39)

Emma Hellyer (tel: + 33 3 90 21 42 15)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Kristina Pencheva-Malinowski (tel: + 33 3 88 41 35 70)

Nina Salomon (tel: + 33 3 90 21 49 79)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.