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LGBT ADOPTION IN ITALY: DOES ITALIAN LAW RECOGNISE IT?

This article deals with the controversial issue of adoption by a same-sex couples in Italy and cites the case of a sentence imposed by the Juvenile Court of Bologna.

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"These women are my mums. Both are kind and strict. We always play together. "

"If the Italian Court does not accept my request of being adopted by my mum Gaia I would suffer a lot, because I would like to be an Italian citizen."

These are the words spoken by an American little girl, born thanks to artificial insemination, whose mother Gaia (an alias) is officially and legally married to Sofia (also an alias).

Even today, LGBT adoption remains a touchy subject and the Italian law is still trying to find solutions to uphold the rights of children and to adapt itself to the needs of a dynamic and developing society. The Italian law system is undergoing a relevant process of adaptation to the request of defence of children's rights, especially in case of adoption by a same-sex couple. With this aim, the Italian Magistrate is dealing with these controversial issues with a great deal of rulings and regulations.

Let us consider regulation n. 4701, released in November 2004. The Juvenile Court of Bologna was asked to impose a sentence about a case of foster care, in which the foster child was the biological child of a homosexual woman. The Court of Bologna has declared the constitutionality in relation to the sections n. 35 and 36 of the law 184/ 1983.

As explained by the Judge of indictment, these articles "do not allow the judge to decide if the sentence (released by a foreign court, about a case of foster care in favour of the partner of the homosexual biological parent) acts in the interests of the child, adopted in another country, regardless of the role of the homosexual marriage in Italy".

To summarise, the case of the sentence mentioned above shows that the Italian legislation is going to have to acknowledge the rights of same-sex couples and of their children in order to adapt itself to the needs of social evolution.

Moreover, the sentence imposed by the Judge of the Juvenile Court respects the directives and the principles of the ECHR (European Court of Human Rights) and a progressive and gradual recognition of the European supranational rules; although they may contrast with some traditional aspects of Italian legislation.

In conclusion, the last decision is to be held up in the Italian Constitutional Court.

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