

The approach towards gay marriage in the Albanian legislation and society

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Abstract

The goal of this paper is to address the phenomena of homosexuality in Albania and the situation of persons with homosexual tendencies encounter.

Future spouses' sexuality cannot be ignored when addressing the conditions for marriage. The issue of gay marriage has been at the center of political and social debate in the world for years now. Legal regulation concerning homosexual marriage is found in countries like Spain, Argentina, Mexico, and the Netherlands. As regards Albania, no law allowing same gender marriages has been adopted yet.

Our Family Code does not give a clear definition of the concept of future spouses, not having a provision that specifically requires different genders of people wishing to join in marriage, although, through a careful reading of the provisions of the Family Code¹ it is noted that different genders are a requirement for marriage.

Regardless of the time we live in, we observe that our society is still conservatory towards this phenomenon. The fear that with accepting homosexual marriages the definition of the traditional family will lose its meaning brings a large part of the society to be skeptical in accepting homosexual marriages.

We continue to be faced to the myth that the acceptance of homosexual marriages will lead to an increase in the number of homosexuals in the country.

Keywords: family; marriage, homosexual; LGBT community; adoption.

Introduction

Marriage is a voluntary, moral, spiritual and material union between a man and a woman, which means living in pairs and is carried before the civil registrar. Marriage is a monogamous heterosexual union, free and for an indefinite period.

Marriage is a constitutional and universal right. Article 53, paragraph 1 of the Constitution of the Republic of Albania, states: "Everyone has the right to marry and have a family." This right is provided in international documents such as UDHR² and ECHR³.

¹ Hereinafter we will refer as FC.

² Universal Declaration of Human Rights.

³ European Convention of Human Rights and Fundamental Freedoms.

The right to marry, as part of the human rights and freedoms, is a fundamental right. Man acquires these rights with birth, and carries them throughout his life. It is precisely the state, the one who should provide guarantees for them by law.

Free consent, gender difference and adulthood are three basic principles of marriage, according to the Albanian legislation. These principles, according to the legal doctrine are called as positive conditions for marriage. Consequently, their existence and compliance with them is a necessity for entering into a valid marriage.

Throughout the ages it has been considered that the human being is accompanied by the instinct of sex union, which is a union accepted both by moral principles as well as religious⁴. ones. Marriage is not only seen as a personal and private act, but it is also related to the public interest.

The association with another individual is to the benefit of each individual. This idea is reinforced even more by the provision in the Constitution on the right to marry.

According to the jurisprudence that existed at the time of the communist regime in Albania, the Marxist-Leninist meaning on marriage was expressed as the legal basis of creating a family. The only way to create family was marriage. Cohabitation was considered a criminal offence. Marriage is a unique act, which is based on the relationship (spiritual proximity) of a man and a woman. In marriage, husband and wife choose the company of their life and not a temporary amusement friend.⁵ With it, the family foundations, where spouses will spend together the benefits and difficulties of life, are established. Therefore, it is very important to build it on a sound basis, on the basis of knowledge and love.

The union in marriage means: biological, psychological, moral, legal and material-economic relationships between a man and a woman. Marriage is a union of a man and a woman, regulated by law. Its main goal is to create a family.⁶

Marriage brings the realization of certain goals, such as the natural, that has to do with creating and maintaining the marital relationship between a man and a woman, and as a result, the birth and raising of children. For each individual, marriage is a biological necessity. Another goal is the moral one based on which marriage means love between spouses, support, respect and mutual support between them, which makes the marriage stronger. A special importance is played also by the social purpose of marriage that is dictated by the nature and its role in society. For society, marriage is a social necessity, since birth, healthy upbringing and education of children, is one of its important tasks. The state itself develops such policies to encourage people to

⁴ Omari, Sonila. *Family Law*, First edition, publisher Morava, page 45.

⁵ Begeja, Ksanthipi. *Family Law of P.S.R. of Albania*, Tirana 1984, Chapter IV/page 93.

⁶ Ibid, page 97.

marry while providing greater protection of marriage as one of the main forms of creating a family. Society recognizes marriage as a legal institution and puts it and the family under the protection of the state and society⁷.

In the Albanian traditional culture, especially in rural areas prevailed the idea that women should give birth to as many children as the protective power under the impact of each family was determined by the number of men.

In pre-industrial societies most marriage relationships were determined by economic interests, that had to do with the formation of the earth, with the development of handicrafts etc..

In the Albanian traditional society the creation of marital relationships affected more by the interests of the tribe, especially their desire to strengthen between strengthening relationships with other tribes. Thus, marital ties realized were understood as the alliance between the tribes of the future spouses.

In modern societies, especially in the more economically developed, it is important in determining marital relations the love of individuals to each other, thus fulfilling one of the essential conditions for marriage, free consent.

History of homosexuality in Albania and the current situation

The Albanian society began to make changes from its conservative tendency, as a result of Ottoman culture, which in terms of individual reports based on their erotic and social relationships was liberal. For many old Albanians these were signs of liberalization. Harems culture began to soften somewhat the rigid principles of Albanians for whom the rifle, war and manhood were traits that should characterize men. Traces of popular culture that mentions homosexuality as a natural part of life are to be found in those areas where the Turks found greater support and began to develop their culture, taking into account the fact that these areas have been among the most poorest and most undeveloped. Thus, we can mention the Central Albania. In this area, this phenomenon was not seen as a criminal act eventhough it was not accepted openly by the society. There is no special folchloric feature about this phenomenon in other regions, especially the north. But again it must be said that these traces of tolerance towards this phenomenon have nothing to do with the attitude of the majority of the Albanian society. Northern Albania was occupied later by the Turks and for more, there were regions that the Turks could not conquer at all. As said above, the Albanians being a more suffering people, accustomed to war, isolation, away from the attentions for themselves and with a rather patriarchal mentality, very manly and very intolerable to women, could not accept such phenomena as homosexuality. For them it was a betrayal of the gift of being male.

⁷ Article 49 of the Constitution of the Republic of Albania.

On the other hand, this phenomenon has been less prevalent among women. The customary law (Kanun), a very important law of that period, especially for the northern Albanians, includes parts speaking about the *virgins*. They were women who dressed as men, fought and worked as men, played the role of men in society and family and did not get married.

In subsequent periods, we can say that the phenomenon of homosexuality, depending on political and social moments, began increasingly to become a taboo.

The Albanian society continued to call homosexuality as an abnormal phenomenon based on the principle that every human attitude that appeared contrary to the accepted rules of the majority comprised a moral abnormality. Homosexuals were not accepted by public opinion, not respected by the society which regarded them as immoral and sick people.

With the coming to power of the Communist Party, homosexuality was included in the criminal offences and sentenced to prison. During this period there has been an aggressive behavior of the society towards homosexuals. They were not accepted in society, were subjected to ridicule and denunciations from the people closest to them. This situation lasted for nearly 50 years.

After the 90s, although the criminal sanctions against homosexuals were abolished, the mindset did not change. For the majority of the society homosexuality remains a symbol of sick people, promiscuous, degenerate, often those with low level of education. They are not easily accepted in work thus preventing the possibility of communication with society.

Currently, according to the Albanian legislation, every person has the right to decide freely whether or not to enter into marriage, as well as to choose freely a spouse for themselves. This constitutional right is limited by the Family Code, which provides that in a situation when two people decide to marry, they must be of different genders⁸. Our Family Code does not provide a clear definition of the concept of the future spouses. However, in terms of the Family Code, "man", "woman" means that the legislator has fully formatted the existence of different sexes⁹. Under these conditions, the right to choose the partner is conditioned by the fact that he/she must be of the opposite sex, otherwise the marriage would be invalid because it is not respecting one of the essential conditions for its conclusion – different gender.

Family is a very important social formation for the development of the individual and society, it is considered as the basic cell of society. It is true that the Albanian legislation provides for special protection of marriage, but it does not necessarily

⁸ Article 7, The Family Code of the Republic of Albania.

⁹ Mandro, A, Meçaj, V, Zaka, T, Fullani, A. *Family law*, KRISTALINA KH, Tirana 2006, p. 118.

relate the protection of family to marriage. As regards the legal nature of marriage, there are two main concepts: marriage is a *social contract* and marriage is a *legal institution*¹⁰. The Constitution protects the family in general, including other forms of alternative family creation as is cohabitation¹¹, or the actual free union of two persons of different sexes, provided for the first time in the current Family Code. Even in the case of cohabitation it is noticed that the legislature, in drafting the provisions governing the institute, provides cohabitation as a union of fact between a man and a woman, “excluding” the possibility of cohabitation between people of the same sex. We believe that such a formulation of the provision is related to negligence on the part of the lawmakers since the Albanian legislation does not provide for any sanctions in case that the people who live together are of different genders. We might even say that under the Albanian legislation this is the only way that these people have to create a family.

The situation is different in the case of marriage between persons of the same sex. In this case, the marriage shall be considered absolutely null and void and will not bring any legal consequence in personal terms and in the property.

The Constitution also protects the family created by an unmarried mother or father, treating equally the children born out of marriage to those born within a marriage. In this regard, we conclude that the same protection will be enjoyed by the family created by a parent with homosexual tendency. The special protection of the family and of marriage is directly related to the real enjoyment of the right to a normal family life. An analysis of the relevant provisions of the Constitution leads to the conclusion that these provisions meet the most important elements to ensure the enjoyment of a normal family life, such as: the right to establish a family, the right to live with the family, the right to respect spouses equality, as well as special protection of children. All these elements are related to some other first rank constitutional rights, especially to the right to enjoy a quiet private life i.e., the right to respect for privacy of family life.¹²

Homosexual marriages contrary to Albanian legislation

It is difficult to give a definition of marriage, but according to legal doctrine, marriage represents a legal union between persons of different genders who seek a common living and the realization of personal and patrimonial interests, thus forming a legal union in terms of contribution and the welfare of the family. It is based on the will of the parties which aim to create a family.

¹⁰ Podvorica, Hamdi. *Family Law*, Publisher “ROMINOR”, Prishtina 2005, p. 67.

¹¹ Article 163 of the Family Code: Cohabitation is a factual union between a man and a woman living as a couple, having a stability and continuity character.

¹² Anastasi, Aurela. *Women rights under the Albanian legislation*, 2010.

The purpose of establishing a sustainable family, which is not only in the interest of the spouses, but also of the whole society, has forced lawmakers not to limit to the provision of some conditions which guarantee the declaration of a free will, as in cases of other legal actions, but also to require the fulfillment of certain physical and moral conditions of the future spouses. As rightly pointed out in the legal literature, the existence of these conditions for marriage, does not affect the freedom of the individual to marry, as they come into compliance with the fundamental principles upon which the legal order is built.

In view of the existence or absence of the conditions to be respected for marriage, material conditions are divided into positive and negative conditions. This classification, although not expressly provided, results from the provisions of the Family Code, which distinguishes between the conditions for marriage, provided by Article 7 and 8, on the one hand, and, on the other hand for the marriage bans, provided by Articles 9-14. Will be considered positive conditions those legal conditions, the existence of which is necessary for the validity of marriage, while negative conditions or legal prohibitions, if we borrow the terminology of the FC, those conditions the lack of which conditions the validity of the marriage¹³. The practical importance of this classification is shown in terms of verifying the essential conditions before the civil registrar. The natural conditions for the existence of the marriage need not be provided for by law, as they stem from the concept of marriage itself, and as such, impose themselves to positive law.

Based on contemporary trends, the existence of this classification may be called into question, as we observe, for example, how different sex between married persons, although described as a natural condition by the doctrine, in some countries is subjected to legal modification, transforming it into a positive condition¹⁴. Another issue which arises for discussion today is about an individual's sexual identity. Based on the principle of different sexes, as essential condition for marriage, questions are added about what sex of the individual means, his biological sex or the gender acquired during life after realizing a redefinition of sex therapy? We recall here that the European Court of Human Rights has determined that, in the contemporary society, the gender of the individual cannot be determined only by the biological criteria, but it is also determined by psychological and social criteria¹⁵.

Under Article 7 of the FC: "Marriage shall be entered into between a man and a woman who have reached the age of 18". It follows from here one of the most controversial issues today that has to do with the gender restriction that the other spouse should have, which means that homosexual marriages are not allowed by the current Albanian legislation.

¹³ Op. cit., page 51.

¹⁴ Ibid, page 52.

¹⁵ Case Christine Goodwin v. United Kingdom, European Court of Human Rights.

Moreover, the legislation does not recognize gay marriages linked in other states which allow for marriages between persons of the same sex. Such a legal relationship with foreign elements will not be recognized or be valid in the Albanian territory. In the event that in the Court of Appeal a lawsuit will be filed for the recognition of a gay marriage linked in a foreign country, the court will overturn the lawsuit announcing its lack of competence.

The foreign law does not apply when the effects of its implementation are clearly contrary to public order or may have consequences which are manifestly incompatible with the fundamental principles set out in the Constitution and domestic legislation. In case of incompatibility, another appropriate provision applies which belongs to law of a foreign state and, when absent, Albanian law applies.¹⁶

This prohibition of the recognition of the validity of gay marriage in Albania, derives as a consequence of the fact that it is contrary to what is mentioned in the paragraph above - the public order. Therefore, in the case of gay marriage, recognition under the Albanian legislation cannot be done, because the norms of public order are violated, the terms of the marriage, namely, the condition of different gender between future spouses.

Treatment of the LGBT community in Albania

The LGBT (QIA)¹⁷ community includes a group of individuals who have different sexual orientation from heterosexual, and therefore have been called as “the group of sexual minorities.” Regardless of any opinion, prejudice, or other opinion which prevails in society, it is a matter of fact that the rights of the community, are first of all human rights. All human beings are born equal in rights and dignity, thus every individual regardless of sexual orientation or gender identity, should be equal in the chances and opportunities to ensure the quality of life. This issue has to do with the issue of respect for human rights. These opportunities should be the same opportunities that society offers to each of its members.

The enjoyment of the rights of all members of society strengthens democracy in a country. Being in the minority, different from the majority, should not constitute an obstacle to community members to seek their rights and furthermore require the recognition of these rights. Unfortunately, human rights standards are not applied consistently in the case of LGBT persons¹⁸. What LGBT community requires in Albania is the opportunity to live and contribute to the surrounding environment without discrimination from the rest of society, especially by the law. The community does

¹⁶ Article 7, Law No.10 428, dated 2.6.2011, “On private international law”.

¹⁷ Lesbian, gay, bisexual, transgender, questioning, intersexual, allies

¹⁸ The Report "Discrimination based on sexual orientation and gender identity in Europe"-Thomas Hammarberg, Council of Europe Commissioner for Human Rights.

not ask for special legislation or special treatment, but it simply asks for the possibility of being equal in rights and obligations, with the rest of society. In this regard, the community rights are individual rights of every human being, including the right to marry, to have a family that comes from marriage. As we mentioned above, the state encourages people to marry while providing a greater protection to family that comes from marriage. In this way, not allowing homosexual marriages, they are deprived of the right to have that protection.

Human rights are universal rights, apply to all people, including the members of this community.

Numerous non-governmental and non-profit organizations have been established recently in Albania, where the most important are: Pink Embassy/LGBT Pro Albania, as well as Alliance Against LGBT Discrimination. There has been a greater awareness of public opinion as well as state institutions for the rights of the LGBT community. Thus the Albanian legislation has begun to reflect the contemporary development of the society as well as the developments of international institutions.

It is intended to eliminate any distinction in the domestic legislation that discriminates the legal treatment of individuals based on sexual orientation. In this context, we can mention the recommendation of the Council of Europe 1474/ 2000¹⁹ or the European Parliament resolution A3 - 0028/1994²⁰ directed to the member states in terms of national legislation modifications reflecting gay rights in their domestic legislation. This topic is very controversial both in social and legal terms eventhough the acceptance of homosexual marriage represents conceptual difficulties in handling the traditional institution of marriage. I think that allowing marriages between couples of the same gender does not prejudice the decision of heterosexual persons to get married or have children.

Recognition of the right to marriage between couples or gay marriage, represents, at the world-wide dimension, one of the major movements in the direction of the prohibition of discrimination in the legal treatment of such persons.

In the context of non-discrimination, a really big achievement was the drafting of the anti-discrimination law²¹ including *inter alia* discrimination based on sexual orientation, whether direct or indirect.

Also, an important next step is the preparation of the Draft "Action Plan for Non-discrimination due to sexual orientation and gender identity 2012-2013". This plan

¹⁹ Recommendation of the Council of Europe 1474/2000, "On the conditions of homosexuals in the Council of Europe countries".

²⁰ European Parliament Resolution A3 – 0028/ 199, "On the equality of the rights of homosexuals in the European Union".

²¹ Law No. 10 221, dated 04.02.2010, "On the protection from discrimination".

is expected to be put into practice by the Ministry of Labour, Social Affairs and Equal Opportunities. The aim is to improve the Albanian legislation to prevent discrimination on grounds of sexual orientation and gender identity in accordance with international acts, *acquis communautaire* of the EU, and the Law on Protection from Discrimination.

Nowadays the struggle for the human rights of the LGBT community is one of the greatest at the social, political and cultural level anywhere in the world. Non-profit organizations that work with the LGBT community in Albania have been strengthened over the past year. In July 2010 the Ministry of Labour, Social Affairs and Equal Opportunities organized a public event on the protection of human rights in Albania. However, the increased presence of the community has not led to any significant improvement in the general acceptance of LGBT persons and these persons continue to suffer discrimination and marginalization. Various cases of violence and negative treatment towards transgender community have been reported. Homophobia remains widespread, including those who provide public services."²²

Homosexuality, the possibility of adoption of children by homosexual couples, and in vitro fertilization

22 years ago, the World Health Organization ruled that homosexuality is not an illness. We are not dealing with a personality disorder or a psychological disorder. Numerous medical and scientific studies verify that homosexuality is a natural variation of human behavior standards.

For the religion, homosexuality is immoral, but that is no reason to restrict the rights of persons part of this community in a democratic society. A not small concern about legal recognition of couples consisting of persons of same sex is related to the fact that this may constitute a risk for traditional family. What will happen to the demographic function of the family?

I think that there is no connection between the support to the rights of lesbian, gay and bisexual community and the demographic problems. Nowadays we notice that states pursue policies that encourage families to have children because the average age of the population has increased, as a result of reducing the number of births, a trend, which is mostly a trend in developed countries. I think it is the pace of life or the lifestyles that have caused this situation.

As a rule, the legal fact of childbirth is considered the main source for the creation of gender connectivity. In addition to the conception and birth of a child, the parent-child relationship can be created as a result of a legal fact of the category of willful actions, which is known as adoption.

²² The European Commission Progress-Report and the LGBT Community in Albania, 2011.

As mentioned above, homosexual persons are not entitled to marry under the existing Albanian legislation, therefore the only way for these persons to have a family in Albania is cohabitation.

In the concept of family a special place is occupied by children. Would it be right for a child to grow up in a family where both parents are of the same sex? Would it be fair to deprive a child from the mother or father figure? Does maybe the child's growth and education by parents with homosexual tendency affect the child and therefore may impose to the child to take the same sexual direction?

For the Albanian legislation the upbringing and education of children is one of the most important issues. In family issues emphasis is placed on the best interests of the minor. According to the traditional concept, with childbirth the mother-child relationship is established, which is called motherhood and the father-child relationship, called fatherhood. Both mother and father figures play a very important role in the child's life directly influencing his upbringing and education. Based on this fact, doubts begin about problems or deficiencies that a child that grows up in a family with parents of the same sex may have. Furthermore, it is typical for children to be affected by the surrounding environment, to copy adults, especially parents. In a situation where a child is brought up and educated by two women, they will learn a model of feminine behavior in society and on the other hand there will be a lack of a male parent model or conjugal partner. The same thing would be encountered in a family where both parents are men. Although we have also the other side of the coin, where as a result of the increasing number of divorces there is a considerable number of single-parent families.

With regard to the Albanian legislation, by reading the provisions of the Family Code which regulates adoption and the Reproductive Health Law, which regulates artificial fertilization and insemination, it turns out that none of these procedures is not conditional to marriage. People that live together are not entitled of adoption. The same approach is also held by the European Convention "On the adoption of children"²³. In any case, adoption is a right for the child who needs substituted and permanent parental figures. The ability of the parents to adopt cannot be reduced only to the legal notion. It should take into account ethical, social and medical elements.

In these circumstances, a single individual can adopt a child, or conceive a child through alternative methods of reproduction, whether heterosexual or homosexual, because there is no legal provision that prevents this. The Albanian legislation gives importance to whether the person is able to create a suitable family environment to raise and educate a child. So, the concern of the authors who oppose gay marriage, based on the argument of the right of these individuals to have children, is not based,

²³ Article 6/1 of the Convention.

as this matter is encountered even in the current legislation, which does not allow gay marriage.²⁴

If we refer to the decisions of the ECHR²⁵, we see that there is no unified opinion. The issue of child adoption by a gay couple, has been dealt with on a case-by-case basis, and decisions have been different. We refer to the case of *Emanuelle B. vs France* in which the ECHR has declared the French authorities guilty for rejecting the application for adoption to the citizen Emanuelle based on her sexual orientation, arguing thus a violation of Article 8 of the ECHR, the right to respect for family life. On the other hand, the ECHR has confirmed that the refusal of the application for adoption to the gay person *Frette vs France*, by the national courts, cannot be considered a violation of Article 8 of the ECHR.

If we refer to the Albanian reality, the most worrying fact is that children who have gay parents cannot be accepted by the society as well as be subjected to insults and ridicule.

Such a situation, I think, can create problems in the child's mental development and would adversely affect their formation.

Under the law on the civil status, the birth certificate, among the different sections of individual data, has the rubric of motherhood and fatherhood. In the situation when both parents are of the same sex difficulties will be encountered in filling up the certificate because in each of the sections only one name can be written; which of the names will be written? Probably, it would be required a change in legislation which provided a solution to the situation when both parents belong to the same gender. The French legislation arranged such a situation by introducing the words parent 1 and parent 2 instead of motherhood and fatherhood.

As regards the fears that homosexuals are a risk for children we can say that the lesbian, gay and bisexual persons may constitute threat for children to the same amount that heterosexual persons can.

The American Academy of Psychiatry for Children and Adolescents has noticed the fact that there is no fact that homosexual persons constitute a risk to children's adolescents' development and it has punished any discrimination exercised against them in the cases when they have applied for job positions that provide services and treatments for children and adolescents.

²⁴ Omari, Sonila. *Family Law*, Morava Publications, Tirana 2010, Page 444.

²⁵ European Court of Human Rights.

On March, 20, 2013, the same academy has published an important study in which, except for reaffirming the conclusions reached in 2006²⁶, it affirms that “despite the economic and legal discrimination, and the social marginalization”, 30 years of studies have documented that, upbringing of children by lesbian and gay parents does not affect the mental health of children and that “the welfare of children depends on the quality of relationships with parents, safety and education provided by the parents and the economic and social support of the family from society”.²⁷

It is time to remove the tags “hetero” and “homo” and talk about “parenting”, which in both cases can be good or bad²⁸.

If 1600 years of persecutions, including here death punishments, imprisonment, discrimination and social exclusion have not managed to convert homosexual persons in heterosexuals, then the delivery of information on homosexuality, the acquisition of rights by law, certainly would not impact the sexual orientation of persons, regardless of their age, and thus falls down the myth that propaganda can convert young people into homosexuals. There is no fact that supports this view.

Conclusions

Albania is a democratic country that has on its foundations respect for human rights. Besides from being a legal relationship, marriage is also a social relationship. Therefore we can say that marriage represents the totality of the individuals that compose the society and the evolutions it undergoes. Based on this fact, I think the legislation should reflect changes in society, thus fulfilling one of its duties, namely to regulate relations between individuals in a society. We have many examples of adapting legislation to the social, economic and political conditions of the society. Currently one of the positive conditions for marriage is free consent. This condition is a necessity for marriage and represents the will of the future spouses to marry each other. It has not always been this the case as in earlier periods it could not be thought of a woman’s consent as a condition for marriage. It couldn’t be thought for the rights of women, and they were always subordinate as a child under the authority of the father, *pater familias*, as well as during the marriage under the authority of the husband. Their main task was reproduction. With the emancipation of society, women gradually won their rights, to come to nowadays where gender equality is discussed and practiced.

Another positive condition for marriage which has changed over time is age. The Albanian legislation currently provides, as a general rule, 18 years of age as the

²⁶ According to the 2006 study, every adult and responsible person, man or woman, heterosexual or homosexual, can be a good parent.

²⁷ From: <http://27esimaora.corriere.it/pagina/i-dibattiti-di-la27ora-figli-e-adozioni-delle-coppie-omosessuali/>, datè 04.04.2013.

²⁸ Ibid.

minimum threshold for marriage associated with the capacity to act, with psycho-physical maturity of future spouses, but as an exception to this general rule, it is tolerant in certain situations when we are faced with an important cause such as the state of pregnancy, childbirth, etc.. In such situations, age limit can be changed with the prior authorization of the court²⁹. Before the entering into power of the current Code, the age limit was 16 years for women and 18 for men.

Under these conditions, where the legislation for the first two characteristics has been adapted to the time and has changed, why not also change about another condition that is the difference of the sexes? In this case we are dealing with indisputable principles relating to human rights and fundamental freedoms, and in particular with the freedom to choose and live life in freedom including here the sexual orientation.

I think that the traditional family, that composed of husband, wife and children, has suffered a decrease in many European countries due to the fact that many heterosexual couples choose not to marry, to divorce or to not have children.

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