

The background of the slide is a vibrant rainbow spectrum, with colors transitioning from green on the left, through yellow and orange in the center, to red and purple on the right. A white rounded rectangular box is centered on the slide, containing the main title and subtitle.

**SAME LOVE – DIFFERENT
REGULATIONS in BULGARIA**

RAINBOW FAMILIES

**THE RIGHT TO FAMILY LIFE OF
THE SAME-SEX COUPLES and
THE LEGAL RECOGNITION IN
BULGARIA**

YORDANKA BEKIRSKA

**SOFIA BAR ASSOCIATION,
BULGARIA**

GENERAL CONGRESS

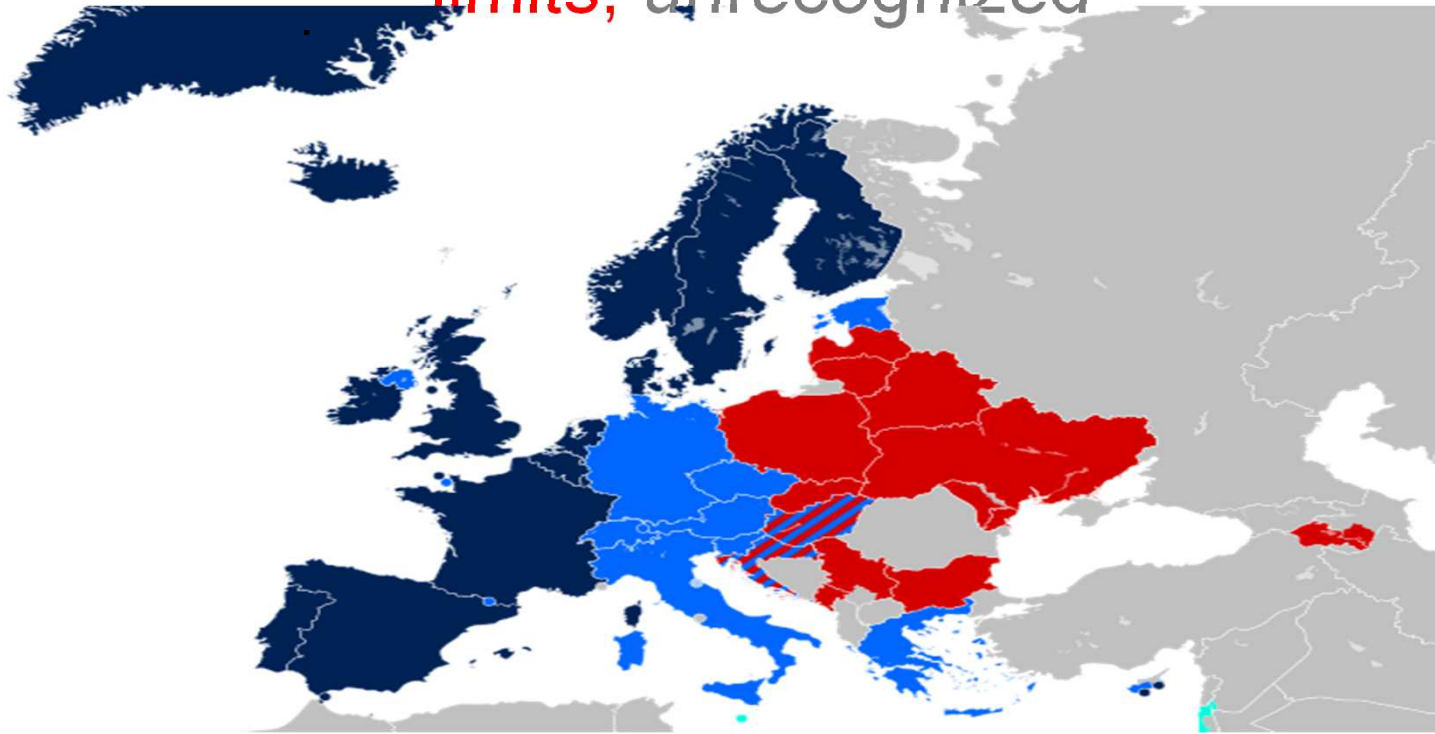
**THE EUROPE BAR
FEDERATION**

Bologna, 18th of May 2018

Same-Sex Couples and Rainbow Families

- families of lesbian and gay couples;
- families in which one or both partners are trans, bisexual or intersex;
- single LGBTI parents;
- LGBTI families with or without children.

Status of same-sex marriage and other types of same-sex partnerships in Europe:
marriage, other type of partnership, Constitution
limits, unrecognized



Lack of legal recognition

- Same-sex marriage is not recognized in several European countries and in addition marriage is defined as a union solely between a man and a woman in the constitutions of [Armenia](#), [Belarus](#), [Bulgaria](#), [Croatia](#), [Hungary](#), [Latvia](#), [Lithuania](#), [Moldova](#), [Montenegro](#), [Poland](#), [Serbia](#), [Slovakia](#) and [Ukraine](#).

EUROPE and ECtHR

- **Oliari and Others v. Italy (July, 21 2015)**

This case concerned the complaint by three homosexual couples that under Italian legislation they do not have the possibility to get married or enter into any other type of civil union.

- The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention.
- ECtHR established a positive obligation upon member states of Council of Europe to provide legal recognition for same-sex couples.

United States of America

- On June 26, 2015 - the [United States Supreme Court](#) ruled in [*Obergefell v. Hodges*](#) the right of homosexuals to marry in every state and held that a state has no legal grounds not to recognize a lawful same-sex marriage performed in another state, because the state-level bans on same-sex marriage are unconstitutional.

Bulgaria: Main Findings

Three main problematic areas:

- Legal barriers and stereotypes (Istanbul Convention)
- Institutional barriers
- Everyday difficulties

Legal and institutional barriers

LGBTI families are not recognized by the Family Code, which leads to:

- Not being able to **inherit** each other
- Not having access to **information about health conditions**
- Not being able to **visit their partner in the hospital**
- Not being able to take **life-saving decisions** /for the partner or the child/
- Not possible for both of the parents to have **parental rights**
- Not possible to adopt each other`s children or **adopt children at all**

Legal and institutional barriers

- Not receiving **surviving dependants' pension**
- Not receiving protection in case of **domestic violence**
- Not receiving **tax relief** for young families /for mortgage loan/
- Not receiving financial compensation for **taking care of a sick partner**
- After separation the division of **common property** is not regulated
- Schools and kindergartens not **recognizing the children as siblings**
- Not being able to **travel** together or **move** to your partner`s country

Everyday difficulties

- Discrimination
- Prejudice and presumptions
- Rejection from family and friends
- Fear of coming out
- Fear of the children being discriminated
- Explaining the situation of their family to the children
- Financial difficulties then it comes to having children
- Lack of visibility and role models

Self-developed Strategies

- Staying in the closet
- Being careful with the people they come out to
- Making connections mainly with other Rainbow Families
- In public spaces considering if it`s safe enough to be visible
- Adoption from another family member
- Buying property together

Needed changes

- Legalizing same-sex marriages (family equality for all LGBTI families) or civil partnerships
- Legalizing adoption for LGBTI couples
- More visibility, because of experiencing prejudice and presumptions by the society
- Creating network for exchanging information

The National Culture Palace in Sofia was illuminated in rainbow colors on the evening of the Sofia Pride 2017



Strategic litigation in Bulgaria

- The first lawsuit of adoption in homosexual couple (2015) – the lesbian partner of biological mother asked the court for adoption of their child. Two instances refused on the ground of legal barriers – in case of adoption the parental rights should be transferred to the adoptive parent and the biological one has no rights. And even the applicants testified their will the court has decided that it is against the interest of the child, although the both parents have proved their parental capacity.

Strategic Litigation in Bulgaria

- Transsexual woman have changed her sex – administratively and medically.

Now she is married to a heterosexual man and they managed to adopt a baby as a family.

- No recognition of the marriage that was performed abroad – a strategic case pending;
- The Council of Europe *Convention* on preventing and combating violence against women and *domestic violence* (Istanbul convention)

Sofia Bar Association

Thank you for your attention!

All questions are welcomed!

Yordanka Bekirska, lawyer

**GENERAL CONGRESS
of THE EUROPE BAR FEDERATION
Bologna, 18th of May 2017**