Sweden Recognises Trans Parenthood

youth and families

Since 01 January 2019 a new law recognises trans people who are parents according to their legally recognised gender identity in their child's documents. Trans men who give birth are designated as "father" and trans women who beget a child as "mother".

The Swedish law is a first in Europe recognising trans parenthood so clearly and thus implementing the demand from the Parliamentary Assembly of the Council of Europe to document trans people's parenthood according to their gender identity.

See PACE Resolution 2239 (2018) "Private and family life: achieving equality regardless of sexual orientation" and read TGEUs comment on the Resolution.

Not recognising trans parents according to their legal gender is a continuation of the sterilisation requirement in legal gender recognition, as it punishes trans people for using their biological functions.

TGEU welcomes the new law as ground-breaking for Europe, but remains critical that in the new Swedish law the fatherhood presumption is not automatically applied for couples where a trans-parent is involved. Thus, trans men are exposed to greater scrutiny than cis men, who do not have to prove a biological connection to a child their partner gives birth to in order to be recognised as father.

RFSL writes on the new law:

> Another change in the parents' recognition from the beginning of the year are new rules on how parenthood should be established for persons who have changed their legal gender. This has previously not been quite clear but open to interpretations in some cases. In the Parental Code, it is now stipulated that persons who have changed their legal gender are entitled to the correct parent's name, that is, they have the right to the parent's name (mother or father, but not parent) which corresponds to one's legal gender. A man who gives birth to a child is thus registered as a father. Similarly, a woman whose sperm has contributed to fertilization should be registered as a mother. When a person changes the legal gender affiliation and is already a parent, the information in the population register must be changed for both the parent and the child. One consequence of the legislative amendment is that paternity presumption, which previously could be applied, no longer applies to different-gender couples where one or both changed legal affiliation. When one of the parents has changed the gender affiliation, the parent who has not given birth to the child will be determined as a parent by confirmation or judgment. In the legislative process, RFSL has stated that it means discrimination that paternity presumption can no longer be applied if someone in the couple has changed the legal gender affiliation. The same government inquiry that proposed that a parenting presumption should be introduced for married couples of the same sex consisting of two women, has also suggested that a paternity and maternity presumption should be introduced for married couples where someone or both changed legal gender affiliation.

The majority of states in Europe designates trans parents according to the gender assigned at birth. A trans man giving birth would be registered as a "mother". This has massive consequences for the private life of the family. The well-being of the child might be at risk for being exposed to discrimination because of their parent's gender

identity.