

Charron & Merle-Montet v. France

[Case Law](#), [Legal Protection](#), [European Court of Human Rights](#), [Family](#), [France](#), [IVF](#), [Marriage Equality](#), [Strategic Litigation](#)

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(Application No. 22612/15), 12 June 2017

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- The applicants, a same-sex married couple, complain that their **request for artificial insemination** has been rejected on the ground of their sexual orientation. Donor insemination is legal in France and has been available, since at least 1994, to unmarried different-sex couples.
- ILGA-Europe together with FIDH, NELFA, ECSOL, LDH, ADHEOS and ADFH submitted the following:
 - The decision to apply for a legally available opportunity to become a genetic parent clearly falls within the ambit of Article 8, whether taken on its own or in conjunction with Article 14. The Court's consistent case law prohibits **differences in treatment between same-sex couples and unmarried different-sex couples**. It has found discrimination, violating Article 14 combined with another Convention right, where a same-sex couple was denied a right or opportunity granted to unmarried different-sex couples.
 - The situation of a lesbian couple is relevantly similar (or comparable) to the situation of an unmarried different-sex couple who request donor insemination, so that the female (but not the male) partner can become the genetic parent of a child. Particularly serious reasons, or particularly convincing and weighty reasons, do not exist for the difference in treatment between lesbian couples and unmarried different-sex couples.
 - Developments in other Council of Europe member states and other democratic societies support a narrow margin of appreciation. Indeed, in the majority of Council of Europe member states, and in other democratic societies, lesbian women have access to donor insemination, as individuals or as couples.