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July 18 2014

Croatian Parliament passed same sex Life-Partnership Act

Croatian Parliament passed the *Same Sex Life-Partnership Act* on July 15, 2014, colloquially called “Life-Partnership” (in Croatian: “*životno partnerstvo*”). It will take effect 8 days after being published in official gazette (late July 2014), except for the part on parental responsibility which will be put into force on September 1, 2014 along with the Family Law.

The Act provides a clear legal recognition of the constitutionally protected “family life” status for same sex couples. This status is regulated through the legal form of “**life-partnership**”. Same sex couples can acquire status of life-term partners through an act of partnership registration. Croatian legal term of act of registration (“*sklopiti*”) is the same for both marriage union and life-partnership. While life-partnership is same-sex equivalent to the act of civil marriage of different-sex couples, the real-life cohabitation (“**informal life-partnership**”), based on mutual agreement regarding their emotional commitment, is equivalent to common-law marriage unions of different-sex couples. Consequently, Croatia seems to be the first legal order that recognizes both registered same-sex partnerships and un-registered informal same-sex civil unions.

In terms of rights, privileges and obligations life-partnership is placed at the same level as marriage while informal life-partnership corresponds to the common-law marriage. The same-sex partners are provided access to labor rights, retirement, health insurance and protection, social benefits, tax benefits, equal access to goods and services as well as family privileges already granted to married different-sex couples. The Act also provides a path to Croatian citizenship through the institution of registered life-partnership, in legal process comparable to one provided through the institution of marriage.

The only major difference in terms of privileges concerns the access to adoption. In contrast to different-sex couples, both married or in common-law marriage union, same sex couples are not provided with the possibility to adopt for the moment. This includes both joint adoptions and *second parent* adoptions. This has been justified by the so called “incremental approach”, meant to allow the legislator some feedback regarding real-life effects of the new institution before taking a decision on the adoption. The same approach was used for granting access to adoption privileges to different-sex common-law marriage civil unions through the recently enacted reform of Family Law.

However, the Act also introduced the institution of “**partnership care**”, another unique feature of the Croatian law. Partnership care can be granted to a partner who is not a parent of a child living in a household of same-sex partners. The care can be granted through specially designed judicial proceedings under conditions elaborated by the Life-Partnership Act. Partnership care provides the partner with all parental rights and

obligations towards a child, *de facto* placing him or her at the same level as adoptive parent. The only difference between the adoption and partnership care concerns the kinship effects of the institutions. In contrast to adoption, partnership care does not sever kinship relations between a child and relatives of her/his biological parents.

The Act also has a significant “EU dimension”. Implementing the Free Movement of Citizens Directive 2004/38, the Act explicitly provides that all same-sex marriages and registered partnerships legally established in EU Member States enjoy the same status as Croatian married couples in all matters falling within the scope of EU law. Furthermore, in order to facilitate EU free movement rights, **the Act explicitly provides that all EU citizens can register their same-sex partnership in Croatia**. The Act also fully implements the sexual orientation antidiscrimination requirements in the regulatory area of asylum and/or foreigners protection.

The Bill was proposed by the center-left and liberal ruling coalition with partial support of the centrist and far-left MPs. The Parliament adopted the Act by 89 to 16 qualified majority giving it a special “organic” status granted by the Constitution to laws implementing constitutional human rights guarantees. Consequently, all current and future laws adopted by “regular” majority need to be interpreted and enforced in accordance with provisions of the Same Sex Life-Partnership Act.