

ALIANȚA FAMILIILOR DIN ROMANIA

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The Secretariat
Council of Europe
Avenue de l'Europe
67075 Strasbourg Cedex
France

Re.: Open Letter Regarding the European Council's Attempt to Adopt Resolution
Regarding Same Sex Marriage and Same Sex Partnerships in the Member States

Your Excellencies:

Greetings! On June 21, 2008 the Alliance of Romania's Families ("ARF") submitted to the Council of Europe ("Council") a Note of Protest concerning its attempts to pass a resolution calling on Member States to domestically legislate same-sex marriage or same-sex partnerships. In that Note we expressed our opposition to the Council's intended course of action, after having monitored rather closely the various preliminary reports and travaux preparatoires compiled thus far on this subject by various Council committees.

In this Note we reiterate our opposition and submit, in support of the June 21, 2008 Note of Protest, the following Petition to the Council of Europe:

Considering that the Parliamentary Assembly of the Council of Europe is scheduled to soon vote on a resolution calling for the legalization of same-sex marriage in all 47 state members of the Council of Europe;

Considering also, that the Assembly has called for amending the European Convention on Human Rights to declare same-sex marriage a human right;

Considering further that the Assembly recently debated an amendment to the European Convention on the Adoption of Children to allow the adoption of children by homosexual couples;

We, therefore, the undersigned citizens of Romania, friends of Romania and of the people of Europe, hereby sign this Petition expressing our strong opposition to the Assembly's proposed course of action. We call on the Assembly to immediately cease all attempts to legalize or impose same-sex marriage or same-sex partnerships on member states. The Assembly's anticipated action is incongruent with our values, ill-founded, and detrimental to family, children and to the general welfare of the member states.

The Petition has in excess of 12.000 signatures, of which more than 9.000 were taken online and the rest manually. The signatures were provided by individuals in their personal capacity, by individuals on behalf of their families or on behalf of groups of individuals, by individuals on behalf of various civic organizations, and by civic organizations on behalf of themselves or on behalf of their members. The signatures are tendered to you on compact disk.

In addition to the comments we made in our June 21, 2008 Note we add the following observations.

First: the Council Is Acting Ultra Vires.

The Council is charged with implementing the European Convention on Human Rights ("Convention"). We note that the Convention does not mention anywhere sexual orientation, let alone nondiscrimination based on sexual orientation, or the right to same-sex marriage. We propose, therefore, that the Council has no jurisdiction over the issue of same-sex marriage or same-sex partnerships in the Member States. Romania and the other Member States did not accede to the Convention with the intention to apply it to social orientation issues. Since social orientation is nowhere to be found in the text of the Convention, we are deeply concerned that the Council is acting ultra vires and undemocratically.

Second: Legalized Same-Sex Frameworks Have no Social Utility

While we concede that there are no legal impediments to Member States legislating internally and on their own initiative same-sex marriage, same-sex unions, or absolute equality in any and all possible areas, between opposite-sex marriage and same-sex marriage or civil unions, we submit that the legal logic behind such a radical development would be flawed.

The institution of marriage is not a grant by society to heterosexual couples because of their sexuality. In contrast, same-sex marriage would be a grant bestowed on homosexual couples precisely because of their sexuality. This conceptual distinction is important because, if carried to its logical conclusion, it reveals discrimination based on sex against heterosexual couples. Rather, marriage is a grant from society to heterosexual couples because of the unique and exclusive function which they fulfill and the social utility which their union bestows upon society, namely procreation, the potential for procreation, and the perpetuation of the human race. Same-sex marriage does not fulfill this social function and is void of any social utility. Marriage is unique and a uniquely valuable social institution precisely because of its procreative role. For this reason, too, it benefits and should continue to benefit from unique and heightened societal protection.

A subset of this argument is the illogical result of heterosexual same-sex couples who choose to marry one another instead of persons of the opposite sex. In this case marriage would be bestowed on heterosexual same-sex couples based not on their sexuality or sexual orientation but on their friendship or associational proclivities. This indeed would be absurd, but nevertheless possible under the guise of a potential Resolution of the sort the Council is pondering. Once more, the net result would be the setting up of a social institution devoid of any social utility.

Societies legislate and protect only institutions which have social value, such as marriage, education, courts, democratic institutions, the state, the government, the church, the military establishment, the arts, expression, or basic liberties, among others. Precisely because social institutions vary widely in their respective degree of social utility they are afforded different degrees of constitutional or legal protection. No doubt marriage and the family have always been and continue to remain the most important institutions and the institutions with the greatest social utility. They have made possible the emergence and survival of all other social institutions. For good reason, therefore, they deserve a degree of legal protection proportionate to the benefit they confer on society. Conversely, it is contorted logic to assign a place of any importance or meaning in the hierarchy of social institutions to same-sex frameworks which are inherently devoid of any social utility.

Third: Public Opinion Matters.

On a related note, neither homosexual conduct nor homosexual marriage currently enjoy general acceptance in the overwhelming majority of Council Member States and in many EU Member States, as reflected by various recent opinion polls. In the course of time this may change, but current reality is such that the criterion of general acceptance is not met. Romania, for instance, has consistently been at the bottom of EU countries regarding acceptance of same-sex marriage or adoptions of children by homosexuals. A TNS Opinion & Social Eurobarometer survey conducted in October 2006 in various EU Member States reflected a wide discrepancy in views regarding these subjects. The highest acceptance of same-sex marriage was found in the Netherlands, with 82% of the public affirming support for it. In contrast, only 11% of Romanians indicated approval of same-sex marriage. Bulgaria is another case in point where only about 20% of the public approves of homosexuality. The same October 2006 opinion survey averaged the separate results from the 27 EU Member States and concluded that overall 56% of Europeans disagreed that homosexual marriage should be instituted throughout the European Union.

In light of this wide discrepancy of views we express our deep concern about the Council's attempts to force socially useless institutions on Romania against the will of the Romania people which also are incongruent with their tradition, civilization, and history. We feel confident that this observation is valid for the overwhelming majority of Council Member States as well.

In closing, we reiterate our strong opposition to any possible Resolution by the Council of Europe calling on Member States to legislate same-sex marriage or same-sex partnerships.

Respectfully submitted,

BY: 

Dr. Peter Costea, Esq.

President, Alliance of Romania's Families