FREEDOM OF MOVEMENT FOR LGBT FAMILIES
(THE FRANKENSTEIN EU LEGISLATION)

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1. I am very excited to be representing the Network of European LGBT Families Associations, NELFA, here today in this conference. You can call us, if you wish, “LGBTs with kids!”.

2. I would also like to thank the Parliament's Inter-group on LGBT rights for giving us the opportunity to let you know more about our work and our views.

3. I am a volunteer and member of the Board of NELFA – my colleague from the Netherlands, Anne Marie Thus is also here today in the audience – and although I am based in Brussels, where I live with my Swedish husband and Chicago-born daughter, I am originally from Angola and carry a Portuguese passport. Yes, our families tend to be rainbow families in more ways than one!

4. NELFA is “the new kid on the block” in the context of the wider European LGBT movement. We became legally incorporated as an international not-for-profit organisation in March 2012, although work on the vision of a European platform regrouping LGBT parents started in 2009. ILGA Europe, represented here too, was one of the instigators of our movement.

5. NELFA brings together 19 national organisations from 12 European countries, all EU Member States, with exception of one, Switzerland. We are everywhere in Europe and we are just at the beginning!

6. One of our three main aims is to ensure that LGBT families and their children can fully enjoy the European Union's right to freedom of movement between Member States. So, to us it makes an awful lot of sense to be here today talking about this core issue for our membership and for the hundreds of families and children we represent throughout Europe.

7. LGBT parents are not a new phenomenon. As you know, we have always been mothers and fathers throughout human history. What has changed in Western societies, roughly for the past 20 years, is that more and more LGBT people have decided to create families, biological or through adoption, without hiding their sexual orientation and in the context of stable romantic relationships.
8. I will share with you today 3 of our stories, to help illustrate concretely what we mean when we say that currently, in the European Union, some children are being denied their right to full legal protection because they have LGBT parents. While sharing those stories I also wanted to show you our faces because, contrary to what some of our opponents seem to think, we look just like everybody else.

9. Let me share our first family case:

R. is a SPANISH national and L. is an ITALIAN national. The two women live together in SPAIN with one son, T., born in Spain in 2011 via medically assisted reproduction (MAR) techniques. L. provided the egg and R. carried the baby. The two women used an anonymous donor. Their son was automatically given Spanish nationality and recognised by Spanish authorities as having two legal mothers.

Following T’s birth, his mothers requested Italian nationality for him via the Italian consulate in Spain. In September 2012, after several document requests, the Italian consulate informed R. and L. that their request had been refused by Turin’s Registrar of Births, based on the legal opinion of the Italian Public Prosecutor’s Office. The latter argued that (a) MAR techniques can only be used by heterosexual couples; (b) only the woman who gave birth to the child can be considered his mother, and (c) the fact that T. has two mothers goes against Italian public order.

Therefore while in Spain, T. has two legal mothers, but only one legal mother in Italy (his Spanish mother). Moreover, T. is not eligible to obtain Italian nationality, despite one of his two legal mothers being an Italian national herself.

10. Let us look at a second family case:

J. and H. are two women in a civil partnership from the UNITED KINGDOM. They are both UK nationals. J. is employed by the British Army and currently posted in GERMANY. She is the biological mother of W., born in 2011 in Germany, and H. is named on their son’s birth certificate as his other legal parent.

Months after W’s birth, J. and H. applied for kindergarten—something all couples with children in the British Army obtain from German administration. The application was made in H.’s name, since J. cannot claim the benefit being in the army.

Their application was refused on the grounds that J. and H. are not married, and they do not recognise J. and H. as spouses. (Same-sex marriage is impossible in Germany.)

When motivating their refusal, German authorities added that “W. is neither H.’s biological child nor can he be considered a stepchild”. In effect, this means W. is in a legal limbo which prevents him from going to kindergarten.
11. And a third family case, my own:

L. and J. are two married men; L. is a PORTUGUESE national, J. a SWEDISH national. They live together in BELGIUM. They adopted their daughter G., born in the UNITED STATES in 2005. Both men are recognised as the legal fathers of their daughter by both Belgian and Swedish authorities. Their daughter has a Swedish passport, as well as a Belgian ID card.

When L. inquired in 2007 about the possibility for their daughter to obtain Portuguese nationality, the Portuguese Consulate in Belgium stated that since G. had two legal fathers, it would not be possible for the adoption to be recognised.

Consulate officials were not able to clarify what would be G.’s legal status while in Portugal. The family spends holidays in Portugal on a regular basis and the lack of legal clarity is of particular concern to G.’s parents.

G. has thus two legal fathers in her country of residence (Belgium) and in one of her legal fathers’ country of origin (Sweden). However, her legal status is unclear in her other legal father’s country (Portugal).

12. There are many more cases like these ones, and we have shared them recently with the relevant services of the European Commission (Justice and Home Affairs). What is striking is that very few people realise that this is the reality of hundreds of families and their children across the EU.

13. Believe it or not, today in the European Union, some children may loose their parents by simply crossing a border. Does this sound disturbing? Well, it is disturbing and more so because it places children with LGBT parents in a vulnerable position and in contradiction with their fundamental right to non-discrimination and to growing up in a family context, in line with the UN Convention on the Rights of the Child, which all EU Member States have ratified. It certainly goes against the Convention’s core principle that policy and lawmakers should ensure that the best interests of children are the primary consideration in all actions that may affect them.

14. Now, in this context, NELFA is not asking EU Member States to change their national laws to allow marriage and parenting equality for LGBT people – although that would be welcome and a decision on the right side of history. What we are asking is that EU Members States recognise among themselves the legal effects of civil documents issued by their EU partners, so that if a child has two legal fathers or two legal mothers in one country, she will continue to have them in another country no matter what.

15. One last thought: We are fathers and mothers, and for our children we will climb every mountain until we get to the top with everybody else.

Thank you.