

Five minutes with Hans-Christian Ströbele, Member of the German Federal Parliament: “The ban on consensual sexual acts between adult siblings ought to be abolished.”

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The European Court of Human Rights (ECHR) ruled three weeks ago that Germany is entitled to ban consensual acts between adult siblings. A 35-year-old German man who maintained a relationship to his sister argued that the German legislation violated his rights to a private and family life. In an interview with EUROPP editors Chris Gilson and Julian Kirchherr, [Hans Christian Ströbele](#), a Member of the German Federal Parliament for the Green Party, disagrees with the Court’s judgement and argues that the ban on consensual sexual acts between adult siblings should be abolished.



The European Court of Human Rights, in Strasbourg, France, ruled recently that Germany is entitled to ban consensual sexual acts between adult siblings. What do you think of this judgement?

The judgment is problematic because many commentators did not understand its core message: The European Court of Human Rights did not take a stance on the criminalization of consensual sexual acts between relatives; it only argued that it is within the responsibility of each country to decide whether such acts are considered as a criminal offense or not. Hence, I view this judgment as a chance to abolish the ban on consensual sexual acts between adult siblings in Germany.

The Federal Constitutional Court of Germany (Bundesverfassungsgericht) found that “[incest has negative consequences for society, such as the danger that offspring will be disabled](#)”. What is your view on this argument?

This argument is invalid and does not justify the ban. After all, there can often be a high risk of couples passing on hereditary diseases to the next generation, and if a woman is addicted to drugs and/or alcohol, there is also a high risk that the child will be disabled. However, nobody would prosecute such a woman if she decided to give birth to a child. Ultimately, when a couple is deciding to have a child together, it is their responsibility to weigh up any potential health risks to that child before proceeding. From a legal point of view, parents should not be prosecuted for trying to have a child which may be at risk of being disabled.

According to a survey from 2007, [more than 75 per cent of Germans support the ban on incest](#). Why is this topic such a taboo?

Incest is often associated with dependence and abuse. That is why this topic is such a taboo. However, a number of criminal laws ensure that abusive sexual relationships are prosecuted. On moral or religious grounds, one may disapprove of incestuous relationships. But such morally or religiously grounded disapproval is not sufficient to prosecute consensual sexual relations between adult siblings. From the constitutional perspective, criminal penalties are inappropriate in such cases.

Germany, as most European Union member states, bans consensual sexual acts between adult siblings. Do you think there should be European-wide legislation?

It is not entirely true that Germany bans consensual sexual acts between adult siblings. Only sexual intercourse is punishable, even if the couple uses contraceptives or if one of the partners is sterilized. All other sexual acts and sexual practices among siblings and close relatives are not affected by the current legislation. This is contradictory and not well-known.

In large European countries such as Russia and Spain, there is no such legislation as in Germany. And in

France this ban was abolished 200 years ago to in the wake of the Enlightenment and the French Revolution.

Which country in Europe currently adopts legislation on consensual sexual acts between adult siblings which is commendable in your point of view?

Unfortunately, I am not familiar with the legislation in each country. I do not know. In Germany, it would be a fairly easy task for policy-makers to repeal § 173 of the German *Strafgesetzbuch* which currently bans consensual sexual acts between siblings. Similar measures were undertaken by policy-makers a few years ago to de-criminalize homosexuality and adultery, although for these offences the Bible requires the death penalty.

Again, I think prison sentences for consensual sexual intercourse among adult relatives is not appropriate in our modern society. They are not in accordance with an enlightened, modern understanding of sexuality and family, and the constitutional foundations of such bans are highly dubious.

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