



PIAC Flash numéro 6

ECHR: Austria violated human rights in refusing to delete convictions under discriminatory age of consent laws from criminal records

On 7 November 2013, the European Court of Human Rights has found that Austria discriminated against four gay men when it refused to delete from their criminal record convictions under its discriminatory age of consent law.

This set 18 as the age of consent for sexual relations between men, compared to 14 for heterosexual relations. The discriminatory law had been repealed in 2002, following a ruling by the Austrian Constitutional Court that it was unconstitutional. In 2003 the European Court of Human Rights also ruled that this law was a violation of the provisions of the European Convention on Human Rights on the right to respect for private life and non-discrimination.

All four men had applied at various levels of the Austrian administrative and legal system for the convictions to be deleted. But their requests were dismissed at the highest levels.

In its [unanimous ruling in the case, *E.B. and Others v. Austria*](#), the Court found that keeping these convictions on the criminal record could have particularly serious consequences for the persons concerned.

This is the first time that the Court has ruled on this question. It will therefore be particularly relevant in ensuring deletion of such convictions from criminal records in other Council of Europe member states where discriminatory laws have been in force until relatively recently.

Evelyne Paradis, Executive Director of ILGA-Europe, said:

“It should never have been necessary for these four men to take their case to Strasbourg. It’s hard to escape the conclusion that the refusal of the Austrian authorities to expunge these convictions from the criminal record was the result of institutional homophobia”.

