

# EURO-LETTER

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Documents relating to ILGA-Europe can be found at ILGA -Europe's homepage

<http://www.ilga-europe.org/>

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## **BELGIUM OPENS MARRIAGE LAW TO SAME-SEX PARTNERS**

*By Kees Waaldijk*

Belgium has become the second country in the world where legislation has been passed to open up the existing institution of marriage to same-sex couples. As in the Netherlands, the Belgian law does not provide for presumed paternity for the female spouse of a married woman who gives birth during their marriage. In the Netherlands the two women in such a situation would automatically get joint parental responsibility over the child, and the non-biological mother could then ask in court to be allowed to adopt her spouse's child (see details on my website). In Belgium, on the other hand, there is no provision for joint parental responsibility, nor for adoption by a same-sex partner or a same-sex couple. Another difference with the Netherlands lies in the Belgian rules of private international law as to which international couples can marry, and which cannot.

The Belgian Bill was approved on 30 January 2003, and would normally enter into force in June 2003. It can be found at:

<http://www1.dekamer.be/FLWB/pdf/50/2165/50K216501.pdf>

### ***Press release from Holebifederatie***

Today is an important moment in the history of the gay and lesbian movement. Belgium becomes the second country only, after the Netherlands, to grant equal rights to same-sex couples. Same-sex couples will now benefit from equal legal treatment in areas such as inheritance, taxation, social security etc. But above all, today's approval of the opening of marriage is an official recognition of the equal status of same-sex couples. The Holebifederatie would like to thank all politicians who supported this cause.

The Holebifederatie regrets that a veto of the Mouvement Républicain (French-speaking liberal party) has avoided any discussion on raising children in same-sex couples. However, we hope that this discussion can be held soon, knowing that other political parties (Agalev, ECOLO, VLD, SP-A, PS, Spirit and the CD&V) have already tabled proposals that would make this possible.

The Holebifederatie also regrets that same-sex marriages in Belgium can only take place between Belgian nationals or between Belgian and Dutch nationals, the only two countries that have opened up marriage to same-sex couples. In the Netherlands, no such restriction exists, because foreign nationals residing in the Netherlands can

get married according to Dutch law, which includes same-sex marriage.

## **EUROPEAN PARLIAMENT ENDORSES PROGRESSIVE DEFINITION OF FAMILY**

*ILGA-Europe Media Release, Brussels, 11th Feb 2003*

Crucial victory in the recognition of same-sex partnerships – European Parliament endorses progressive definition of family in vote on free movement directive COM (2001) 257

Today, the European Parliament voted on the revised proposals for a new directive on the right of citizens and their family members to move and reside freely within the EU (COM (2001) 257). The directive aims to consolidate, strengthen and clarify existing EU legislation in this area, thus reducing the administrative burdens hindering free movement between member states. With 269 votes in favour, 225 against and 46 abstentions, the European Parliament adopted the Commission's proposal including the amendments suggested by the LIBE Committee (Committee on Citizens' Freedoms and Rights, Justice and Home Affairs).

By adopting the principle of mutual recognition to same sex partnerships in the context of free movement, the European Parliament has taken up the core demands put forward by ILGA -Europe in its advocacy efforts. As ILGA -Europe co-chair Kurt Krickler states: "If this directive will pass through the Council as it now stands, it will have vital repercussions for gays, lesbians, bisexuals and transgendered people throughout the European Union. By broadening the concept of family to also include same-sex spouses, registered partners and other unmarried partners living in a durable relationship, it would remove the main obstacles hindering LGBT citizens from exercising their right of residence and free movement. Whilst today, a gay couple registered in Germany, for instance, is not able to move to Italy and maintain their status as a legally recognised couple, the new directive would change that".

"Though the vote today was an important first step toward the recognition of same sex partnerships in the EU, we are only half-way there", adds ILGA -Europe executive director Ailsa Spindler. "It is great to see that the majority of the European Parliament supports a more progressive definition of 'family' that goes beyond traditional marriage. We now have to maintain this positive momentum to ensure that this broader definition of family members is endorsed by the Council as well. The free movement directive is subject to co-decision, i.e. both

Parliament and Council have to agree for it to become law. But with the majority of member states already having some sort of recognition of same-sex couples, we are optimistic that the directive will be passed as it now stands”.

The European Parliament's own Press Release is on-line (via a hyperlink) at the URL:  
[http://www.europarl.eu.int/press/index\\_en.htm](http://www.europarl.eu.int/press/index_en.htm)

The debate and veto in EP can be found at this URL:  
<http://www2.europarl.eu.int/omk/sipade2?PUBREF=-//EP//TEXT+PRESS+DN-20030211-1+0+DOC+XML+V0//EN&L=EN&LEVEL=2&NAV=X&LSTDOC=N#SECTION1>

## **HUMAN RIGHTS WATCH - WORLD REPORT 2003**

*By Human Rights Watch*

<http://www.hrw.org/wr2k3>

This report is Human Rights Watch's thirteenth annual review of human rights practices around the globe. It addresses developments in fifty-eight countries, covering the period from November 2001 through November 2002. Most chapters examine significant human rights developments in a particular country; the response of global actors, such as the European Union, Japan, the United States, the United Nations, and various regional and international organizations and institutions; and the freedom of local human rights defenders to conduct their work.

This report reflects extensive investigative work undertaken in 2002 by the Human Rights Watch research staff, usually in close partnership with human rights activists in the country in question. It also reflects the work of the Human Rights Watch advocacy team, which monitors the policies of governments and international institutions that have influence to curb human rights abuses. Human Rights Watch publications, issued throughout the year, contain more detailed accounts of many of the issues addressed in the brief summaries collected in this volume. They can be found on the Human Rights Watch website, [www.hrw.org](http://www.hrw.org).

As in past years, this report does not include a chapter on every country where Human Rights Watch works, nor does it discuss every issue of importance. The failure to include a particular country or limitations and should not be taken as commentary on the significance of the problem. There are many serious human rights violations that

Human Rights Watch simply lacks the capacity to address.

The factors we considered in determining the focus of our work in 2002 (and hence the content of this volume) included the severity of abuses, access to the country and the availability of information about it, the susceptibility of abusive forces to influence, and the importance of addressing certain thematic concerns and of reinforcing the work of local rights organizations.

Unlike previous World Reports, this year's does not have separate chapters addressing Human Rights Watch's thematic work. Instead, this year's report incorporates such material directly into the report's a new chapter on "Global Issues." The change was made in the interests of streamlining the volume and mainstreaming developments in thematic areas into our country descriptions and analyses. The Human Rights Watch website can be consulted for more detailed treatment of our work on children's rights, women's rights, arms, academic freedom, business and human rights, HIV/AIDS and human rights, international justice, refugees and displaced, and lesbian, gay, bisexual, and transgender rights, and for information on our international film festival.

## **HUMAN RIGHTS DEVELOPMENTS EUROPE** Introduction

The continued expansion of European institutions in 2002 marked significant economic and political progress in many parts of the region. The North Atlantic Treaty Organization (NATO), a quintessential Cold War institution, once again stretched across old divides to extend membership invitations to the three former Soviet Baltic states of Estonia, Latvia, and Lithuania, as well as to Bulgaria, Slovenia, Romania, and Slovakia. The European Union (E.U.) and ten candidate countries made rapid progress toward their proposed 2004 admission to the E.U.

The remarkable pace of European integration could not mask continued serious human rights problems throughout the region, however. In fact, it accentuated the increasing disparity between the progress in Central and Eastern Europe and the deteriorating rights situation in much of the former Soviet Union. Continued integration also brought new human rights challenges to Western European states adjusting to their growing multicultural reality. Even as the European Union poised itself to become more diverse, it became less friendly to migrants and certain minority communities. The popularity of political parties touting anti-immigrant and nationalistic agendas drove more moderate politicians to embrace in-

creasingly restrictive asylum and immigration policies that threatened the fundamental rights of migrants, asylum seekers, and refugees at both the national and the European Union level.

In some cases integration got ahead of reform, as when NATO offered to partner with Russia in a NATO-Russia Council, notwithstanding continued violations of human rights and humanitarian law committed by Russian troops in Chechnya. In a similar fashion, the Council of Europe admitted Bosnia and Herzegovina although it had achieved few of the conditions originally set for its admission. Such premature integration promised to strain European institutions and the principles on which they were founded.

Throughout the Europe and Central Asia region, repressive governments justified violations as necessary for the United States-led global fight against terrorism. Russia fought its abusive war in Chechnya, Uzbekistan continued its violent crackdown against independent Muslims, and Belarus gave its police Stalinesque powers of surveillance, all in the name of combating terrorism. Even former Yugoslav President Slobodan Milosevic sought advantage in the anti-terrorism discourse, defending himself against war crimes charges at the International Criminal Tribunal for the former Yugoslavia (ICTY) by arguing that his troops had been combating Muslim terrorists in Kosovo.

#### **THE CONVENTION ON THE FUTURE OF EUROPE – FIRST DRAFT OF NEW EU CONSTITUTION PLAYS DOWN IMPORTANCE OF EQUALITY AND THE FIGHT AGAINST DISCRIMINATION.**

*By ILGA-Europe*

On 6th February 2003, Convention President Valéry Giscard d'Estaing unveiled the first 16 articles of the proposed new European Constitution, which lay down the Union's values, objectives and competences. Disappointingly, key social issues were played down: there is no reference to the principle of equality in the article on the Union's values, while the fight against discrimination was omitted from the Union's competencies.

The lack of weight attached to these issues is part of a pattern. When the Convention started work, separate working groups were set up to make proposals on particular aspects of the future Constitution. There was none to cover social issues. It was only after strong pressure from civil society that this situation was rectified, with

the establishment of the Social Working Group. However, the articles published on 6th February were drafted prior to the report of this working group, and therefore did not take its findings into consideration.

Kurt Krickler, co-chair of ILGA -Europe, points out: "There is a real danger that crucial elements of the social agenda will be ignored. The new Constitution should promote a Europe which respects the fundamental values of equality, human rights and diversity."

To this end ILGA -Europe, together with three other European anti-discrimination networks, the European Network Against Racism, AGE, and the European Disability Forum, have adopted a common position and suggested amendments to the relevant constitution articles. These would establish the principle of equality as a continuous thread throughout the Constitution, providing a link between the values and objectives on the one hand and the competences and concrete policies on the other.

"This is an attempt to strengthen the social basis for the revised Treaties", adds ILGA -Europe executive director Ailsa Spindler. "We urge the plenary meeting on 27th February to act on our proposals, and put equality and the fight against discrimination where they should be – at the heart of European values".

#### **WILL THE EUROPEAN UNION GIVE UP ON NON-DISCRIMINATION?**

*Joint press release from ILGA-Europe, The European Women's Lobby, ENAR, the European Network Against Racism, AGE, the European Older People's Platform and The European Disability Forum*

*Brussels, 24 February 2003- On 27-28 February the Convention on the Future of Europe will discuss a proposal prepared by the Presidium on the first 16 articles setting the values and aims of the European Union.*

*The European Network Against Racism, European Women's Lobby, International Lesbians and Gays Association Europe, AGE- the European Older People's Platform- and the European Disability Forum, have major concerns that the new proposal constitutes a real weakening and a backward move from the Community acquis on fundamental rights.*

*At present non discrimination on the ground of sex, racial or ethnical origin, belief or religion, sexual orientation, disability and age is among the fundamental principles of the EU, with an overarching and mainstreaming effect on all EU policies.*

***In the first part of the new Constitution, there is no reference to combating non-discrimination of the groups identified in current Article 13 at all.***

*The fight against discrimination must remain a main thread linking the provisions on values and objectives (first part of the EU Constitutional Treaty) to the provisions on competences and policies (second part of the Treaty).*

*We are campaigning vigorously towards the Convention to promote fundamental rights calling on them to amend the first 16 Articles as follows:*

- ✂ Change article 2 - Values of the European Union –, add “equality for all, and equality of women and men”*
- ✂ Change Article 3 – Objectives – add: ‘non-discrimination on the basis of racial or ethnic origin, religion, sexual orientation, disability and age.’*
- ✂ Extend the scope of Article 6 to all grounds of discrimination as defined in current article 12 and 13. Add second paragraph: ‘Without prejudice to any of its specific provisions, any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation shall be prohibited’*
- ✂ Change Article 12(4) – shared competences - , add ‘The fight against discrimination’ and ‘gender equality’*

## **SECOND EUROPEAN BISEXUAL CONFERENCE**

*By Hilde Vossen*

In June 2001, the first European Bisexual Conference (EBC1) was held in Rotterdam, the Netherlands. At that conference, it was decided to make EBC a biennial event. The second European Bisexual Conference (EBC2) is to be held in Dublin from July 4th to 6th, 2003. This weekend ties in with the Dublin Pride celebrations, guaranteeing an exciting and action packed weekend for all who attend.

The conference is being organised by Bi Irish, a Dublin-based group founded in 1996 for bisexuals and any individuals interested in bisexuality or sexuality in general. EBC2 is open to all, regardless of sexual orientation or

sexual preference, and in fact seeks to increase dialogue and discussion amongst members of the queer and straight communities. The conference will be a place to exchange information and experience in the areas of freedom of sexual preference and the position of bisexuality within societies across Europe, and also aims to improve bisexual visibility at the European level.

The conference theme "Loving the Difference" stresses the diversity of sexuality in general and bisexuality in particular. The cultural and social contexts of sexuality are tantamount to our understanding of humans, and these contexts include race and class. By offering a rich and varied programme, ranging from informal workshops, through to discussion groups, through to more formal presentations, EBC2 promises to be an interesting and rewarding experience for anyone who is involved with their (bi)sexual identity. However, the conference programme will not consist solely of discussions and talks. There is also a busy social programme, including of course the Dublin Pride parade and celebrations.

Submissions for presentations at the conference are welcomed. Full details of presentation requirements can be found on the EBC2 website (<http://www.eurobicon.org>). The deadline for submissions is April 12, 2003.

For more information:

Post: EBC2 committee, c/o Bi Irish, Outhouse, 105-106 Capel Street, Dublin 1, Ireland  
Web: <http://www.eurobicon.org>  
Email: [info@eurobicon.org](mailto:info@eurobicon.org)

## **ILGA-EUROPE URGES EUROPEAN COMMISSION TO REJECT PROPOSED POLISH OPT-OUT FROM EU TREATY OBLIGATIONS ON "MORAL ISSUES" AS SERIOUS THREAT TO LESBIAN, GAY, BISEXUAL AND TRANSGENDERED RIGHTS**

*Brussels - 4th February 2003*

ILGA-Europe has written to EU Enlargement Commissioner Günter Verheugen urging him strongly to reject the Polish government's request that it be given assurances that "no EU treaties or annexes to those treaties would hamper the Polish government in regulating moral issues". This last-minute request by the Polish government in its EU accession negotiations is a response to pressure from the Catholic Church.

ILGA-Europe's letter details the Polish Catholic Church's long history of opposing the rights of lesbian, gay, bisex-

ual and transgendered persons on grounds which it considers to be "moral". It points out that accepting Poland's request could be interpreted by a Polish government as absolving it from its obligations towards lesbian, gay, bisexual and transgendered persons under the human rights acquis in general, and specifically under the Framework Directive on employment, under Article 21 of the EU Charter of Fundamental Rights, and, in respect of transgendered persons, under the Equal Treatment Directive.

Ailsa Spindler, ILGA -Europe Executive Director, commented: "this is a blatant attempt by the Catholic Church to exclude Poland's LGBT community from the anti-discrimination protections enshrined in EU law, and from any future progress at European level in recognising same-sex partners."

ILGA -Europe board member Tatjana Greif (Slovenia) added: "we are concerned that if Poland is successful, other accession countries may try to follow this example. We call upon the Commission, Members of the European Parliament, and member state governments to refuse any opt-out which would weaken the rights of Poland's LGBT Community".

The full text of the letter can be found at [www.ilga-europe.org](http://www.ilga-europe.org)

## **UKRAINE TO ADOPT ANTI-DISCRIMINATION LAW?**

*By Our World, Ukraine*

Currently Ukraine is replacing its old Soviet-age legislation with new that is to satisfy the requirements of European Union standards. According to the Directive of the European Commission during two next years all countries of the EU have to pass legislation prohibiting sexual orientation discrimination (among other grounds).

Our World Gay and Lesbian Centre (Lugansk-Kiev, Ukraine) sent its proposals on this problem to all corresponding state bodies and got replies from several ministries and parliamentary committees. The Ministry of Labour, parliamentary Committees on legal policy and on European integration informed Our World Centre that its proposals are recognised as important and the project of new Labour Code already has the provision on prohibition of sexual orientation discrimination in labour relations. They hope that this provision will remain in the final text of the Labour Code after its adoption by the Verkhovna Rada (the Ukrainian parliament). In any case it is the precedent for the Commonwealth of the Inde-

pendent States (uniting all former Soviet Union republics except three Baltic countries) when the highest state authorities decided to explicitly protect rights of LGB people.

## **ANTI-DISCRIMINATION LAW IN BELGIUM**

*By Michel Soudan*

Adoption of a general anti-discrimination law on Thursday Dec 12th 2002 banning discrimination on all grounds specified in art. 13 of the EU treaty, in accordance with the framework directive. The scope of the Belgian anti-discrimination law is a lot wider than scope of the framework directive as the Belgian law covers not only employer/employee relations, but also bans discrimination in the general provision of goods and services, in relations between government and civilians and in "any other public activity".