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**EU ENLARGEMENT MAKES FULL PROTECTION OF LESBIAN, GAY, BISEXUAL AND TRANSGENDERED RIGHTS IN THE NEW EU CONSTITUTION ALL THE MORE ESSENTIAL**  
*ILGA-EUROPE MEDIA RELEASE, 17 April 2003*

With yesterday's ceremony of signature of the accession treaties in Athens, the Union is one step closer to enlargement. If the treaty is ratified by all twenty-five contracting parties – Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic and Slovenia – will join the Union on 1 May 2004, conclusively bridging the geographical and political divide between East and West Europe. Yet, amidst the rejoicing, the divergence of opinions is apparent.

Particularly with regard to the administration of post-Saddam Iraq and the future of Europe there was a strong sense that disunity continues to be a European reality. Whilst the focus on foreign policy and political reform is understandable, it is vital to note that this may not be the only contested ground. With the 1997 Treaty of Amsterdam the EU put in place powers to combat sexual orientation discrimination. This was followed in 2000 with the adoption of two key instruments: the EU Charter of Fundamental Rights, which prohibits sexual orientation discrimination, and the Employment Directive (Directive 2000/78/EC) which lays down precise rules for the banning of sexual orientation discrimination at the workplace. These form part of the Union's so-called "acquis communautaire", the laws and policies that all new members must adopt. But doubts remain with regard to the accession countries' willingness to embrace these values and policies to their full extent - doubts that are just as valid for some of the "old" member states.

When the EU Commission released its strategy paper 'Toward the Enlarged Union' in October 2002, ILGA-Europe expressed its support for the Enlargement Project (see press release 9 October 2002). In the context of the Copenhagen criteria on human rights, many hoped that joining the EU would offer a unique opportunity to rectify existing discriminatory laws due to sexual orientation. Undoubtedly, valuable progress has been made with the repeal of discriminatory laws in Cyprus, Estonia, Hungary, Lithuania and Romania. Changes that could otherwise have taken decades have been effected in a few years. Yet, all is not rosy.

Despite clear statements by Enlargement Commissioner Günter Verheugen that "the prohibition of discrimination based on sexual orientation is part of the political criteria of accession to the EU" there is mounting evidence of hesitation to accept this. The first case in point is the out-

standing implementation of the provisions on sexual orientation discrimination contained in the Employment Directive. A real trend of watering down the legal provisions contained in the directive can be observed. This is particularly true with regard to sexual orientation. While Malta, Slovakia or Poland are the most obvious suspects, most of the accession country governments would probably avoid the issue if they could.

Some countries such as Poland have chosen to take the matter one step further. In January the Polish government, pressured by the church hierarchy, decided to attach a unilateral declaration to the accession treaty stating that "nothing in the provisions of the Treaty on European Union (...) prevents the Polish State in regulating questions of moral significance" (see IE press release 4 Feb 2003). In April 2003, the lower house of the Polish Parliament focussed once again on the matter, spelling out clearly that the 'moral order of the social life, family dignity, marriage and education' must not be challenged by international regulations. There is a real tension when it comes to the fundamental values of equality and respect for minorities.

Both the European Commission and the European Parliament are aware of these issues. The legal situation is clear. Whatever statement a particular state chooses to annex to the accession treaties, it will be of no legal effect. The existing member states made this point clearly in the form of a counter-declaration, which states that the obligation to respect the *acquis communautaire* will not be affected.

The Commission follows the implementation of the EU anti-discrimination *acquis* closely and on numerous occasions has expressed concern about the hesitant progress being made. Commission Director General for Employment and Social Affairs, Odile Quintin, for example, publicly highlighted in March that the current Slovak labour code is not in accordance with EU legislation and urged the government to rectify this and help eliminate discrimination.

In the Brok Report of March 2003, the European Parliament likewise, though recognising that certain advances have been made with regard to the protection of human and minority rights, points out that "in many candidate countries situations of abuse and discrimination persist due to shortcomings in the judicial and law enforcement systems". The report then goes on by re-iterating that "the EU antidiscrimination *acquis* must be implemented as defined in Article 13 of the EC Treaty and according to the Charter of Fundamental Rights".

Close monitoring of the legislative process, whether by the EU institutions, or by ILGA-Europe and its members, is important, but it is not enough. In the context of apparent institutionalised opposition to LGBT rights, a clear statement reinforcing the unshakeable nature of the values and principles at the core of the EU is needed. "In this context, the debate on the future constitution of the European Union takes on a new urgency", states Nigel Warner, ILGA-Europe Board Member. "The Charter of Fundamental Rights already stresses the principle of equality and the right to non-discrimination on the grounds of sexual orientation. But it is essential that respect for minorities and the principle of equality as one of the fundamental values underlying European unity are reflected in the new constitution currently being drafted by the Convention."

**ILGA-EUROPE WELCOMES EUROPEAN PARLIAMENT RESOLUTION ON PERSECUTION OF GAY MEN IN EGYPT AND CALLS ON THE EU TO SUSPEND FINANCIAL ASSISTANCE TO EGYPT UNTIL PERSECUTION CEASES**

*ILGA-Europe MEDIA RELEASE, Brussels, 11th April 2003*

The European Parliament yesterday, 10th April, urged the Egyptian authorities to call for a halt to all prosecutions of citizens on grounds of homosexuality and to prohibit discrimination on the grounds of sexual orientation (Joint motion for a resolution on human rights violations in Egypt – Doc: B5-0212/2003, B5-0215/2003, B5-0216/2003, B5-0219/2003, B5-0224/2003). The resolution reminded Egypt of the association agreement signed in November 2001, which includes a clause demanding that human rights and democratic principles be respected. The Parliament emphasised that this constitutes a fundamental value of the agreement and urged the Commission and the Council to voice their concerns to the Egyptian authorities particularly with regard to the situation of homosexuals in Egypt.

The resolution was passed in response to persistent and intensifying violations of the human rights of homosexual men in Egypt. The arrest of 52 men in a police raid on the Queen Boat in May 2001 on the grounds of 'debauchery' was only the beginning. Since then, the Egyptian police has arrested and interrogated many individuals suspected of being homosexual, despite the fact that homosexuality is not explicitly outlawed in Egypt.

Following international protests by many Western gov-

ernments and human rights organisations, including ILGA-Europe in response to the first Queen Boat Case trial in November 2001, President Mubarak ordered a retrial, which was concluded on March, 15th. Yet, alarmingly, 21 defendants convicted in the first trial were convicted again – receiving harsher sentences of imprisonment and forced labour.

Speaking last night, ILGA-Europe co-Chair Jackie Lewis said 'We welcome the European Parliament's reminder to the Egyptian authorities of their association agreement obligations to respect human rights and democratic principles. However, the persecution of gay men in Egypt has continued despite many such resolutions and interventions by governments, parliaments and international organisations. Moreover, the Egyptian government's human rights violations are by no means restricted to the persecution of gay men. It is clear that stronger measures are required, and we therefore call upon the European Union to suspend financial assistance to Egypt under the association agreement until there has been a significant improvement in Egypt's human rights record. Without such action the human rights clauses in the EU's development agreements with third countries will be ignored with impunity.'

**DRAFT RESOLUTION ON "HUMAN RIGHTS AND SEXUAL ORIENTATION" IN THE UN COMMISSION ON HUMAN RIGHTS POSTPONED TILL NEXT YEAR**

A resolution on "Human Rights and Sexual Orientation" (full text below) has been introduced by Brazil with support from various countries, including members of the European Union, Canada, New Zealand and South Africa in the UN Commission on Human Rights.

A resolution of this kind has never been discussed in any UN body, so the discussion and the voting – which should have taken place in the 59. session of the commission April 2003 – was awaited with high expectations.

But a lot of procedural matters were raised at the final meeting of the session 25 April, and the debate ended up by passing a proposal to postpone the debate on the resolution until the 60. session next year.

It is a success in the sense that the resolution was not voted down and we have now more time to lobby member states of the commission. See <http://www.unhchr.ch/html/menu2/2/chr.htm>

The draft resolution:

PP1 - Reaffirming the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of all Forms of Discrimination Against Women, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child,

PP2 - Recalling that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

PP3 - Reaffirming that the Universal Declaration of Human Rights affirms the fundamental principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to the enjoyment of all rights and freedoms set forth therein without distinction of any kind,

PP4 -Affirming that human rights education is a key to changing attitudes and behaviour and to promoting respect for diversity in society,

OP1 - Expresses deep concern at the occurrence of violations of human rights all over the world against persons on the grounds of their sexual orientation;

OP2 - Stresses that human rights and fundamental freedoms are the birthright of all human beings, that the universal nature of these rights and freedoms is beyond question and that the enjoyment of such rights and freedoms should not be hindered in any way on the grounds of sexual orientation;

OP3- Calls upon all States to promote and protect the human right of all persons regardless of their sexual orientation;

OP4- Notes the attention given to human rights violations on grounds of sexual orientation by the special procedures in their reports to the CHR, as well as the treaty monitoring bodies, and encourages all special procedures of the CHR, within their mandates, to give due attention to the subject;

OP5 - Requests the High Commissioner for Human Rights to pay due attention to violations of human rights

on the grounds of sexual orientation;

OP6 - Decides to continue consideration of the matter at its sixtieth session under the same agenda item.