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EU CONVENTION UPDATE

By ILGA-Europe

After the plenary convention debates on 10 June, the revised version of Part I was published and the following changes were implemented:

1.) Article I-2 The Union's values now reads:

"The Union is founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights. These values are common to the Member States in a society of pluralism, tolerance, justice, solidarity and non-discrimination."

This is great news! 'Equality' moved up to the first line, which has important legal implications.

2.) Article I-3 The Union's Objectives:

"3. The Union shall work for a Europe of sustainable development based on balanced economic growth, (...) It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of children's rights."

Again, good news to see that 'combating discrimination' is now considered to be an objective of the Union!

3.) Probably as a result of including the fight against discrimination into the objectives in Part I, Part III of the Constitution (the part on policies) was amended and a new article was added, Article III-1a, which reads:

"In defining and implementing the policies and activities referred to in this Part of the Constitution, the Union shall aim to combat discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation."

4.) With regard to Article III-5 (ex article TEC 13), the debate is still open. Amendments have been tabled to delete the sentence limiting the adoption of measures to combat discrimination to unanimity and consultation. That is our biggest battle now: to ensure that Article III-5 is to be decided by EP co-decision and qualified majority voting! Convention members now have until the 23rd June to table amendments for Part III. That means, if you do have good government contacts this is the moment to follow up those lobby letters and ensure that enough people table amendments. Giscard D'Estaing has made it very clear, that he is willing to listen to proposals from the Convention as long as they appear to be more than just the voice of the very few.

It seems increasingly likely that the discussion on Part III will be extended beyond the 20th June (the deadline for amendments suggests as much), though nothing is certain. If that is the case, then the dates given for the Plenary meeting to discuss the proposed amendments will be in the first weeks of July (definitely 9-11 July and possibly the week prior to that).

LATVIAN LUTHERAN CHURCH FEARS JOINING THE EU WILL PREVENT IMPLEMENTATION OF ITS ANTI-GAY POLICIES

By Juris Ludvigs Lavrikovs

On 14 May 2003 the leading Latvian daily paper 'Diena' wrote that Janis Vanags, the Archbishop of the Latvian Evangelical Lutheran Church (LELC - one of the main denominations in the country), wants a guarantee from the state that in the case of accession, the beliefs and teachings of his church will remain independent before he will express his church's stand on Latvia joining the European Union.

Edwards Kussners, the director of the European Integration Office, felt that the Archbishop is afraid of the practice of some EU countries of legally recognising same-sex partnerships but pointed out that the EU law would not interfere with the church's internal affairs. The LELC Archbishop, who has strong and long standing homophobic attitudes, regards same-sex relations as sinful and has said that after joining the EU, his church would not be able to implement its resolution on homosexuality, which would be a significant threat to church freedom. In 1994, LELC adopted a resolution stating that 'deliberately' practising homosexuals cannot be allowed to fulfil any responsibilities during parish services or within the church hierarchy, and that they would also be excluded from Eucharistic communion. However, Elmars Ernsts Rozitis, Archbishop of the LELC outside Latvia, along with other Lutheran ministers in Latvia, do not share Vanags' opinion.

Archbishop Vanags is planning to raise the issue of internal freedom of religious institutions in the EU at the council dealing with religious affairs, which is chaired by the Prime Minister and attended by leaders of various religious communities in Latvia.

Currently, sexual orientation discrimination is not explicitly banned by law, and same-sex partnerships are not legally recognised in Latvia. If Latvia joins the European Union, it will be obliged to implement the 2000 EU Equal Treatment Directive requiring all EU member

states to ban sexual orientation discrimination in employment. Latvia will be holding the referendum on joining the EU on 21 September 2003.

EU PRESSES GOVERNMENT TO OUTLAW DISCRIMINATION AGAINST GAYS IN MALTA

By Karl Schembri, The Independent

The EU Commission is pressing the government to ban discrimination at the place of work on the grounds of sexual orientation in line with union directives.

Although Maltese labour laws ban discrimination in principle, EU Council Directive 2000/78/EC identifies gays and lesbians as being at a higher risk of being discriminated against in the work place and grants them special protection. The same directive prohibits discrimination on grounds of age, disability, race, and religion or belief.

"I confirm there is a need to have all grounds covered by the directive to be spelt out specifically in Maltese law," said the head of the European Commission Employment and Social Affairs Directorate General, Odile Quintin, last Thursday.

This means that Maltese law should specifically ban discrimination and harassment at the place of work directed at gays and lesbians. Moreover, the directive refers to trade unions and professional associations, obliging them not to discriminate against gays and lesbians.

Ms Quintin was in Malta last week to review the progress made by the Maltese government in adopting the social and employment regulations of the EU prior to accession. In a joint press conference held last Thursday together with Social Policy Minister Lawrence Gonzi, Ms Quintin made it clear that the Commission expected the Maltese government to adopt the EU directive in its entirety.

But the Maltese government is refusing to adopt the full directive, arguing that existing legislation is enough to ban discrimination against gays and lesbians at the place of work.

"All forms of discrimination, including discrimination based on sexual orientation or on age, ethnic origin or racial grounds are illegal and the interpretation given by the Attorney General of the law that has been passed in Parliament is that the clause as drafted covers all these areas," Dr Gonzi said. "The issue that has been discussed is whether we need to mention these areas specifically. The opinion of legal experts given to us here in Malta is

that we do not need to be specific, the clause mentions some areas as examples but it does not exclude all the other areas. We've agreed to go into this issue and get the legal advice more substantiated so that everybody can be sure that the judgements given by our Constitutional Court in previous cases substantiate this interpretation."

Ms Quintin insisted: "For me it's legal certainty. As the directive is spelling out a series of grounds, we feel that these grounds have to be very clearly specified in Maltese laws."

The Malta Gay Rights Movement (MGRM) has been lobbying for the last year and a half to get labour laws amended in line with EU directives. The movement points at the Employment and Industrial Relations Act and the Equality Between Men and Women Act, enacted in Parliament over the last six months: both of them fail to adopt the EU directive. Discrimination and harassment at work on grounds of sexual orientation is a hidden problem, claims MGRM. According to a survey it conducted last year, 40 per cent of gay and lesbian respondents said they were harassed at work, while many others were ashamed to speak out about discrimination. EU legislation would shift the burden of proof on the employers. In other words, in proceedings for breaches of the principle of equal treatment which are not criminal in nature, once it is established there is evidence that such breach did take place, it is up to the employer to prove that no discrimination took place.

MGRM brought up the issue in a seminar on gay and lesbian rights in EU accession countries held in Brussels earlier this month. "The Maltese government has shown itself to be unwilling to adequately implement this directive, in spite of clear statements from the European Commission that it is an integral part of the *acquis communautaire*," said MGRM international secretary Christian Attard. "Consequently, it must be implemented prior to accession."

RELIGIOUS GROUPS GIVEN RIGHT TO SACK GAYS IN UK

By GAY AND LESBIAN HUMANIST ASSOCIATION

New regulations aimed at outlawing discrimination at work on the grounds of sexual orientation will actually increase discrimination, says the Gay and Lesbian Humanist Association (GALHA).

The regulations, published yesterday, have given wide-ranging exemptions to religious groups that will permit them to deny jobs to gay applicants and to sack people

who do not conform to the "religious ethos" of the organisation.

GALHA spokesperson Terry Sanderson, said: "The Government has given in to pressure from religious bodies and created a bigots charter. It specifically permits organised religions to deny jobs to, and sack, gay people. This is particularly bad news for gay priests and vicars who can now be hounded from their jobs with the full approval of the law."

Mr Sanderson said that although the churches may not be planning a mass clear-out of gay priests at the moment, if they did in the future, there would be nothing to stop them conducting a full scale witch hunt. "We shouldn't forget that the Catholic Church is considering whether to place a bar on gay priests at the moment," he said.

GALHA pointed out that there are hundreds of thousands of jobs that are controlled by "organisations with a religious ethos", including the many thousands of church schools where teachers could be made to conform to some kind of morality test in order to get a job.

Terry Sanderson commented: "This is pandering to the most extreme elements in religion. Any born-again head teacher could suddenly demand that everyone working in a church school should be heterosexual, married Christians, and the law would support him."

GALHA is particularly concerned that the need for religious groups to prove that it is necessary to reserve jobs for people from their own faith has been weakened. Now it is only necessary for them to decide that an applicant is unsuitable because they don't fit in with the doctrines of the religion, and they need not offer the job.

"We are shocked and alarmed by this," said Terry Sanderson. "It's an anti-discrimination law that encourages discrimination. The Government has been weak and cowardly in giving in to the pressure from religious extremists."

GAY AT WORK!

Lesbians, gays and bisexuals in working life. Conference in Stockholm

Every day, all over the world, lesbians, gay men and bisexuals face discrimination, homophobia and violence in their workplace. Many are denied employment or promotion, and many do not receive the same workplace rights and entitlements as their heterosexual colleagues. But things are changing and in some areas both employers

and trade unions work together to create a better working life also for them. The conference will introduce national and international research.

In seminars and workshops we will present how trade unions, employers and NGOs work with these issues. Focus will be on people working within churches, defence forces, police, elderly care and the education system. The conference is organised by the two Equal-projects Normgiving Diversity and Homosexuals and Bisexuals in the Care System. More info about these projects can be found at www.normgivande.nu and www.rfsl.se/equal.

WHERE?

The conference will be held at Lustikulla Conference Centre, Stockholm, Sweden.

WHEN?

On September 26 2003 between 09.00 and 17.00

COST?

The conference will be free of charge.

WHO ARE INVITED?

Employer representatives and union activists on all levels, government authorities, researchers, politicians and NGOs.

LAST DATE TO REGISTER?

September 5th

ACCOMMODATION

www.stockholmtown.com is a good place to start your search for somewhere to stay.

The complete program can be found at www.normgivande.nu or www.rfsl.se/equal

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