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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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EUROPEAN COURT VICTORY FOR GAY PARTNERS

By ILGA-Europe

The European court today ruled that a gay man who lost his tenancy when his partner died was the victim of unlawful discrimination. The ruling will have significant consequences for lesbians, gay men and bisexuals in 45 countries..

All benefits or rights granted by governments to different sex cohabiting partners will in future have to be granted to same sex cohabiting partners too.

Seven judges at the European Court of Human Rights in Strasbourg unanimously agreed that Siegmund Karner was the victim of discrimination after he was evicted from his Vienna home after his partner died in 1994. His partner had been the official tenant of the flat where the couple had lived together for five years. The Austrian Supreme Court ruled in 1996 that tenancy protection for a 'life companion' was only intended to apply to different sex cohabitantes.

Kurt Krickler of ILGA-Europe said: "This is a very significant step, particularly for the 33 countries in Europe which grant no rights to same-sex partners. But the case has even wider implications: The Austrian government argued that this discrimination was necessary to protect "the family". In rejecting this comprehensively, the Court has demolished the main argument used around the world by the religious right for continued discrimination against same-sex partners".

Joanne Sawyer of Liberty said: "We are delighted that the Court took this view. It marks a real turning point."

Ben Summerskill of Stonewall said: "This is a major victory which will change the lives of tens of millions of people. We are particularly pleased that it has come in the week of Pride (in the UK)."

In *Karner v Austria*, the Court ruled that "differences [in treatment] based on sexual orientation require particularly serious reasons by way of justification". The Austrian government justification for Mr Karner's treatment was "protection of the family in the traditional sense." The Austrian government, according to the judges, had failed to provide "convincing and weighty reasons" showing that the exclusion of homosexuals was necessary.

<http://www.echr.coe.int/Eng/Press/2003/july/JudgmentKarnervAustria24July2003.htm>

Full text of the judgment:

<http://www.echr.coe.int/hudoc.htm>.

EUROPE FREE OF LAWS BANNING SAME-SEX RELATIONSHIPS FOR THE FIRST TIME IN 1,500 YEARS

By ILGA-Europe

On 1st August 2003, with the entry into force of a new penal code in Armenia, the last law in any country of Europe outlawing relationships between people of the same sex will be eliminated.

For the first time in many centuries, and probably since the enactment of Byzantine Emperor Justinian's legal code in the 6th Century AD, there will be no part of Europe where lesbians, gays and bisexuals face a threat of criminal prosecution simply because of their love for a person of the same sex.

While the process of repealing laws banning same-sex relationships goes back two hundred years to the Napoleonic Code, the major changes have come about in the last half-century: in 1950 two-thirds of today's 48 European countries still criminalised relations between women and between men, or between men only.

There were two key factors in accelerating the process of change: first, a ruling by the European Court of Human Rights in 1981 that these laws violated the European Convention on Human Rights; and secondly, the fall of the Iron Curtain, and the subsequent accession of the countries of Central and East Europe to the Council of Europe and to the European Convention.

The legal change in Armenia was made a condition of that country's membership of the Council of Europe in 2001, following lobbying by ILGA-Europe of the Council's parliamentary assembly.

A new criminal code was approved by the National Assembly on 18th April 2003, with ratification by the President on 30th April, and entry into force on 1st August.

Ailsa Spindler, ILGA-Europe Executive Director, commented "this is an important milestone in the achievement of LGBT rights in Europe. But it is just the beginning. A number of countries - Albania, Bulgaria, Greece, Ireland, Portugal, Serbia/Montenegro, and the United Kingdom -- still have discriminatory provisions in the criminal law. 33 European countries provide no legal recognition whatsoever for same-sex partners. And, of

course, legal equality is itself only one element in the fight against discrimination".

EU SURVEY ON DISCRIMINATION

For Diversity - Against Discrimination": Diamantopoulou acts to boost awareness of new EU anti-discrimination rules.

Would you know your rights if you were discriminated against? According to a new Eurobarometer survey on attitudes towards discrimination, only 1 in 3 Europeans would. Raising awareness of rights is one of the key aims of a new 5-year EU-wide campaign to combat discrimination on the grounds of racial and ethnic origin, religion and belief, age, disability and sexual orientation. The campaign was launched today in Brussels by Employment and Social Affairs Commissioner, Anna Diamantopoulou. The launch comes on the eve of the entry into force of two new EU Directives on anti-discrimination.(1)

Commenting on the launch, Commissioner Anna Diamantopoulou said, "Member States must do more to put EU anti-discrimination rules into force before the end of this year. I am extremely concerned that many Member States will miss the fast-approaching deadlines for implementation. If they are to be effective, these new rules must be known, understood and properly enforced. Otherwise, they will be a dead letter. The Eurobarometer survey on discrimination in the EU has clearly shown that people are not sufficiently aware of their rights. That is why I am today launching a Europe-wide information campaign promoting the message 'For Diversity - Against Discrimination'. We all stand to benefit from ensuring that our workplaces and other areas of daily life are free from discrimination."

According to the results of the Eurobarometer survey on attitudes towards discrimination, most Europeans believe that a person's ethnic origin, religion, disability, sexual orientation or age can be an obstacle in finding a job, even where qualifications are equal. Most were opposed to discrimination under all circumstances, though they believed that their fellow citizens were more likely to discriminate, in particular against ethnic minorities. The survey also revealed that a fifth of those questioned said that they had personally witnessed discrimination on ethnic grounds, ranging between 15% in Ireland to 35% in the Netherlands.

Knowledge of rights varied from country to country, but overall two thirds of respondents would be unaware of

their rights if they were discriminated against. A key aim of the information campaigns is to fill this awareness-gap and to highlight the rights and obligations under the new EU rules, as well as to raise awareness of the benefits of diversity more generally.

With the slogan "For Diversity. Against Discrimination"(2), the campaigns will focus primarily in the first year on workplace discrimination, with trade unions and employers as the main target groups.

The campaign poster portrays workplace discrimination taken to its extremes, with identical, featureless crash-test dummies performing routine office work. The caption "Our differences make the difference" aims to focus on the positive aspects of diversity for both employers and workers. As the recent EU Awards for Workplace Diversity showed(3), more and more companies are taking an interest in diversity for business reasons, rather than simply to comply with legal requirements. Diversity policies increasingly form part of companies' broader strategy to build up human capital and encourage creativity and innovation. Employers also recognise that diversity can enhance corporate image and give companies a competitive edge in their dealings with customers, suppliers and shareholders.

The campaign website - www.stop-discrimination.info includes a user-friendly guide to the new EU legislation and a summary of the Eurobarometer survey.

National campaign measures, including events, seminars and media activities, will be developed over the coming months by national advisory groups (composed of national authorities, social partners and NGO's). The involvement of these key stakeholders is essential to ensure that country-specific needs are met and to feed into existing information activities. An EU-level advisory group (composed of representatives of the EU level social partners, European Platform of Social NGOs and representatives of Member State governments) was established last January to advise on the pan-European aspects of the campaigns, including the poster, slogan, and website.

Background

New European legislation adopted in 2000 prohibits racial discrimination in employment and other areas such as training, education, and the supply of and access to goods and services including housing. A second piece of legislation prohibits discrimination in employment and training on the grounds of religion and belief, disability, age and sexual orientation.

The directive on equal treatment irrespective of racial or ethnic origin prohibits discrimination against people on the grounds of their racial or ethnic origin and covers most areas of everyday life in which unfair treatment might occur, either directly or indirectly. These areas include access to jobs, conditions at work, rates of pay and the rights and benefits linked to a job. They also include access to education and training, social security benefits and health care and equal rights to buy or rent goods and services, including housing. Governments have agreed to introduce the measures necessary to comply with this directive by 19 July 2003. In all countries, governments also have to designate a body to provide practical and independent support and guidance to victims of racial discrimination. This means creating a body to perform this role if one does not already exist.

The second directive on equal treatment in employment and occupation prohibits discrimination in employment and training on grounds of a person's religion or belief, disability, age or sexual orientation. In this case, governments have agreed to make the necessary changes to their national laws by 2 December 2003, although they can ask for an additional period of up to three years to make the changes needed to deal with disability and age discrimination. But if they do this, they have to report each year on the steps they are taking to tackle discrimination on these grounds and the progress they are making to bring their laws fully into line with the Directive. New Member States(4) must also put the provisions of both Directives into national law before joining the Union.

More information on the new legislation, the Eurobarometer survey and the Information Campaigns can be found at:

www.stop-discrimination.info

(1)Racial Equality Directive 2000/43/EC and the Employment Equality Directive 2000/78/EC further information below.

(2)The slogan "For Diversity. Against Discrimination" will be adapted into all 11 EU languages in each Member State by the information campaign national advisory groups (composed of government representatives, social partners and NGOs).

(3) See Commission press release [HYPERLINK](http://www.cc.cec/rapid/start/cgi/guestex.ksh?p_action=gettxt=gt&doc=IP/03/438|0|RAPID&lg=EN&display=IP/03/438)
"http://www.cc.cec/rapid/start/cgi/guestex.ksh?p_action=gettxt=gt&doc=IP/03/438|0|RAPID&lg=EN&display=IP/03/438"

(4)Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia.

Additional sources of information:

The full report on the survey is available in English at http://www.europa.eu.int/comm/public_opinion/archives/eb/ebs_168_Breport_en.pdf

Links to the summary in English, French and German are available at:

http://www.europa.eu.int/comm/public_opinion/archives/special.htm

UK: SECTION 28 FINALLY GONE

By Polly Curtis, Friday July 11, 2003, Guardian

<http://education.guardian.co.uk/schools/story/0,5500,996360,00.html>

Teachers and campaigners have welcomed a defeat of rebels in the House of Lords which effectively marks the end of Section 28.

Section 28, brought in by Margaret Thatcher's government in 1985, outlaws the "promotion" of homosexuality in schools and has long been criticised by gay rights campaigners and teachers for being unworkable and homophobic.

John Bangs, the head of education and equal opportunities at the National Union of Teachers, celebrated the move: "The purpose of Section 28 was to intimidate teachers and young people. It helped fuel ugly prejudice and create an atmosphere of fear.

"After 18 years a very nasty piece of legislation is gone. Now we need to move on to eradicating the causes of homophobia in our society."

The move to abolish the law was passed after the defeat of a rebellion in the Lords. A Tory proposal aimed at giving parents the right to vote on what sex education their children were taught was defeated in the Lords by 180 to 130 after an emotionally charged debate during the local government bill's report stage.

Tory Baroness Blatch said her proposal would strengthen parents' rights by allowing ballots and giving them the go-ahead to vet material used in sex education.

Mr Bangs said that such a law would have been impossible to implement in schools.

The National Union of Students Lesbian, Gay and Bisex-

ual campaign was "delighted" at the news. Carli Harper-Penman, the LGB officer for the NUS, said: "Section 28 has proved to be a relatively useless piece of legislation and has stigmatised lesbian, gay and bisexual people throughout the education system.

"It has legitimised homophobic bullying and contributed to the discrimination that LGB people face throughout society. Its demise will mean that LGB students at school and beyond can get access to the information that they need, and teachers will finally be able to talk about LGB issues without fear of recrimination."

UK TO SET UP GAY PARTNERSHIPS

By Rex Wockner

In the wake of Canada's stunning legalization of gay marriage, the United Kingdom is planning to create civil partnerships for same-sex couples that will give them the rights and obligations of marriage, The Independent reported June 18.

There are similar laws in the majority of European Union nations but the U.K. has lagged behind. (Two European nations -- The Netherlands and Belgium -- let gays marry under the ordinary marriage laws.)

The British initiative will be announced in November's Queen's Speech and should become law next year.

"The changes would transform the lives of gay and lesbian people, allowing them to benefit from a dead spouse's pension, exempt them from inheritance tax on a partner's home and give next of kin rights in hospitals," The Independent said. "The proposals make the civil partnership as close to a marriage contract as possible, even including provision for a form of divorce through 'dissolution' of a partnership."

ITALY'S NEW ANTI-DISCRIMINATION DECREE OPENS THE WAY FOR EMPLOYMENT DISCRIMINATION BY POLICE AND ARMED FORCES AGAINST LESBIANS, GAYS AND BISEXUALS

By ILGA-Europe

Just days after assuming the Presidency of the European Union, the Italian government has issued a decree intended to fulfil its EU obligations to provide protection from discrimination in the workplace... but, perversely, has included provisions which could permit the police, armed forces, and prison and rescue services to discrimi-

nate against lesbians, gays and bisexuals.

Under a Directive dating from 2000, all EU member states must implement laws providing comprehensive protection from discrimination in employment on the grounds of religion or belief, disability, age or sexual orientation.

The Directive permits certain exceptions, where it can be shown that "genuine occupational requirements" exclude the employment of individuals with one or more of these characteristics. Specific reference is made in this context to the police, armed forces, and prison and rescue services, in recognition of the fact that some persons may not have the physical or mental capacity to perform certain jobs, because, for example, of their age or disability.

The Italian decree, in an article whose wording is much less precise than that of the Directive, leaves open the possibility for employers in these services to argue that lesbians, gays and bisexuals are not "suitable" for work in their organisations. In the view of Italy's national gay organisation, ARCI GAY, Article 3 of the decree "seems to give legitimacy to some employers, such as the police and the army, to discriminate against gays, lesbians and bisexuals even more than before".

According to ARCI GAY, the decree fails to comply with the Directive in a number of other areas: the burden of proof remains with the victim of discrimination, rather than resting with the employer; and there is no effective provision for non-governmental organisations to act on behalf of a victim of discrimination, nor for dialogue with such organisations.

ILGA-Europe Board member, Nigel Warner commented: "Legitimising discrimination against lesbians, gays and bisexuals in some government services is the exact opposite of what the EU Directive is intended to achieve. ILGA-Europe calls upon the Italian government to live up to its responsibilities as President of the European Union, and issue a revised decree which conforms to the Directive and upholds the EU's anti-discrimination policies".

GRANT WILL ALLOW ILGA-EUROPE TO EXPAND WORK ON EAST EUROPE, COUNCIL OF EUROPE AND TRANSGENDER ISSUES

By ILGA-Europe

ILGA-Europe is to appoint a Director for East Europe, Council of Europe and transgender programmes, and to

establish an office in East Europe, as part of developments designed to broaden its contribution to combating sexual orientation and gender identity discrimination in Europe.

Its work in these areas has to date been severely constrained by lack of resources, with its main funding, from the European Community, limited to sexual orientation discrimination in the context of the European Union.

The new development is made possible through the generous financial support of a U.K.-based foundation, the Sigrid Rausing Trust.

The East Europe office will enable ILGA-Europe to target capacity building and advocacy support towards those countries which will remain outside the European Union after next year's expansion, including the countries of the former Soviet Union and former Yugoslavia (except Slovenia).

It is these countries where conditions for LGBT people generally remain the most difficult in Europe. In many, same-sex relationships were only decriminalised in the last decade. Homophobia remains commonplace, underpinned by negative attitudes within institutions like the Orthodox Church. Discrimination, particularly by government services such as the police and armed forces, is a significant problem.

The grant will also enable ILGA-Europe to play a more significant role in representing the interests of transgendered people at European level.

Board Member Maxim Anmeghichean (Moldova) commented: "this is a very exciting development. It will enable us to begin to address the needs of the millions of lesbian, gay, bisexual and transgendered Europeans who live outside the European Union and its new member states, and who all too often face very serious discrimination and hostility. It will also allow us to develop our work for the rights of Europe's transgendered community. We are immensely grateful to the trustees of the Sigrid Rausing Trust for this generous support"

VATICAN ATTACKS GAYS

By Rex Wockner

The Vatican declared war on same-sex marriage and civil-union and domestic-partnership laws July 30.

The Congregation For The Doctrine Of The Faith, in a document entitled "Considerations Regarding Proposals To Give Legal Recognition To Unions Between Homosexual Persons" stated: "There are absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God's plan for marriage and family. Marriage is holy, while homosexual acts go against the natural moral law. Homosexual acts close the sexual act to the gift of life. They do not proceed from a genuine affective and sexual complementarity. Under no circumstances can they be approved."

The document continued: "Those who would move from tolerance to the legitimization of specific rights for cohabiting homosexual persons need to be reminded that the approval or legalization of evil is something far different from the toleration of evil. ... When legislation in favor of the recognition of homosexual unions is proposed for the first time in a legislative assembly, the Catholic law-maker has a moral duty to express his opposition clearly and publicly and to vote against it. To vote in favor of a law so harmful to the common good is gravely immoral."

Letting gay couples adopt children, the document said, is nothing short of child abuse.

"Allowing children to be adopted by persons living in [same-sex] unions would actually mean doing violence to these children, in the sense that their condition of dependency would be used to place them in an environment that is not conducive to their full human development," it said. "This is gravely immoral and in open contradiction to the principle, recognized also in the United Nations Convention on the Rights of the Child, that the best interests of the child, as the weaker and more vulnerable party, are to be the paramount consideration in every case."

INTERNATIONAL COMPARATIVE REPORT ON GAY AND LESBIAN PARENTING, PUBLISHED BY THE FRENCH SENATE

In January 2002, following demands made by the associations of the inter-LGBT, and in particular by the Association of Gay and Lesbian Parents and future parents (in French APGL : <http://www.apgl.asso.fr>), the Senate, second parliamentary chamber of France, published on its website a comparative study of legal issues concerning lesbian and gay parents <http://www.senat.fr/lc/lc100/lc100.html>).

This 24 pages report (plus a 2 pages summary) examines

the policies of 7 European countries (Germany, Belgium, Denmark, Netherlands, Portugal, Britain, Wales, Spain) regarding parental authority, adoption and the medical assistance of procreation. Within these realms, they specifically addressed the following points:

- the rights of a homosexual couple to adopt children
- the rights of a homosexual to adopt his/her partner's children;
- the sharing of parental authority in homosexual couples;
- the access to medical assistance of procreation for lesbian couples.

Since this report was published, Sweden, Britain and Wales authorized the adoption of a child by a same-sex couple. In March 2002, France passed a law allowing the sharing of parental authority if it is deemed necessary by a judge.

An English translation of this report's summary will be published soon on the APGL website.