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MALTA PROTECTS GAYS

By Rex Wockner

Under pressure from the European Union, which it is set to join, Malta banned anti-gay discrimination in the workplace Oct. 7.

A legal notice published in the Government Gazette stated: "In determining whether any treatment is treatment that is justified in a democratic society, the Industrial Tribunal shall take into account the provisions of any directive and/or regulation issued by the institutions of the European Union relating to discrimination and particularly Council Directive 2000/43/EC of 29th June 2000 and Council Directive 2000/78/EC of 27th November 2000 prohibiting discrimination on the basis of religion or belief, disability, age, sexual orientation, race or ethnic origin."

Gay activists welcomed the move but said they will be happier when the changes are written directly into labor law rather than merely published as subsidiary legislation.

Forty percent of Maltese gays and lesbians report workplace harassment based on their sexual orientation, according to the Malta Gay Rights Movement.

EQUAL OPPORTUNITIES IN LITHUANIA POSTPONED TILL 2005

By Eduardas Platovas, LithuanianGay League

Lithuania's parliament adopted a Law on Equal Opportunities on Tuesday November 18, 2003, which forbids direct or indirect discrimination on the grounds of age, sexual orientation, disability, race, religion or beliefs at workplace, in education, provision of goods and services including housing.

Social security, social protection, healthcare, immigration and asylum are not included although were proposed to the lawmakers by the Lithuanian Gay League. The legislation also does not provide independent legal standing for organizations. The burden of proof rests with the victim of the discrimination.

State institutions and municipal institutions are obliged to promote equality.

The law will be enforced only from 1 January 2005 thus breaching the implementation of the Employment Directive before Lithuania's accession to the EU on 1 May, 2004.

FULL PROTECTION FROM DISCRIMINATION AT WORK STILL FAR FROM REALITY FOR LESBIANS, GAY MEN AND BISEXUAL PEOPLE

Press release from ILGA-Europe 2. December 2003.

On the deadline for implementation of the Employment Framework Directive, ILGA-Europe urges all EU member states to stand by their pledge to full equality for lesbians, gay men and bisexual people in Europe.

The Employment Framework Directive adopted on 27 November 2000 should have been implemented by the EU member states by 2 December 2003. Yet, of the current 15 EU member states, only 3 meet the minimum standards of implementation – Belgium, Denmark and Sweden. Others – notably Ireland, the UK and the Netherlands – cover a considerable scope of the directive but would still need to enact some amendments in order to fully comply. All other member states either transposed the directive insufficiently or have not yet adopted or even tabled any legislation at all.

"This directive is a huge step forward. For the first time it promises to offer explicit protection from discrimination in employment to gays, lesbians and bisexuals all across the EU", explains ILGA-Europe co-chair Riccardo Gottardi. "We must ensure that governments do not shy away from their initial commitment and water down the provisions agreed to in Council three years ago."

Many governments seem to have found the directive challenging, as it raises the profile of discrimination based on sexual orientation. The second class treatment of same-sex partnerships and marriages and the churches' position on homosexuality are related topics which are on the political agenda at the moment. To ensure a social Europe where the principle of equality is more than a mere slogan, it is indispensable that governments act to protect those most in danger of being excluded and victimised.

GAY COUPLES TO GET JOINT RIGHTS IN UK

By BBC

Same-sex partners will get similar legal rights to married couples under plans for so-called 'gay marriages'. The Civil Partnership Bill will give legal recognition to gay couples for the first time. The plans, announced in the Queen's Speech, come after a long campaign for equality for same sex partners. But they have already faced criticism for failing to offer similar rights to unmarried heterosexual couples.

Inheritance questions

The plans to give gay and lesbian couples in the UK the same legal rights as married ones were outlined earlier this year. The new rights will include pension and property entitlements if couples register their commitment in a civil ceremony. But some campaigners are concerned there has been no pledge on offering the same exemptions to inheritance tax enjoyed by married couples.

Terry Sanderson, from the Gay and Lesbian Humanist Association, said: "The government is just hoping that the gay community will not notice it is being short-changed on probably the most important issue of all."

A Department of Trade and Industry spokeswoman told BBC News Online it had already announced in its consultation paper it wanted to "look at" the inheritance issue. "It is being addressed as part of the Budget process," she said, signalling that the chancellor could announce more details next year.

No full ceremony

Schemes which recognise committed homosexual relationships have already been set up in nine EU countries.

And in June, Canada's largest province Ontario ruled that gay and lesbian couples have the right to marry there. Under the plans, gay couples will not be entitled to a "marriage" ceremony, but will be able to sign an official document at a register office in front of the registrar and two witnesses.

The proposals went out for consultation earlier this year. The consultation paper did not use the term "gay marriage", but the Civil Partnership Registration Scheme seemed to have been designed to be as close to a marriage contract as possible.

Gay couples would not have to live together for a certain length of time to be eligible for the rights, and if the partnership breaks up, there would be a "formal, court-based process" for dissolving it.

New rights

Under the plans set out in the consultation paper, gay couples in the UK will have:

- Visiting rights in hospitals
- An ability to gain parental responsibility for each other's children
- Recognition for immigration purposes
- Joint state pension benefits
- Obligation to support each other financially
- Ability to claim compensation for fatal accidents

or criminal injuries

- Recognition under inheritance and intestacy rules
- The right to register their partner's death and continue tenancy of a property
- Exemption from inheritance tax on a partner's home
- Exemption from testifying against each other in court.

A spokesman for the Department of Trade and Industry said: "Same-sex couples face many problems in their day-to-day lives because there is no legal recognition of their relationship... "In many areas each partner in the couple is treated as a separate individual; they are denied rights and responsibilities that could help them to organise their lives together."

STONEWALL 'DELIGHT' AT CIVIL PARTNERSHIP PLEDGE

Press release from Stonewall

Stonewall warmly welcomes the inclusion of same-sex partnership rights in today's Queen's Speech (November 26, 2003).

Stonewall chief executive Ben Summerskill said: "We're delighted. This is a hugely significant milestone. Hundreds of thousands of gay couples have undergone real suffering because the law does not recognise their long-term relationships."

"This bill will make an enormous and very real difference to thousands of lives. It remains shocking that same-sex couples, some in relationships decades long, have been deprived until now of basic rights such as the ability to share a pension or register a partner's death.

"We hope the government will move swiftly so that this injustice can be righted as soon as possible," said Summerskill. "Our key anxiety arises from the House of Lords' repeated willingness in the past to frustrate fair treatment for gay people. We hope that peers will back a move long overdue in a twenty-first century nation."

BELGIUM MAY EXTEND ADOPTION RIGHTS

By Rex Wockner

Belgium, one of the three nations in the world where same-sex couples have access to full marriage, is planning to erase the final distinction between same- and op-

posite-sex matrimony: access to adoption.

Prime Minister Guy Verhofstadt's Dutch-speaking Liberal Party will introduce the measure in Parliament where it is expected to pass with help from the Socialists and the Greens, Reuters reported. The change is opposed by three other parties: the French-speaking Liberals, the right-wing Vlaams Blok and the French-speaking Christian Democrats.

In a statement, the Dutch-speaking Liberals said, "Research and the practical experience of countries which already allow adoption by same-sex and bisexual couples, show that children raised by same-sex parents are not affected in a negative way."

Same-sex couples also have access to full marriage in the Netherlands and in the Canadian provinces of Ontario and British Columbia, where courts opened up the institution in 2003. Canada's Parliament is expected to legalize same-sex marriage nationwide sometime this year, barring any unanticipated changes in the political or judicial landscape.

NEW GERMAN BOOK ON NON-TRADITIONAL UNIONS IN EUROPE

Philipp C. Räther, *Der Schutz gleich- und verschiedengeschlechtlicher Lebensgemeinschaften in Europa*, Duncker & Humblot, Berlin 2003, 331 pages, €88, ISBN 3-428-10922-8, ISSN 1438-6739

This new German book analyzes various aspects of non-traditional unions, registered and unregistered, consisting of same and opposite sex partners. Among these aspects are the right of residence in the EU, protection against discrimination, rights of civil servants, prerequisites for and benefits from registered partnerships according to national European laws.

According to section 10 of the EU Regulation on Freedom of Movement for Workers, a spouse of a migratory worker has the right of residence in the EU. The book analyzes whether registered or unregistered partner of a migratory worker has to be treated as a 'spouse' in the sense of this Regulation. The book argues that in order to achieve a maximum of freedom of workers – which is one basic aim of the European Union – such interpretation of the EU Regulation on Freedom of Movement for Workers is essential. The book criticizes the European Court of Justice's reluctance to treat non-traditional and married (in the traditional sense) couples equally.

Regarding the protection of the protection of non-traditional unions against discrimination, the book shows that discrimination on the basis of sexual orientation is also discrimination on the basis of sex. Therefore, these unions can benefit from the various European laws against the discrimination on the basis of sex which are much more common than regulations for protection against discrimination on the basis of sexual orientation.

The last section of the book describes the existing and planned European partnership laws and also the legislation opening up marriage for same sex couples.

NEW BOOK ON DUTCH FAMILY LAW

By Ian Sumner

I have the great pleasure in being able to inform you all of a forthcoming publication. Hans Warendorf (a Dutch lawyer from Amsterdam and an experienced, professional translator) and myself have recently completed our translation of the majority of legislation in the Netherlands in the field of family law. We are pleased to announce that this book will be published on the 4th December 2003 and contains the following information:

- Book 1, Dutch Civil Code (Family Law and the Law of Persons, thus including name law, marriage, registered partnership, parental authority, parentage and adoption)
- Current proposal on the reform of matrimonial property law
- Transitional Provisions
- Relevant provisions from the Dutch Code of Civil Procedure
- Private International Law (Conflict of Laws) Legislation in the field of family law (including acts on name law, adoption, marriage and divorce)
- Private International Law Bill on registered partnership
- A Selection of articles published in English, French and German in the field of Dutch family law.

The book will cost €48 (280 pages) and will hopefully provide a very useful tool to all those wanting to study Dutch family law. The book will be published by Intersentia (Antwerp) and further information can be found via their website (www.intersentia.be). The book will be published as part of the European Family Law Series (EFL series) under the auspices of the Commission on European Family Law (www.law.uu.nl/priv/cefl). If you

would like to pre-order the publication then please contact Intersentia directly. could you all please spread the word about this publication. The aim of this translation is to ensure that Dutch family law becomes more accesible to those who do not speak Dutch, especially considering the numerous changes which have occured in the last deacde (registered partnership, adoption for same-sex couples, adoption for non-married couples, joint parental authroity for those in registered partnerships and of course same-sex marriage). If you have any further questions then please feel free to contact me at I.Sumner@law.uu.nl