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Documents relating to ILGA-Europe can be found at ILGA-Europe's homepage <http://www.ilga-europe.org/>

In this issue

- **LIMITED PROGRESS FOR LGBT PERSONS AND THEIR FAMILIES**
- **STONEWALL PUBLISHES GUIDES ON THE NEW EQUALITY LEGISLATION**
- **EUROPEAN PARLIAMENT EXPRESSES ITS SUPPORT FOR A 2004 UN RESOLUTION ON SEXUAL ORIENTATION AND HUMAN RIGHTS**
- **PRESIDENT OF COUNCIL OF EUROPE ASSEMBLY CALLS ON MEMBER STATES TO SUPPORT UN RESOLUTION ON SEXUAL ORIENTATION AND HUMAN RIGHTS**

## **LIMITED PROGRESS FOR LGBT PERSONS AND THEIR FAMILIES**

*By ILGA-Europe*

On 19 February 2004 the Citizens' Rights Committee of the European Parliament adopted without amendment a second-reading report that recommended the acceptance of the Council's common position on the right to move and reside freely within the EU. Likely to pass through Plenary, the directive will come into force on 1 July 2005.

In its first reading of the directive in February 2003 the Parliament had adopted a draft that would have truly respected the right to free movement for all families. The final text falls significantly short of these initial gains. Though symbolically important as the first official acknowledgment of the existence of registered same-sex couples it confers no substantive new rights to LGBT people and their families. The Parliament's cautious stance vis-à-vis family diversity however, does not necessarily signal fading support for LGBT rights amongst Europe's parliamentarians. Underlying the decision are pragmatic considerations: fierce opposition in Council, the accession of the ten new member states in May and the Parliament elections in June all have contributed to the judgment that in the current political climate this was the best compromise attainable.

"The decision falls short of the expectations of many who do not want to see political pragmatism prevail over the fundamental values of equality in the European Union", states ILGA-Europe Co-Chair Riccardo Gottardi. "It was a unique opportunity to create a coherent approach to the recognition of the diversity of family relations in Europe which we failed to take. Nevertheless, this is a crucial first step toward the full recognition of our families in the EU and an important milestone from which we will move on in the years to come".

The struggle for a full recognition of same-sex families will continue. The directive is but the first stage. It has opened the door to legal action at both national and European level, a step numerous gay and lesbian couples are taking already to fight for full equality.

### **Background Information:**

The directive aims to consolidate, strengthen and clarify existing EU legislation in the area of free movement. Under the directive, the right to free movement would primarily remain limited to a "spouse" and the children of either the spouse or the sponsor. Whether or not this includes same-sex spouses is not clearly defined but will be ultimately for the European

courts to resolve. Registered partners would only enjoy the right to free movement if the host country 'treats registered partners equivalent to married couples'. Currently this would cover a maximum of seven of the future twenty-five member states: Denmark, Sweden, Finland, the Netherlands, Belgium and possibly Germany and France. Registered partners moving to states that do not treat registered partners as equivalent to married couples and unmarried partners, regardless of where they are moving to or from have no automatic right to free movement. The directive does make provisions, stating that member states "shall facilitate" entry and residence of such individuals, but the meaning is blurry and would – again – depend on case-law interpretation.

## **STONEWALL PUBLISHES GUIDES ON THE NEW EQUALITY LEGISLATION**

*By ILGA-Europe*

To help employers and employees understand the new laws on equality in employment, Stonewall has produced two guides for employers and employees and is organising a conference on new legislation. The guide for employers is available for free to download under the following link. The guidelines for employees will follow shortly.

[http://www.stonewall.org.uk/stonewall/information\\_bank/employment/our\\_guidesemplo.html](http://www.stonewall.org.uk/stonewall/information_bank/employment/our_guidesemplo.html)

See also Stonewall's guide on Managing Diversity under: [http://www.stonewall.org.uk/docs/Managing\\_Diversity\\_Practical\\_Guidance.doc](http://www.stonewall.org.uk/docs/Managing_Diversity_Practical_Guidance.doc)

## **EUROPEAN PARLIAMENT EXPRESSES ITS SUPPORT FOR A 2004 UN RESOLUTION ON SEXUAL ORIENTATION AND HUMAN RIGHTS**

*By ILGA-Europe*

<http://www.brazilianresolution.com/>

On 9 February the European Parliament approved a resolution *On the EU's rights, priorities and recommendations for the 60th session of the UN Commission on Human Rights in Geneva (15 March to 23 April 2004)*.

Thanks to the initiative by the Greens and Radicals, the resolution that was approved by a great majority of all MEPs, contains a strong paragraph urging the UN to adopt a resolution on non-discrimination on the grounds of sexual orientation and gender identity. There was no

roll call vote so no individual voting was registered. The exact wording is the following:

*21. Calls on the EU to support the full integration of a gender perspective throughout the United Nations system;*

*26. Calls specifically on the Presidency to act in favour of the Brazilian initiative on discrimination on grounds of sexual orientation and gender identity by signing and gathering other countries' support for the resolution tabled by Brazil, and to ensure that the issue stays on the agenda;*

The Brazilian initiative resolution on human rights, sexual orientation and gender identity was a subject addressed as well in the meeting of the Human Rights EU Contact Group at the European Parliament on 3 February 2003. A speaker from the FIDH addressed some of the vital challenges, short-comings and potentials of the UN Commission on Human Rights. Then he looked at some of the key issues to be raised, including the Brazilian resolution on non-discrimination and sexual orientation. John Biggar, Head of the Human Rights Unit of the Irish Department for Foreign Affairs and current Chair of the Council working group on human rights, proceeded to present the state of play in the debate at Council level. He clearly expressed the support of the EU to the Brazilian initiative on non-discrimination and human rights. Whilst the EU governments felt Brazil should take the lead, they were willing to be involved in proposing certain wording and in pushing the issue so that the resolution would be passed this year. ILGA-Europe was one of the NGOs invited to intervene in the debate. Whilst various voices spoke out for the Brazilian resolution, it was in fact only ILGA that explicitly lobbied for the extension of protection to those discriminated against on grounds of sexual orientation as well as sexual orientation.

**PRESIDENT OF COUNCIL OF EUROPE  
ASSEMBLY CALLS ON MEMBER STATES TO  
SUPPORT UN RESOLUTION ON SEXUAL  
ORIENTATION AND HUMAN RIGHTS**

Strasbourg, 16.03.2004 - "The UN Commission on Human Rights, meeting in Geneva from 15 March to 23 April, is due to consider a resolution put forward by Brazil on sexual orientation and human rights. The resolution is of great importance as it would be the first general statement opposing discrimination based on sexual orientation at the global level," Council of Europe Parliamentary Assembly President Peter Schieder stressed in an

open letter published today.

"I call upon the member States of the Council of Europe who are members of the Commission to vote in favour of the resolution(\*). I also invite the governments of all of our member States to support the resolution without reservation at any stage of the discussion, since it is the only way to honour the commitment that derives from being part of the Council of Europe itself and to respect our shared fundamental principles. I finally call upon the UN Commission on Human Rights to support the resolution. There can be no justice, freedom or democracy if the international community is not able to defend and respect the human dignity of every individual, without differences on the grounds of sexual orientation or gender identity," he said.

"The human rights of gays, lesbians and transgenders are often violated, ignored or denied, sometimes on the basis of discriminatory laws or by unlawful actions of biased public authorities; too often states omit to protect gays, lesbians and transgenders from homophobic hatred in the communities where they live. It is therefore necessary that the international community raise awareness of this situation and openly and strongly proclaim the human rights of sexual minorities," Peter Schieder concluded.

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(\*). Armenia, Austria, Croatia, France, Germany, Hungary, Ireland, Italy, Netherlands, Russian Federation, Sweden, Ukraine and United Kingdom as well as Council of Europe observer states: Japan, Mexico and the United States of America

Open letter :  
[http://assembly.coe.int/Communication/PresidentSpeeches/2004/OpenLetterUNResolutions\\_E.htm](http://assembly.coe.int/Communication/PresidentSpeeches/2004/OpenLetterUNResolutions_E.htm)

Membership of the Commission on Human Rights :  
<http://www.unhcr.ch/html/menu2/2/chrmem.htm>