

# EURO-LETTER

No. 118

January 2005

This EuroLetter is available in pdf-format at [http://www.steff.suite.dk/eurolet/eur\\_118.pdf](http://www.steff.suite.dk/eurolet/eur_118.pdf)

Portuguese translations are available at <http://www.steff.suite.dk/eurolet.htm>

German translations are available at <http://www.lglf.de/ilga-europa/euro-letter/index.htm>

Italian translations are available at <http://www.trab.it/euroletter>

French translations are available at <http://www.france.qrd.org/assocs/ie-paris2005/euroletter/>

Hungarian translations are available at <http://www.hatter.hu/template.php?page=main>

The Euro-Letter is published on behalf of ILGA-Europe - The European Region of the International Lesbian and Gay Association by The International Branch of The Danish National Association for Gays and Lesbians with support from the European Community - The European Union against Discrimination.

Editors: Steffen Jensen, Ken Thomassen, Peter Bryld, Lisbeth Andersen and Soeren Baatrup.

Contact to Euro-Letter: [steff@inet.uni2.dk](mailto:steff@inet.uni2.dk) - <http://www.steffenjensen.dk/>

You can receive Euro-Letter by e-mail by sending an empty message to [euroletter-subscribe@yahoogroups.com](mailto:euroletter-subscribe@yahoogroups.com), and from no 30 onwards the Euro-Letters are available on the Internet at <http://www.steff.suite.dk/eurolet.htm> and at <http://www.france.qrd.org/assocs/ilga/euroletter.html>

The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

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

## In this issue

- **LGBT RIGHTS SHOULD BE PART OF NEGOTIATION TALKS BETWEEN EU AND TURKEY**
- **REVISED GERMAN PARTNERSHIP LAW**
- **COMBATING SEXUAL ORIENTATION DISCRIMINATION IN EMPLOYMENT: LEGISLATION IN FIFTEEN EU MEMBER STATES**
- **FRANCE PASSES LAW AGAINST INCITING HATRED AGAINST GAYS**

## **REVISED GERMAN PARTNERSHIP LAW**

*By Wolf Sieberichs*

The German Act of 15 December 2004 will enter into force on 1 January 2005. This Act further aligns the German life partnership (Lebenspartnerschaft) to marriage law: the rules on engagement (notably fiancés' right not to testify), dissolution, property relations, widow's/widower's pension will be exactly the same. Tax law remains excluded and the registration procedure will still be governed by the law of each federative state (Land) - ranging from registry office procedure as for marriage in most Northern Länder to notaries public in Bavaria.

Most importantly, the law now will allow for stepchild adoption. § 7(9) of the revised Life Partnership Act now reads: "One life partner can adopt alone the other life partner's child. In that case, §§ 1743 first sentence, 1751(2) and (4) second sentence, 1754(1) and (3), 1755(2), 1756(2), 1757(2) first sentence and 1772(1) first sentence (c) of the Civil Code apply by analogy." This basically means that such an adoption will make the child a common child of both life partners (§ 1754(1) of the Civil Code states this for spouses and the words "by analogy" mean that you should replace "spouse" by "life partner"); this expressly entails joint custody (§ 1754(3) of the Civil Code). On the other hand, § 1742 of the Civil Code applies directly - and not by analogy - and this provision prohibits a second adoption by anyone else than the adopter's spouse as long as the first adoption isn't withdrawn and the adopter (or one of the adopters) is alive (but only as long as the child is a minor - § 1768 of the Civil Code).

This means that a life partner can adopt a child of the other partner, except for an adoptive child where the child is still a minor and the first adopter is alive. The child will then be considered a common child of the life partners for all purposes.

Of course, this also implies that it is now certain that equivalent adoptions obtained abroad are not contrary to German public policy and should be recognised under the same conditions as any other adoption.

The official publication of the 2004 Act can be found here:  
<http://217.160.60.235/BGBL/bgbl1f/bgbl104s3396.pdf>

A consolidated version of the Life Partnership Act can be found here:  
<http://www.lsvd.de/lpartg/lpartg-neu.html>

## **LGBT RIGHTS SHOULD BE PART OF NEGOTIATION TALKS BETWEEN EU AND TURKEY**

*By ILGA-Europe*

On 17 December 2004, leaders of the European Union agreed to start membership negotiations with Turkey in 2005. Although the negotiations might take up to 15 years and there is no guarantee that Turkey will enter the European Union, this is a significant development in relations between the EU and Turkey.

ILGA-Europe urges the EU to include the rights of lesbian, gay, bisexual and trans (LGBT) people in the human rights monitoring process and as a part of assessing Turkey's preparedness to join the Union.

Currently the Turkish legislation does not provide protection against discrimination on the grounds of sexual orientation and gender identity. Turkey remains the only European NATO member state that bans LGBT people from joining the army. The army still refers to homosexuality as to a psychological disorder.

Patricia Prendiville, ILGA-Europe Executive Director, said: "I hope the EU will pay serious attention to the human rights situation generally and to the human rights of LGBT people is particular when negotiating Turkey's accession to the EU. I also hope that the negotiations will stimulate the Turkish authorities to comply with the EU standards on LGBT rights and adopt necessary laws banning discrimination on grounds of sexual orientation and gender identity."

## **COMBATING SEXUAL ORIENTATION DISCRIMINATION IN EMPLOYMENT: LEGISLATION IN FIFTEEN EU MEMBER STATES**

Report of the European Group of Experts on Combating Sexual Orientation Discrimination about the implementation up to April 2004 of Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, edited by Kees Waaldijk and Matteo Bonini-Baraldi with the cooperation of Alan Littler

The full English version of this 660 page report is now available online; see [www.emmeijers.nl/experts](http://www.emmeijers.nl/experts). Of the French version so far only the concluding chapter 20 is available online, the rest will follow in January 2005. For each chapter there is a summary, both in English and in French.

The report not only contains chapters on each of the fifteen countries that until 1 May 2004 formed the European Union, but also a chapter on European law (by Matteo Bonini), a detailed and critical Comparative analysis (by Kees Waaldijk), and a thematic study on Discriminatory partner benefits (by Alan Littler). The report focusses on the legislation that has been enacted or proposed in the fifteen member states to meet the European Community's requirement to prohibit sexual orientation discrimination in employment. The national, European and comparative chapters also sketch the general legal background with respect to sexual orientation discrimination in these fifteen countries, in the European Union and under the European Convention on Human Rights.

This report was prepared by an independent group of experts (EGESO) that was established and funded (2002-2004) under the framework of the European Community's Action Programme to Combat Discrimination (see [http://europa.eu.int/comm/employment\\_social/fundamental\\_rights/index\\_en.htm](http://europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm)).

For more information about the report and about the lawyers that wrote it, see [www.emmeijers.nl/experts](http://www.emmeijers.nl/experts), and the opening pages and introduction of the report (links to which can be found on that website). The concluding chapter 20 can be read as a summary of the whole report; its conclusions indicate to what degree the various member states have fulfilled their obligations.

## **FRANCE PASSES LAW AGAINST INCITING HATRED AGAINST GAYS**

*By CBC News*

<http://www.cbc.ca/story/world/national/2004/12/22/French-AntiGay.041222.html>

PARIS - The French government has passed a law that would jail a person for up to a year and fines of up to \$60,000 for invoking hatred or violence against a person based on gender or sexual orientation.

France's Senate approved a bill previously passed in the National Assembly in early December to establish an authority to help victims of bias. The law was drafted after a young gay man was doused with gasoline and set on fire.

Media watchdogs and the Roman Catholic church fear the new law could lead to self-censorship. The church says it could prevent clerics from expressing opposition to the legalization of same-sex marriages and some journalist groups fear recriminations should reporters speak out.

The group, Reporters Without Borders, has previously denounced the law saying it limits freedom of expression.

But gay rights groups lauded the move, saying it would ensure attacks against gays would be treated in the same way as racial discrimination.

"We are confronted with a rise in homophobia," Justice Minister Dominique Perben said. "We have the duty to stand up to this negative evolution."