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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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PARTNERSHIP BILL IN IRELAND

By Cathal Kelly

A bill to legislate for civil partnership in Ireland has been published. The bill is to be introduced in the Senate by Senator David Norris.

The full text of the bill and an explanatory memorandum can be found at this address:
<http://www.oireachtas.ie/documents/bills28/bills/2004/5404/b5404s.pdf>

An extract from the memorandum:

"The purpose of the Bill is to make provision for and in connection with civil partnership, that is a conjugal relationship entered into and registered in accordance with the Act between two persons aged 18 and upwards of either the same or different gender or sex, who are cohabiting, and who are not already married or in another civil partnership, and are not within certain prohibited degrees of relationship with each other.

Background note: Senator Norris won a case against Ireland in the European Court of Human Rights on the criminality of male same-sex sexual activity.

SWEDEN VIOLATED HUMAN RIGHTS BY COMPULSORY ISOLATING HIV POSITIVE PERSON

ILGA-Europe press release

On 25 January 2005, the European Court of Human Rights delivered a judgement in which Sweden was found violating Article 5 § 1 (right to liberty and security) of the European Convention on Human Rights for compulsory isolating an HIV positive person.

The applicant is a Swedish national who in 1994 discovered he was infected with the HIV virus and transmitted the virus to another man in 1990. The local medical officer applied at the court for an order to keep the applicant in compulsory isolation in a hospital in order to prevent him from spreading the HIV infection. The applicant's actual deprivation of liberty lasted almost one and a half years altogether.

The Court held unanimously that the compulsory isolation of the applicant was not a last resort in order to prevent him from spreading the HIV virus after less severe measures had been considered and found to be insufficient to safeguard the public interest. Moreover, by extending over a period of almost seven years the order for

the applicant's compulsory isolation, with the result that he had been placed involuntarily in a hospital for almost one and a half years in total, the authorities had failed to strike a fair balance between the need to ensure that the HIV virus did not spread and the applicant's right to liberty.

Brigit Jaksa of the Habeas Corpus Working Group said: 'Due to the long window period of the HIV infection and the fact that it is not reversible after a few days, HIV cannot be handled on the basis of traditional methods like quarantine. The Court made a stand against deprivation of liberty in case of arbitrary acts of authorities that mainly resonates uneducated public hysteria.'

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

By Kees Waaldijk

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

Both the English and the French version of this 600 page report are now available online; see www.emmeijers.nl/experts. 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) by the European Commission under the framework of the European Community's Action Programme to Combat Discrimination (see

http://europa.eu.int/comm/employment_social/fundamental_rights/policy/prog_en.htm).

For more information about the report and about the lawyers that wrote it, see 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.

SWEDISH GOVERNMENT TO INVESTIGATE GAY MARRIAGE

By Jenny Lepley

The government has agreed to investigate the possibility of allowing same-sex couples to marry, according to DN on Thursday.

A cross-party task force will produce a report on gay marriage and the types of weddings that should be available to homosexual couples.

The task force will also look at the role of the religious community.

"They will question the ritual of same gender marriage and whether it should be part of the religious community or not", explained DN.

If gay marriage is legalized it means that the same sex partnership law will cease to exist. However, it appears the government has chosen not to involve the people who will be personally affected by the possible law change.

Instead they're seeking reference and guidance from parliamentary representatives and the religious community. This has not gone down well with RFSL (the association for sexual equality).

"The decision to appoint reference groups without representatives from homosexual, bisexual and transsexual (HBT) groups is preposterous," said Sören Andersson, chairman of RFSL.

"What objective reason can there be for giving the religious community influence over the legal consequences of the investigator's work, but not HBT groups?" (Source: Dagens Nyheter)

EU FUNDING OPPORTUNITIES – DAPHNE

The Daphne II programme runs from 2004 until 2008 with a budget of EUR 50 million. It aims at supporting organisations that develop measures and actions to prevent or to combat all types of violence against children, young people and women and to protect the victims and groups at-risk.

The Daphne II programme shall be open to participation by public or non-profit making private organisations and institutions (local authorities at the competent level, university departments and research centres) working to prevent and to combat violence against children, young people and women or to protect against such violence or to provide support for victims or to implement targeted actions to promote rejection of such violence or to encourage attitude and behaviour change towards vulnerable groups and victims of violence.

Organisations from the 25 Member States are fully eligible to participate, as well as those from the EFTA/EEA countries, in accordance with the conditions laid down in the EEA Agreement and to organisations from Bulgaria, Romania and Turkey.

More information, guidelines and applications:

http://europa.eu.int/comm/justice_home/funding/daphne/funding_daphne_en.htm

COMMISSION'S WORK PROGRAMME FOR 2005 AND STRATEGIC OBJECTIVES FOR 2005-2009

These two documents were released on 26 January and presented by José Manuel Barroso to the European Parliament. The Commission's vision for the strategic objectives for the EU until 2010 is to deliver "Prosperity, Solidarity and Security for all Europeans". The Commission's work programme for 2005 includes a first series of initiatives to turn this strategy into action. The Commission aims "to put Europe back on the path to long term prosperity", by restoring sustainable dynamic growth and jobs in Europe in accordance with the Lisbon strategy, notably through a business friendly environment.

The Commission also wants to reinforce the Europe's commitment to solidarity and social justice. There are discussions on declaring 2006 the European Year of Mobility. This could potentially be a good opportunity to further highlight the problems that LGBT persons and their families run into if they wish to exercise their right to free movement. Another potentially interesting objective relates to the mutual recognition and free circulation of judicial decisions in civil and criminal matters to, inter

alia "strengthen the protection for families facing legal difficulties across borders". Furthermore, the document places greater emphasis on Youth policy, specifically in the area of employment but also in the context of social inclusion. In the fields of fundamental rights and anti-discrimination, new initiatives are planned, i.e. the establishment of the European Agency of Fundamental Right. A Commission communication on the political approach to fight discrimination is also planned for late 2005.

The Commission hopes that agreement with the European Parliament and the Council on the proposed strategic objectives can be reached before the end of the Luxembourg Presidency. (Source: EC)

Both documents are available at:

http://www.europa.eu.int/comm/off/work_programme/index_en.htm

JOINT REPORT ON SOCIAL PROTECTION AND SOCIAL INCLUSION

Issued on 27 January, this report shows that Member States are stepping up efforts to fight poverty and to ensure that pension systems will remain able to deliver adequate incomes to pensioners. According to the Commission, Member States are focusing more clearly on key issues such as eliminating child poverty, improving housing conditions and raising school leavers' qualifications.

But overall, the report confirms that more than 68 million people, or 15% of the EU population, lived at risk of poverty in 2002, the unemployed, the homeless and women (single parents and the elderly living alone) being usually the most vulnerable. The percentage of those at poverty risk range from 10% or less in the Czech Republic, Sweden, Denmark, Hungary and Slovenia to 20% or more in Ireland, the Slovak Republic, Greece and Portugal. (Source: EC)

More info:

http://europa.eu.int/comm/employment_social/news/2005/jan/soc_incl_rep_2005_en.html

JOINT EMPLOYMENT REPORT 2004-2005

"Employment remains Europe's Achilles heel", stated the Commission on 27 January, after the adoption of the Joint Employment Report for 2004-2005.

According to the Commission, with an employment rate stable at 63% in the period 2001-2003, the EU would need to create 22 million more jobs to reach the Lisbon

target of 70% in 2010. Rates for women and older workers' employment have stagnated at 55% and 40% respectively.

The report confirms that there has been little progress towards the three objectives of the European employment strategy: full employment, improving quality and productivity at work, and strengthening social cohesion and inclusion. (Source: EC)

More info:

http://europa.eu.int/comm/employment_social/news/2005/jan/jer2005_en.html

ARE EQUALITY AND NON-DISCRIMINATION MADE REDUNDANT IN THE EU?

On 2 February 2005 the European Commission presented a long-awaited strategy entitled "Working together for growth and jobs - A new start for the Lisbon strategy".

The strategy aims to revitalise the Lisbon Agenda which was based on the three pillars of economic growth, social cohesion and sustainable development. ILGA -Europe is concerned that the new strategy will have detrimental effect on the EU's social model and such principles as equality and non-discrimination might be sacrificed in order to enhance the EU's competitiveness and economic growth.

The Commission's new strategy refocuses the Lisbon Agenda on growth and jobs through fewer and clearer priorities such as making Europe a more attractive place to invest and work, knowledge and innovation for growth and creating jobs.

Despite the Commission President Barroso's reassuring statements stressing 'social justice and opportunity for all' and comparing economic, social and environmental areas to 'three children' who require equal attention and nurturing, there is a serious risk that there will be a seismic shift in the way the EU is run.

Patricia Prendiville, Executive Director of ILGA-Europe said: "Today's Commission announcement is disappointing and at the same time worrying for all European organisations working in the social area, including lesbian, gay, bisexual and transgender organisations. As the PES report "A Europe of Excellence" concludes we need a more sophisticated understanding of competitiveness, which recognises the interdependence of economy, society and environment.

Last October President Barroso actively defended equality and non-discrimination principles and announced he would personally take responsibility for these issues. It is now time for President Barroso to practically demonstrate his and the EU's firm commitment to these principles."

More information on the Commission's strategy on their website:

http://www.europa.eu.int/growthandjobs/index_en.htm

THE DEATH OF LISBON :THE EUROPEAN SOCIAL MODEL, A POLITICAL OBITUARY

By Simon Wilson

Director of the Social Platform

Born: March 2000, Lisbon, Portugal

Died: Reportedly died in February 2005, Brussels, when a long struggle was followed by a quick death at the hands of Mr Barroso

*'If one of my children is ill, I focus on that one, but that does not mean that I love the others less'
President Barroso, explaining why he is sacrificing his social child to care for his economic child, in a speech to European Parliament, 2 February 2005*

In March 2000 the EU gave birth to a vision of a European social model which was based equally upon social progress and economic growth. There were high hopes for these twins, with the fifteen wise men who witnessed the birth promising to support and maintain both children until their tenth birthday in 2010.

Unlike their distant cousin, the American model, the twins of the European social model would be treasured equally for social cohesion, as for economic strength—and indeed the two elements were interdependent. The twins were expected to be well-balanced, and to create a Europe for all its citizens, offering a clear and progressive vision for European society in the twenty-first century. Although she was a late developer, the social child tried to live up to the expectations of European citizens, and every year, to mark her birthday, and that of her economic sibling, the wise men (Europe's leaders) would meet at springtime to review their progress, and promise to nurture them both more in the year ahead.

Action was taken to promote full employment, to develop a cohesive society, to strengthen the economy and make it more competitive. After 2001, the twins had a new sister, environmental sustainability (and although there was some sibling rivalry, all accepted that they needed each other).

However, as time passed, it became clear that some of the wise men were finding it burdensome to support the social and environmental children, and became frankly embarrassed at being confronted with the bastard offsprings of their youthful passions.

In particular, they tired of being reminded of their promises to create a society based upon social cohesion, by combating social exclusion, improving the quality as well as the quantity of jobs, fighting discrimination, and supporting gender equality. Of course, there had always been those opposed to the existence of the social child, but she had been protected by her fairy godfather... the European Commission. But after a reshuffle, the new godfather Mr Barroso seemed less keen to protect the child. The mid-term review of the Lisbon process gave him the opportunity to save the sick economy by sacrificing social policy – a false and misguided choice.

Although the Commission's review talked of building a cohesive society, it was clear that the social child of Lisbon was dead – killed to make room for her economic sibling. Instead of a Europe based upon social, economic, and environmental objectives, in future the priorities would be only growth and jobs. All the EU's efforts would be devoted to the economy, and the social model, the broader vision for all European citizens... would be left to quietly die. But ironically, those who tried to kill the social child did not realise that her sibling, the economy, depended upon strong social policies to thrive. Without one, the other could not prosper....

So reads the obituary. But many of us refuse to accept that the European social model is really dead. Yes, the Commission's proposals to 'reinvent' Lisbon have dealt a serious blow to a social vision for Europe, proposing to replace it with a purely economic focus, and the long-discredited 'trickle-down' theory that a strong economy will necessarily lead to greater social cohesion. But we are not ready to bury the European social model yet. Over the next weeks and months the Social Platform will be campaigning to save this child, together with many others across Europe.

Mr Barroso said on 2 February that 'If one of my children is ill, I focus on that one, but that does not mean that I love the others less'. For us it is not a matter of choosing between children, of sacrificing the social child because the economic vision is sick. Inside the European Union these visions must all be treated equally. We cannot afford to abandon our social model. We cannot afford to delay the fight for social cohesion because the time is not right. To do so will harm not only our society, but also our economy – we need a broad vision which con-

fronts all of our problems together.

For this reason we call for the European social model to be defended, for the Lisbon strategy to encompass not only a narrow economic agenda, but also the broader social agenda which marks the aspirations of people across Europe. The obituary may be written, but the vision of a Europe based upon social values is far from dead.

No flowers please, just solidarity.

NON-DISCRIMINATION IN THE EUROPEAN UNION

In order to illustrate and analyse the transposition of the EU Directives on anti-discrimination into national legislations, the European Trade Union Institute (ETUI) has just published three new reports: Report 87 focuses on the implementation process, enforcement, and the involvement of social partners; Report 88 contains information on age and disability approached from the standpoint of positive action and differential treatment, while Report 89 examines aspects that include the dissemination of information, defence of rights, burden of proof, etc. and national court cases.

The reports aim not only to inform readers on the state of play of national transposition but also, by providing the requisite comparative material, to fuel discussion on the subject at both national and European level.

More info: <http://www.etuc.org/etui/New/Rep87-89.cfm>

FUNDAMENTAL RIGHTS AGENCY

Last summer the European Commission came out with a proposal to establish a Fundamental Rights Agency (FRA). On 25 January the Commission organised a public hearing on FRA and you can read an opening speech by Franco Frattini, Commissioner for Justice, Freedom and Security at:

<http://europa.eu.int/rapid/pressReleasesAction.do?reference=SPEECH/05/34&format=HTML&aged=0&language=EN&guiLanguage=en>

Contributing to a debate on FRA which is currently taking place on various levels in the EU, ILGA -Europe prepared its response to Commission proposal on FRA which is available at: www.ilga-europe.org.

EUROPEAN PARLIAMENT TO DEBATE HUMAN RIGHTS IN THE WORLD

Every year the European Parliament debates and adopts resolutions on human rights issues in the world. In previous resolutions the European Parliament made references to the human rights violations against LGBT people.

Later in February, similar debate will take place but unfortunately despite ILGA -Europe's submission on the topic, LGBT human rights do not feature in the draft resolution. You can read ILGA -Europe's contribution to the European Parliament report on human rights in the world in 2004 and the European Union policy on the matter at: www.ilga-europe.org.

EUROPEAN PARLIAMENT ADOPTS RESOLUTION ON HOLOCAUST

27 January 2005, is the 60 th anniversary of the liberation of Nazi's death camp at Auschwitz-Birkenau and in many countries also a Holocaust Memorial Day. Alongside with Jewish, Roma and Slavic people, political opponents, and disabled people, thousands of homosexual people were tortured and killed by the Nazis.

On 27 January 2005 the European Parliament adopted a resolution on remembrance of the Holocaust, anti-Semitism and racism. ILGA -Europe is pleased the resolution contains reference to homosexual victims of the Holocaust and highlights the importance of learning the dangers of victimising people because of their differences, including sexual orientation.

The resolution states that 'hundreds of thousands of Jews, Roma, homosexuals, Poles and other prisoners of various nationalities were murdered' at Auschwitz-Birkenau and stresses that remembrance events are important not only as occasions to remember and condemn Nazis' crimes but also to learn 'wider lessons about the dangers of victimising people on the basis of race, ethnic origin, religion, politics or sexual orientation.' Patricia Prendiville, Executive Director of ILGA -Europe said:

'It is a very important resolution and we are pleased homosexual victims of Nazi persecutions are being given delayed but deserved recognition and remembrance alongside with the other groups of Holocaust victims. Unfortunately the historical fact of systematic persecution of homosexual men and women by the Nazi regime is still being denied by some individuals and organis-

tions and in some countries homosexual victims are being excluded from official remembrance events. I hope this resolution will promote just and unprejudiced understanding of the history and will eradicate unfair denial and exclusion of homosexual victims.'

Full text of the resolution can be found at:

<http://www2.europarl.eu.int/omk/sipade?L=EN&OBJID=93487&MODE=SIP&NAV=X&LSTD>

GAY AND LESBIAN INTERGROUP OF THE EUROPEAN PARLIAMENT RE-ESTABLISHED

In the end of 2004, the Gay and Lesbian Intergroup of the European Parliament was established. Michael Cashman (The Party of European Socialists/UK) was elected the President of the Intergroup and following MEPs were elected as the Vice Presidents: Sophie in't Veld (Alliance of Liberals and Democrats for Europe/the Netherlands), Raul Romeva (Group of the Greens/European Free Alliance/Spain) and Alexander Stubb ([Group of the European People's Party \(Christian Democrats\) and European Democrats/Finland](#)).

"Intergroups" at the European Parliament are informal and open groups of MEPs (Members of the European Parliament), assistants, civil servants of the European institutions, lobbyists and NGOs (Non Governmental Organisations), who work together on specific issues. They try to put their demands on the European agenda and compare notes on battles won and lost.

To have an Intergroup established it is necessary to gather the signatures of the leaders of three political groups in the European Parliament. Intergroups are allowed to meet only during the part-sessions in Strasbourg

The Intergroup wants to act as a pressure group in order to ensure that gay and lesbian rights are visible not only in the EP, but in the rest of the EU institutions and in society.

The Intergroup on Gay and Lesbian Rights is formed of cross-party support and dedicated to advocating for the rights and interests of LGBT people.

More information about the previous term's Intergroup: www.gayandlesbianrightsintergroup.org

EUROPEAN COURT OF HUMAN RIGHTS RULES AGAINST AUSTRIA

F.L. v. Austria (application no 18297/03) *Violation Ar-*

ticle 14

F. L. is an Austrian national, who was born in 1964 and lives in Vienna.

On 15 January 2002 he was convicted of having committed homosexual acts with adolescents, contrary to Article 209 of the Criminal Code, which criminalised homosexual acts of adult men with consenting adolescents between the ages of 14 and 18. He was sentenced to three months' imprisonment suspended on probation.

The applicant complained of the maintenance in force of Article 209 and of his conviction. He claimed that Article 209 was discriminatory, as heterosexual or lesbian relations between adults and adolescents in the same age bracket were not punishable. He relied on Article 8 (right to respect for private life) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights.

The European Court of Human Rights noted that the applicant's conviction still stood despite the subsequent repeal of Article 209 of the Criminal Code.

The Court held unanimously that there had been a violation of Article 14 taken in conjunction with Article 8 of the Convention and that it was not necessary to rule on the question of whether there had been a violation of Article 8 taken alone. The applicant was awarded EUR 17,500 for non-pecuniary damage and EUR 13,000 for costs and expenses.

Platform Against Art. 209 calls for immediate and comprehensive compensation and rehabilitation of all victims of Art. 209. Despite the repeal of the law in 2002 victims of Art. 209 have not been compensated and they are still registered in the nationwide registry of criminal offenders. The Ministry of Justice refuses to suggest pardons to the Federal President.

The applicant, having been successful in Strasbourg, now is entitled to a renewal of his criminal proceedings and subsequent acquittal. Only victims of Art. 209 who gain a judgment by the European Court of Human Rights in their favour can do so. All other victims who did not go to Strasbourg remain stigmatised, are not rehabilitated, neither for the costs of their defense and the destruction of their life nor for the often inflicted ruin of their social existence.

"We are calling upon the federal government of Austria to act immediately and to rehabilitate and compensate the victims of Art. 209", says Dr. Helmut Graupner, spoke-

person for "Platform Against Art. 209" and attorney of the applicants, "It is unacceptable that those who did not have the power to go to the European Court of Human Rights, are degraded again - as second class victims ."

The interdenominational and supra-partisan Platform Against Article 209 comprises more than 30 organisations that joined in the fight against the discriminatory supplemental minimum age of 18 years for homosexual relationships between men only (in addition to the general age of consent of 14 for heterosexuals, lesbians and gays alike), as set forth in article Art. 209 of the Criminal Code. Nearly all associations of the homosexual movement, but also general organizations are members of the Platform, like AIDS-help-organisations, the Ombudspersons for Children and Adolescents of the States of Vienna and Tyrol, the Austrian National Student Union, the National Association of Probation, the Austrian Society for Sexual Research, and many others more. After the repeal of Art. 209 the Platform works for the release of all prisoners, for the deletion of all verdicts from criminal records and for just satisfaction of all victims of Art. 209. In addition it monitors the enforcement of the new Art. 209-substitute-provision, Art. 207b Criminal Code.

EUROPEAN TRANSGENDER NETWORKING MEETING: FIRST ANNOUNCEMENT

by Eva Fels

TransX - Austrian transgender association

This year TransX, the Austrian transgender association, is celebrating its 10th anniversary. We thought that this would be just another good reason to go beyond our own threshold. Therefore we intend to organise the first EUROPEAN TG-NETWORK MEETING

It is to take place in Vienna / Austria in the autumn of 2005 with the aim to discuss our individual experience in the fields of legal and social problems in different European countries and to learn from one another how to cope with them.

We wonder if it would be possible to formulate an European-wide political consensus on our joint political claims.

The meeting should deal with legal issues and political goals in each country represented. Furthermore, we are planning to organize expert lectures as well as social and cultural events.

WE NEED YOUR ANSWER:

To find out if we should organize the meeting at all and

what scale would be appropriate we kindly ask you to tell us whether you are interested in such a network-meeting and if you, or rather, how many members of your group would like to participate. In the answer please include in which country you live and, if you are organized, the name of your transgender group.

We would appreciate to receive your answer by February, 20th.

Please send your answer to transx@transgender.at, so that we will be able to give you all the information you need from the very beginning.

DETAIL INFORMATION:

The meeting will take place in Vienna between 28th October and 1st November, the conference language will be English.

We think we could learn from one another in order to build up a better future for all transgenders in Europe.