

EURO-LETTER

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ILGA-EUROPE:

ILGA-Europe Continues its Lobby with the Council of Europe

by *Maxim Anmeghichean*

Council of Europe continues to play a vital role in promotion of human rights of the LGBT communities throughout Europe. On 10-13 April two ILGA-Europe representatives have attended the spring session of the Parliamentary Assembly of the Council of Europe (PACE) for lobby purposes. Meetings were held with the members of PACE, newly appointed Human Rights Commissioner, the Congress of Local and Regional Authorities, CoE secretariat. ILGA-Europe's agenda included mostly lobby around the issues related to the freedom of assembly for LGBT people: lobby for the PACE and the Congress for Local and Regional Authorities to pass resolutions on the matter, update the secretariat of the CoE about developments in countries still monitored by the CoE. The discussions during the meetings are promising and we will keep the readers of the Euroletter updated on any outcomes.

There is good news already! Due to the CoE pressure Albania has equalized the age of consent for same-sex and different-sex sexual acts. Way to go!

ILGA-Europe's capacity-building seminar in Slovenia

by *Evelyne Paradis*

More than 30 LGBT activists gathered in Ljubljana on 20-21 April to attend ILGA-Europe's capacity-building seminars on human rights monitoring and fundraising. Held for the second time, these seminars brought together participants from 15 different countries, from EU member states, candidate countries as well as from the Balkans and Moldova.

The first seminar which focused on human rights monitoring was aimed at introducing human rights monitoring and documentation of human rights violations as important tools for LGBT activists. Speakers from the UN, the OSCE, the European institutions and the Slovenian Ombudsman office all contributed to this training by sharing knowledge and giving tools to participants on how to monitor and gather evidence, how to document human rights violations and finally how to use the information to lobby both national governments and international organisations.

The other seminar sought to give participants who have some experience in fundraising for LGBT work an opportunity to improve their skills in writing project proposals and in communicating with funders. Representatives from organisations which fund LGBT projects and activities also gave participants concrete advice and realistic tools on how to raise money for their organisations, as well as insight into understanding funders' mentality.

In addition to learning about human rights monitoring and fundraising, all participants had a chance to learn more about the situation of LGBT people in Slovenia and become acquainted with the work of Legebitra's team who played an important role in the smooth organisation of the event.

The ILGA-Europe team will be organising other training seminars in the coming year to further advance the capacity of LGBT activists to work in the area of human rights monitoring and organisational development.

EUROPE:

EU residency rights enter into force

Source: EUPolitix, 2 May 2006,

<http://www.eupolitix.com/EN/News/200605/d1441dc8-9184-453c-8c66-3ed9b197672e.htm>

New residency rights – including provisions for gay couples – are immediately applicable despite only being implemented in five of the EU’s 25 countries.

The EU’s free movement directive, agreed on April 29 2004, has entered into legal force and aims to grant a raft of rights to European citizens their partners and family members.

Individuals denied the rights can demand enforcement in national or EU courts and ask the European commission to take up their case.

European justice commissioner Franco Frattini warned national governments that the law was “immediately applicable” – whether implemented or not.

“For those member states that have not transposed the directive applies immediately,” he told a press conference.

“The provisions recognising rights will be immediately in force and are mandatory for all administrative authorities, in spite of non-transposition by member states, including municipalities.”

To date the legislation has only been enacted in Austria, Denmark, Slovenia, Slovakia and the UK, although measures are pending in France and Spain.

Included within the new package are new provisions for same-sex partners to demand that host countries without gay marriage laws carry out an investigation into the stability of their relationship.

If the relationship is “real and durable” national authorities must “facilitate” entry and residence for gay partners of EU citizens.

“The main provision is that you can recognise marriages or partnerships only when the hosting country has similar provisions,” said Frattini.

“In those cases where there is no direct obligation to recognise, member states must facilitate entry and residence of partners in a durable relationship after a concrete assessment.”

“This new provision will facilitate the situation of gay couples across Europe.”

Campaigners at the International Lesbian and Gay Association (ILGA) regard the directive as a “partial victory”. But the ILGA is concerned that full recognition and rights for registered same-sex partners is only applicable between countries with similar legislation.

“Facilitation does not imply any obligation to recognise,” said a spokesman. “We are preparing to test the legislation and see how the EU courts will go.”

EU officials reveal that “there were very difficult discussions with member states” over the issue of registered partnerships.

Some countries such as Spain or the Netherlands have introduced same-sex civil partnerships, or marriages, that are controversial in countries such as Frattini’s native Italy.

Capitals opposed to gay partnerships must now carry out, on request, an investigation and grant full rights to partners if the relationship is “real”.

“With two people in a durable relationship, that may not be a registered partnership in the host country, the member state has to facilitate, the right is not given but it does mean member states have an obligation to assess,” said an EU official.

Brussels is asking EU capitals to inform relevant authorities that national courts and tribunals will be expected to interpret national law in the light of the directive.

Report from Fundamental Rights Agency briefing meeting of 27 April 2006

by *Christine Loudes*

The Austrian Permanent Representation organised a briefing meeting for NGOs on the Fundamental Rights Agency on 27 April, as an opportunity to update NGOs on the progress of negotiations within Council on the regulation which will create this Agency, and to give NGOs the chance to put forward their own views.

The Austrians are still hoping to make rapid progress in reaching agreement on the Agency - but it is not clear how realistic this is, bearing in mind the reluctance of some Member States (for example the Netherlands) to move forward rapidly. The Austrians are not persuaded by the pleas of NGOs including the Social Platform, to slow the process down in order to have a more serious discussion around the purpose and value of this Agency. Instead they are supporting an incremental approach - hoping that establishing the Agency will lead to a greater role for it in future once it is functioning (they still hope it will start from 1 January 2007 - some NGOs at the meeting expressed scepticism!).

There is positive news regarding independence - a majority of Member States are supportive of the suggestion that the Management Board should be composed of 'independent persons' nominated by Member States. However, the proposals on the involvement of civil society are less positive. The Austrians are now proposing to replace the original proposal for a Civil Society Forum (which we already felt was too weak) with more 'flexible' consultation based around thematic approaches.

Responding to this suggestion, Simon Wilson (Social Platform Director), **welcomed the idea of meetings based around specific themes, but strongly argued that this should not be at the expense of a more general, structured consultation with civil society on more general issues relating to the functioning and mandate of the Agency.** Other NGOs present also supported this argument - **there seems to be a**

danger that the involvement of civil society in the new Agency will be reduced to a series of unaccountable advisory meetings on specific themes, with no structured ongoing consultation which would enable us to hold the Agency to account.

The issue of the mandate of the Forum was also raised by other NGOs present although the Austrians were not supportive of expanding the mandate to include Article 13, specific references to gender equality, or to the Charter of Fundamental Rights.

Another meeting with civil society will be organised later under the Austrian Presidency - we will inform members once a date is set.

Court takes action against Germany

Source: European Commission, 21 April 2006,

The European Court of Justice has criticised Germany for failing to transpose the EU's Employment Framework Directive (2000/78/EC) on time. In a recent judgment, the Court found that Germany had failed to create the proper legal framework for equal treatment on the basis of religion, disability and sexual orientation. The EU legislation – dating from 2000 – should have been introduced into national law in all EU Member States by December 2003. Germany must now take the necessary steps to comply with the Directive.

80% of Greek Cypriots think homosexuality is wrong

Source: 6 May 2006, Evening Echo

www.eveningecho.ie/news/bstory.asp?j=181804884&p=y8y8x559x&n=18180564

A strong 80% of Greek Cypriots think homosexual relationships are wrong, and more than half feel uncomfortable around gay people, a state-commissioned survey has found.

The survey, made public today, revealed that same sex relations were mostly opposed by elderly people living in rural areas.

Almost eight in 10 of those surveyed said they disagreed with gay couples adopting or raising children, and 76% opposed gay marriages in Cyprus.

Homosexuality was a crime in Cyprus until 1998, when it was decriminalised after a gay activist won his battle at the European Court of Human Rights, which condemned Cyprus over its poor treatment of homosexuals.

The survey interviewed 500 adults January 5-22 on behalf of the Ombudsman's office and was conducted across the Republic of Cyprus by the Cyprus College research centre.

FUNDING OPPORTUNITIES:

National Awareness Raising Actions on Social Inclusion and Social Protection

by Evelyne Paradis

ILGA-Europe is bringing to your attention this call for proposal from the Commission for **projects to raise awareness on social inclusion at national level.**

http://europa.eu.int/comm/employment_social/emplweb/tenders/tenders_en.cfm?id=305

This is particularly relevant in the context of our report on social exclusion of LGBT youth which will be published in the coming weeks.

As one of the recommendations that we will be putting forward is to involve LGBT organisations in the national plan of actions (NAPs) on social inclusion, as well as a greater consideration to exclusion of LGBT people in the NAPs, it would be very good to get a project on LGBT issues and/or with LGBT organisations submitted to the Commission.

If you are interested in getting involved in this area, I invite you to contact me to let me know so I can help putting everyone who interested in touch with one another and give you background information if needed.

Also don't hesitate to contact me if you have any questions about this:

evelyne@ilga-europe.org

SAME-SEX FAMILIES:

Belgium passes gay adoption law

Source: BBC, 21 April 2006,

<http://news.bbc.co.uk/1/hi/world/europe/4929604.stm>

The Belgian parliament has voted to grant homosexual couples the right to adopt children. Senators backed the bill by 34 votes to 33, with two abstentions.

Elsewhere in Europe, gay couples are allowed to adopt children in the Netherlands, Spain and Sweden, as well as in England and Wales.

Gay couples won the right to marry in Belgium in June 2003. The new law grants them the same adoption rights as heterosexual couples.

In December 2005, the lower house of parliament voted 77-62 in favour of the measure.

In Germany and Denmark, homosexual adoption is limited to the partners' biological children.

Ireland: Gay couples granted limited immigration

Source: Irish Examiner, 9 May 2006,

<http://archives.tcm.ie/irishexaminer/2006/05/09/story2849.asp>

by Cormac O'Keeffe

Gay partnerships are now being recognised in Ireland in immigration cases where one of the partners moving here is an EU national.

The landmark move follows the signing into law of an EU directive on freedom of movement by the Minister for Justice, Michael McDowell.

The directive obliges member states to allow the non-EU partner of an EU citizen to move to the country and live there. This is in situations where the couple's relationship has been legally recognised in the EU country from which they are coming.

The implementation of the EU Free Movement Directive was welcomed by the Gay and Lesbian Equality Network (GLEN).

Eoin Collins of GLEN, said: "We very much welcome the signing by Minister McDowell of the directive into Irish law and I think it is very, very important that it has happened."

"Under the terms of the directive, Ireland is obliged to facilitate the entry and residence of the partner, including the same sex partner, with whom an EU citizen has a durable relationship and it is duly attested and

the department is putting in place procedures for assessing that," he explained.

He said Ireland has to recognise the relationship only in cases where the country the couple is travelling from has registered partnership legislation.

The obligation on Ireland to enable the free movement of partners is despite the fact that Ireland currently does not recognise same-sex relationships.

"This is a very important first step towards recognising same sex couples in immigration rules," said Mr Collins.

He said, however, that there were a number of anomalies in the directive.

"The directive only applies to people on the move, so it's an EU citizen with a non-EU partner coming here. The directive doesn't currently cover an Irish person living here and their non-EU partner. If the Irish person wants the partner here on the basis of their relationship there is no provision for that."

But he said that an Irish person could bring their partner back to Ireland if both of them were moving here from an EU country with partnership rights.

Publishing the directive, the Department of Justice said the new recognition of gay partnerships in EU travel did not extend to other areas.

Both the minister and the Taoiseach Bertie Ahern have stated their intention to bring in civil recognition of same sex partnerships.

A Department of Justice spokeswoman said that a working group was currently examining civil partnerships and was due to report back in the next couple of months.

TRANSGENDER:

European Court of Justice – UK: Transsexual wins fight for pension at 60

by Joshua Rozenberg, Legal Editor, The Telegraph, 28 April 2006,

www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/04/28/ntrans28.xml&Sheet=/news/2006/04/28/ixhome.html

The Government's refusal to allow a sex-change woman a retirement pension at the age of 60 is contrary to European laws on equal-treatment, the EU court ruled yesterday.

The UK's different pension ages - 65 for men and 60 for women - are not affected by Europe's equality rules.

But the refusal to recognise a male-to-female transsexual as a woman and award her a pension at 60 flouted an EU directive covering equal treatment in the area of social security, the **European Court of Justice** held.

The decision was a victory for Sarah Margaret Richards, 64, who was registered as male at birth but later diagnosed as having "gender dysphoria".

Ms Richards had sex-change surgery in 2001 and, as a woman, applied for a retirement pension to be paid from her 60th birthday.

The request was refused because, as English law stood until a year ago, a person's birth certificate could not be altered to reflect a sex change.

As the sex of a person for social security purposes was that stated on the birth certificate, Ms Richards remained a man and did not qualify for a pension until the age of 65. Yesterday the Luxembourg court said the right not to be discriminated against on grounds of sex was one of the fundamental human rights the court had a duty to uphold.

"Unlike women whose gender is not the result of gender reassignment surgery and who may receive a retirement pension at the age of 60," the court said, "Ms Richards is not able to fulfil one of the conditions of eligibility for that pension, in this case that relating to retirement age.

"As it arises from her gender reassignment, the unequal treatment to which Ms Richards was subject must be regarded as discrimination which is precluded by [the directive]."

The court rejected the Government's argument that the difference in treatment for Ms Richards was covered by the fact that different pensionable ages for men and women were allowed under EU rules.

The Gender Recognition Act 2004, which came into force on April 4 last year, now allows for the issue of "gender recognition certificates" to transsexuals but these are not retroactive for pension purposes.

The campaign group Liberty, which represented Ms Richard, said her case would now go back to Social Security Commissioners in Britain.

FREEDOM OF ASSEMBLY:

Europride - invitation to apply for conference on organising pride in a hostile environment - application deadline extended to 25 May

By Nigel Warner, For the Prides against Prejudice conference organising team

As part of the London Europride celebrations there will be a one-day conference on **organising pride events in a hostile environment** entitled "Prides against Prejudice". It will take place on Friday 30th June, the day before the main Pride march and rally in Trafalgar Square.

The aim of the conference is to provide practical support to LGBT activists who organise or plan to organise a Pride event in a hostile environment, whether in Central, Eastern and South Eastern Europe, or elsewhere in Europe. It will build on successes achieved so far by sharing the lessons gained and by exploring the ways that European institutions and international solidarity can contribute to further advances. It will also share positive learning from the UK. A toolkit on organising Pride in a hostile environment will be published after the conference.

The conference is open to current Pride organisers, those who plan to organise a Pride, and those intending to support them nationally or internationally. Women, members of ethnic minorities, and transgender persons are particularly encouraged to apply.

The conference size will be limited to ensure effective interaction of participants.

The Conference will be preceded by a reception at 18.30 on Thursday 29th, hosted by London's Metropolitan Police. Conference participants will also have a special place reserved for them in the Pride march on 1 July.

The conference is organised by Amnesty International, the European Pride Organisers Association, and ILGA-Europe (the European Region of the International Lesbian and Gay Association). It is supported financially by the Trades Union Congress, London's Metropolitan Police, and the Mayor of London.

Further information about the conference and about Europride London 2006 can be found at:

www.pridelondon.org/conference/

Those wishing to attend the conference are asked to complete an on-line application form (available at the above web site), which includes a section on reasons for attending the conference.

The submission deadline has been extended to 25 May. Applicants will be advised if they have a place by the end of May.

We very much hope your organisation will apply to participate in the conference, and look forward to receiving completed applications as soon as possible.

Moldovan capital refuses gays to assemble

ILGA-Europe media release, 28 April 2006

On 28 April 2006, the Chisinau Mayor refused a request by the Moldovan lesbian, gay, bisexual and transgender (LGBT) organisation GenderDoc-M to organise a manifestation by the Moldovan Parliament on 5 May 2006 during the fifth Moldovan LGBT Pride festival. The Chisinau Mayor refused similar request also last year.

ILGA-Europe condemns such decision of the Chisinau Mayor and calls upon the Moldovan capital's mayor to immediately reconsider his decision and urges the European Union, the Council of Europe and the Organization for Security and Cooperation in Europe to intervene and upheld the right to assembly for the Moldovan LGBT people.

Instances of denying or hindering LGBT people the right to assemble and demonstrate by the municipal authorities have occurred during the last couple of years also in other European countries. LGBT people in those countries have experienced violence, threats and appalling expressions of hate during the marches and demonstrations. These breaches of basic human right to free assembly and homophobic attitudes have been condemned by the European Parliament's Resolution on Homophobia in Europe earlier this year.

Deborah Lambillotte, Co-Chair of ILGA-Europe Executive Board, said:

"We are seriously concerned with the decision of the Chisinau Mayor to deny LGBT people a right to assembly. We would like to remind the Chisinau city authorities about Article 40 of the Moldovan Constitution which guarantees everyone a right to peaceful demonstration.

We also want to stress that such arguments against LGBT demonstration as religious objections and plans for counter-demonstrations cannot legitimise serious breach of a right to assembly as confirmed by the European Court of Human Rights.

We also hope that the European organisations and institutions will express their outrage by such lawless actions of the Chisinau Mayor."

Amsterdam mayor's gay rights plea

Source: BBC, 24 April 2006,

<http://news.bbc.co.uk/2/hi/europe/4939624.stm>

The mayor of Amsterdam has written to his counterparts in eight other European capitals, calling on them to uphold gay rights. In his letter, Job Cohen warns that intolerance against homosexuals is on the increase. The Netherlands introduced gay marriage five years ago, and Mr Cohen is urging other countries to do the same.

Mayors in Warsaw, Prague, Lisbon, Dublin and Vienna are among those who have been sent copies of the letter. Mr Cohen has also written to leaders in the Baltic capitals of Riga, Tallinn and Vilnius, and EU Justice Commissioner Franco Frattini.

'Concerned'

The move is a result of a motion by city councillors who are concerned over recent attacks on homosexuals in Amsterdam. In the letter, Mr Cohen says he is "concerned" by measures in some cities to ban gay demonstrations.

He calls on mayors to "adhere to the universal declaration of human rights, and to do everything in your political power to open up marriage for same-sex couples and safeguard the right of public demonstrations in your city," Agence France-Presse news agency reports.

In February, Portuguese officials turned down an application by a lesbian couple to get married. Official statistics show that 8,000 same-sex marriages have taken place in the Netherlands since they became legal, AFP said.

Gay pride heading for Swedish pastor's town

Source: *The Local*, 20 April 2006,

www.thelocal.se/article.php?ID=3595&date=20060420

When Pentecostalist pastor Åke Green courted international notoriety by referring in a sermon to homosexuality as a sexual abnormality and a tumour on the body of society, he can hardly have expected that he would turn his small home town, Borgholm, into a gay destination.

Swedish gay rights group RFSL plans to hold the Öland town's first gay pride festival this summer.

"Borgholm is seen as the original town of prejudice. We want to change that," said priest Reine Medelius, one of the organisers of the event, to *Barometer* magazine.

Green was prosecuted under Swedish laws on agitation against minority groups and was given a short jail sentence. He was later cleared on appeal to the high court.

The Green affair drew worldwide attention, both from gay rights activists and Christian groups.

The proposal for a Borgholm gay pride festival received a standing ovation when it was put forward at RFSL's congress in Malmö last month, Medelius said.

While Green has not yet reacted to the news, local Centre Party councillor Lisbeth Lennartsson said she thought the festival was a good idea, and hoped it would return in the future.

HATE SPEECH:

Latvian court acquits MP's homophobic statements

by Juris Lavrikovs, 25 April 2006

A court of a Latvian town of Jūrmala rejected today a complaint against Leopolds Ozoliņš, member of the Latvian Parliament, for his comments. Immediately following today's judgement, Latvian LGBT activists announced they would appeal the decision of the court in Jūrmala, a coastal resort 25 km from the Latvian capital, Riga.

Last July, prior to the first LGBT Pride March, Leopolds Ozoliņš came out with a media statement strongly condemning the pride and avalanching LGBT people with offensive and derogatory remarks. The MP is accused of expressing disrespecting and derogatory language towards homosexual people and of breaching ethical and moral standards.

Some of the expressions Leopolds Ozoliņš used include:

- 'perverse cult'
- 'recta operators'
- 'ass-fuckers'
- 'homosexuality is a very nasty mental disorder'
- 'homosexuality promotes pedophilia and spread of HIV and hepatitis C'
- 'homosexuality is perverse, degenerating and human health mutilating lifestyle'
- 'I support even such radical decision as to dissolve the European Union if this international organisation under the shelter of democracy will continue to jeer at normal people and basic values of our Nation – family'.

Leopolds Ozoliņš himself said that the court should examine the facts on the basis of which he made mentioned statement and the court has to listen to his 'collated evidence that homosexuality is a mental and physical disorder'.

Leopolds Ozoliņš does not recognise the claim however he said he is ready for a settlement and even to apologise proving the applicant admits that homosexuality is a disease, physical and mental degradation.

In his reply to the Jūrmala court, Leopolds Ozoliņš made reference to Article 100 of the Latvian Constitution which provide a freedom of expression and Article 10.2 of the European Convention on Human Rights which provide obligation, responsibility and restrictions on this right in order to protect health and morality.

Leopolds Ozoliņš demanded that the court should request from the applicant evidence that applicant is indeed a homosexual and requested from the court to obtain an opinion from the Medical University Department of Psychology on whether homosexuality is a pathology or a norm.

NOTICE BOARD:

Commission announces new calls for tender

Source: European Commission

The European Commission has posted three new calls for tender in the field of anti-discrimination. The calls are to:

1. Carry out a study on collecting data to measure progress in anti-discrimination policies;
2. Organise and run training seminars for NGOs and social partners; and
3. Conduct a study on multiple discrimination in the EU.

The **deadline** for sending offers for the two studies is **12 June 2006**. Responses to the call for training must be submitted **by 26 June**.

http://europa.eu.int/comm/employment_social/emplweb/tenders/tenders_en.cfm?id=305

Discrimination summer schools – disability

With the support of the Community Action Programme to combat discrimination, the National University of Ireland, Galway, organises Disability Summer Schools. The 2006 discrimination summer schools will focus on the potential of the EU Employment Framework Directive in the context of disability.

Further information on the Disability Summer Schools: www.nuigalway.ie/law/splash.html

"Diversity Makes Us Richer, not Poorer": Peace Institute launches CD on Everyday Life of Gays and Lesbians in Slovenia

Source: Stop-Discrimination Newsletter May 2006, European Commission

Recent research on the everyday life of gays and lesbians in Slovenia conducted by the Peace Institute has shown that 53% of gays and lesbians suffered from different forms of violence and discrimination due to their sexual orientation. The majority of them are still afraid to talk about their sexual orientation at work (49% have not come out to their co-workers or only to a few of them) because they might experience mockery or discrimination. These statistics have led the Peace Institute in cooperation with the EU "For Diversity. Against Discrimination." campaign to launch the CD project entitled "Diversity makes us richer, not poorer". The project was carried out in the framework of the European Commission Programme "Promotion of Active European Citizenship".

The CD features three films showing everyday situations that gays and lesbians are confronted with in addition to a series of interviews with gays and lesbians talking about their experiences of coming out, work, violence and partnership. Moreover, the CD includes useful information on the subject for teachers, employers and potential victims of discrimination. The project's main objective was to activate and promote the idea of "intimate citizenship" referring to the fundamental right to actively participate in public (and private) life as a sexual person regardless of one's sexual orientation.

The CD-Rom can be ordered free-of-charge from roman.kuhar@mirovni-institut.si.
To see the movies and interview excerpts, please visit www.mirovni-institut.si/razlicnost.