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Victory in Albania

On 20 January 1995 the Albanian Parliament finally legalized homosexual relations in Albania.

The new penal code of the Republic of Albania, which should enter into force shortly, foresees punitive sanctions only for sexual relations with minors and for sex involving violence. Article 137 of the old Penal Code promulgated under the communist dictatorship, which foresaw up to ten years of prison for simply "being homosexual" has thus been done away with completely.

Much credit in bringing about this historic change goes to the Gay Albania Society formed illegally by a courageous group of young Albanians on 29 March 1994. With the able and decisive assistance of the coordinating office for Eastern Europe at the International Lesbian and Gay Association (ILGA) in Brussels and of a small number of gay activists abroad, the very first Albanian gay group was able to create an awareness among Albanian parliamentarians, and to extent among the public at large that the persecution of homosexuals is not compatible with a modern democratic society and government.

Much remains to be done in promoting equality, in combatting widespread homophobia and ignorance in Albanian society, and in preventing the spread of AIDS, but the struggle can now be carried out legally. Albania is coming out!

On this historic occasion, the Gay Albania Society sends its warm and enthusiastic greetings to Gays and Lesbians around the world. The group does need further support from more developed countries. If you can assist in any way, please contact Gene or Ilir at: P.O. Box 104 Tirana, Albania

Congratulations to Albania!

Law reform in Cyprus

According to the French news agency the Cyprus government has submitted a bill to decriminalise homosexual acts between consenting adults in private, to the parliament.

This means another victory in Europe! The Cyprus government has by the bill followed the judgement of the European Court of Human Rights in the Modinos case.

Congratulations to Cyprus - and to Alexander Modinos!

Update on ILGAs lobbying towards the European Institutions and the mandates of the two working parties

The Council of Europe/OSCE working party consists of the following groups: LGLF Cologne Germany, HOSI Wien Austria, COC The Netherlands, Stonewall Group UK, Rechtskomitee Lambda Austria, RFSL Sweden, LLH Norway, SETA Finland, Pink Cross Switzerland, IGLHRC USA, LBL Denmark (Coordinator).

The tasks of this working party was set out at the European regional meeting of ILGA in Copenhagen december 1990:

- a. Lobbying in relation to the proposed protocol to The European Convention of Human Rights and NGO status for ILGA in relation to the Council of Europe.
- b. Influencing the CoE so that the council will also consider lesbian and gay rights when assessing whether countries in central and eastern Europe can join CoE.
- c. Trying to get gay and lesbian rights recognised as a part of the human dimension of the CSCE-process.

The EU Working Party

consists of the following groups: CG-L Spain, SETA Finland, SVD Germany, GLEN Ireland, Homostudies The Netherlands, UNISON UK, COC The Netherlands, RFSL Sweden, LLH Norway, Rechtskomitee Lambda Austria, HOSI Wien Austria, ILGA Administrative Office, Stonewall Group UK, LBL Denmark (coordinator).

The guidelines for ILGAs work towards the EC was passed at the Helsinki European conference 1994 and constitutes the mandate of the working party:

ILGA should take an active and coordinating role in promoting lesbian and gay rights within the policies of the European Union. ILGA should influence the institutions of the European Union in order to gain full

equality for lesbians and gays in the European Union as well as in all member states.

ILGA should work for the inclusion of an anti discrimination clause covering sexual orientation in a new or revised treaty, in accordance with the European Parliament resolution of 1994 (Roth report)

ILGA should work for the redefinition of the term 'legal spouse' to include homosexual relationships with or without registered partnerships.

ILGA should work for the inclusion of gays, lesbians and their children in the concept of family, including the right to family life. Furthermore ILGA should work for

- recognition of same sex partnerships
- abolishing of discriminatory provisions in the partnerships laws
- adoption possibilities for gays, lesbians and same sex couples
- the right to artificial insemination for lesbians
- the right to joint custody and authority for same sex parents.

ILGA should work for the adoption of EU measures to effectively combat sexual orientation based discrimination, notably in the field of employment.

Letter to the Venice Commission of The Council of Europe

The following letter has been sent to the so called Venice Commission:

Re. The Venice Commission's work in the new democracies of Central and Eastern Europe and the decriminalisation of homosexuality

Dear Mr. Buquicchio,

The European Court of Human Rights has ruled on three occasions (Dudgeon vs. United Kingdom, 1981; Norris vs. Ireland, 1988; and Modinos vs. Cyprus, 1993) that a Criminal Code provision for a total ban on homosexuality (e. g., even between consenting adults in private) is a violation of the right to privacy as guaranteed by Article 8 of the European convention of Human Rights.

These rulings are in perfect harmony with the March 1994 decision of the United Nations Human Rights Committee in the case Toonen vs. Australia, ruling that the rights of lesbians and gay men to privacy and

equality were guaranteed by the provisions of the International Covenant on Civil and Political Rights. The Committee noted that the reference to "sex" in articles 2 and 26 of the covenant is to be taken as including sexual orientation.

Another recent landmark achievement was the adoption of the Resolution on equal rights for homosexuals and lesbians in the EC by the European Parliament in February 1994. In this Resolution, the EP calls on the Member states to repeal all anti-homosexual legal provisions and to end any discrimination on the basis of sexual orientation. A similar resolution (Recommendation 924/1981) was passed by the Parliamentary Assembly of the Council of Europe as early as in October 1981.

The Report of the Warsaw 1993 Implementation Meeting on Human Dimension Issues of the Conference on Security and Cooperation in Europe states that CSCE commitments in the area of nondiscrimination cover homosexuals as well.

Thus, all relevant European and international human rights platforms such as the Council of Europe, the United Nations, the European Parliament, and the OSCE are in unison that discrimination based on sexual orientation is a clear breach of fundamental human rights.

We, therefore, were puzzled when both Lithuania and Romania were admitted to the Council of Europe in 1993 although the penal codes of these countries still provided for a total ban on homosexuality which the European court of Human Rights, as mentioned above, has qualified as a breach of the convention on three occasions. While Lithuania repealed the total ban only two months after admission to the council of Europe, the Romanian Parliament has performed a law reform grotesque around this issue in the past one and a half years which caused enormous embarrassment both for Romania and the Council of Europe.

We were equally surprised when we learned about the law reform plans of another candidate for membership in the Council of Europe, Albania, in June 1994. The proposed draft for a new penal code provided only for a reduction of the punishment for homosexual acts but no repeal of the total ban! Our irritation increased when we learned that the European Commission for Democracy through Thaw assisted, among other countries, both Romania and Albania in drafting their new constitutions. How is it that these two countries did not reform the provisions against homosexuality

despite the assistance and the advice of the experts of the Venice Commission?

Due to these circumstances, we have to assume that the Commission did not put enough emphasis on this human rights aspect, maybe because the Commission considered decriminalisation of homosexuality to be of minor importance in the huge task of creating democratic structures in the countries of Central and Eastern Europe. However, we strongly feel that human rights are not only inalienable but also indivisible. For us, there is no hierarchy and no priority in the realisation of the enjoyment of full human rights.

We, therefore, appeal to the European Commission for Democracy through Law not to neglect the aspect of the human rights for lesbians and gay men in its further work with the new democracies. To our knowledge, a total ban on homosexuality still exists in the following countries: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan. We urge the Venice Commission to stress the council of Europe's human rights standards set forth in the field of homosexuality by the European Court and the Parliamentary Assembly and to make it clear whenever dealing with one of these countries that discrimination based on sexual orientation can in no way be tolerated.

We look forward to your reply and remain,
sincerely yours,
Steffen Jensen

Answer from the Venice Commission

Strasbourg, 3. February 1995

Dear Sir

I acknowledge receipt of your letter dated 25 January 1995.

In reply I should inform you of the following:

The European Commission for Democracy through Law is a consultative body of the Council of Europe on matters on constitutional law. The Commission has co-operated with many member and non-member States of the Council of Europe, mainly in the field of constitutional reforms, constitutional justice, local democracy and electoral laws.

The Commission has attached most importance to constitutional guarantees for human rights and, in par-

tical, to public rights and freedoms that involves the participation of citizens in the life of democratic institutions.

As regards the Commission's cooperation with Romania, may I draw your attention to Article 26 of the 1991 Constitution which guarantees, inter alia, the right to respect for privacy and the right to freely dispose of oneself.

In Albania, the constitutional Law of 29 April 1991 on Principal Constitutional Provisions guarantees in its Article 15 the right to private life. Moreover, the process of constitutional reform in Albania is not yet complete.

Since the matter of penal law does not fall within the scope of the primary competencies of the Venice Commission, the Commission has never been requested to examine the provisions of domestic criminal legislation.

Certain Council of Europe co-operation programmes with Central and East European countries do nonetheless provide for assistance in the drafting of criminal laws. I have therefore transmitted a copy of your letter to the Directors of Human Rights and of Legal Affairs.

Yours faithfully

G. BUQUICCHIO
Secretary of the Commission

Report on the follow up on the Halonen resolution in the CoE

REPORT on the honouring of commitments entered into by member states

Rapporteur: Mr MASSERET, France, Socialist Group

Summary

All member states of the Council of Europe are required to respect their obligations under the Statute, the European Convention on Human Rights, and all other conventions to which they are parties.

In addition to these obligations, certain member states freely entered into specific commitments during the examination of their request for membership by the Assembly. In Order No. 488 (1993), the Assembly instructed its Political Affairs Committee and its

Committee on Legal Affairs and Human Rights to monitor closely the honouring of these commitments.

The Assembly considers that this monitoring process should be regarded as a stimulus and guidance for the consolidation of democracy in the new member states. However, persistent failure to honour commitments freely entered into will have consequences. Therefore, the Assembly calls upon the governments of new member states to ensure the rapid implementation of the commitments entered into when they joined the Council of Europe.

Explanatory memorandum

1. On 29 June 1993 the Assembly adopted Order No. 488 (1993) instructing "its Political Affairs Committee and Committee on Legal Affairs and Human Rights to monitor closely the honouring of commitments entered into by the authorities of new member states and report to the Bureau at regular six-monthly intervals until all undertakings have been honoured".

2. In the same order the Assembly expressed the view that the honouring of these commitments is a condition for full participation of parliamentary delegations of new member states in its work".

3. At a meeting on 2 July 1993 the Bureau of the Assembly stated that Order No. 488 applied to states having joined the Council of Europe since the creation of the special guest status by the Assembly on 11 May 1989 (Resolution 917(1989)). A list of the states concerned is appended hereto, together with the main commitments entered into by these states, as contained in the opinions adopted by the Assembly. Other commitments are set out in the reports which led to the opinions.

4. To carry out Order No. 488 (1993), Mr Reddemann, the Chairman of the Political Affairs Committee, proposed that the two committees involved set up ad hoc sub-committees composed of the chairmen concerned and the parliamentarians who had reported on the membership applications. Joint meetings and joint decisions were also suggested by Mr Reddemann. This proposal was justified in the light of Resolution 1015 (1993) on joint meetings of Assembly committees or sub-committees.

5. However, the two committees concerned considered Order No. 488 separately:

- the Committee on Legal Affairs and Human Rights asked Mr Binding, Rapporteur for Estonia, and Mr Schwimmer, Rapporteur for Slovakia, to

submit preliminary reports on the question raised by Order No. 488. On 13 December 1993 the committee held an exchange of views on these reports, which were transmitted to the chairmen of the parliamentary delegations concerned for comments;

- the Committee on Political Affairs asked its Chairman, Mr Reddemann, on 3 December 1993 to contact his opposite number in the Committee on Legal Affairs and Human Rights in order to gauge the practical follow-up to be given to Order No. 488.

6. A procedure needs to be decided on that will enable the Assembly to be informed in compliance with its order of 29 June 1993.

In this regard a choice lies between two possibilities:

- either the retention of the procedure already followed by the Committee on Legal Affairs and Human Rights (that is appointment by each committee of a rapporteur, if possible the one already appointed for the membership applications);
- or the setting up by the Political Affairs Committee of an ad hoc committee comprising the rapporteur on accession. If the committee chaired by Lord Kirkhill were to adopt this latter procedure, joint meetings could be envisaged.

In any event, in order to respect the responsibility of both committees, the reports and document(s) drawn up would, whatever procedure was chosen, be discussed in each committee before being transmitted to the Bureau of the Assembly (Resolution 1015 (1993) authorises both committees to present a joint report to the Bureau in the event of unanimous agreement).

7. Following a careful examination of the situation, taking into account the precedents, which had shown the difficulties of the joint procedure, and in an effort to achieve efficiency and clarity, the final proposal put forward is that:

- the Committee on Legal Affairs and Human Rights be responsible for the report containing the necessary appraisal of the foundation and of the instruments of the state governed by the rule of law, and give its opinion on the basis of that report;
- the Political Affairs Committee be responsible for the report containing the appraisal of the actual

functioning of the institutions and instruments of pluralist democracy and give its opinion on the basis of that report.

The two committees' work schedules are co-ordinated.

8. Apart from it being important to be clear about the aim of Order No. 488 so that there should be no ambiguity concerning the use to be made of it.

9. A just application of Order No. 488 requires the spirit underlying it to be respected. Confronted with a new political situation in central and eastern Europe, our Assembly wishes to reconcile the need to offer the "new democracies" a political perspective rapidly with the difficulties experienced by them in advancing from the dictatorship stage, with all its cultural and social effects, to the stage of pluralist democracy, not to mention the social difficulties.

10. Order No. 488 essentially lays down a monitoring procedure which consolidates, strengthens and speeds up the steps which the states concerned have to take in the direction set by our Assembly. It is also intended to provide a stimulus; the new member states have actually entered quite freely and advisedly into the commitments they should now implement. The conditions and time-limits are a matter for the appraisal of the Assembly and our Committee: that is the purpose of the report awaited.

11. A different interpretation of Order No. 488 (1993) could give the impression that our Assembly has come up with a new type of status, that of conditional member state.

12. In order to help the new member states to steer clear of the dangerous pitfalls road to democracy, the Assembly is resolved to ensure, taking a line, that Order No. 488 (1993) is complied with. Any persistent commitments freely entered into would be penalised.

The Spanner Case accepted by the Human Rights Commission

By Rex Wochner

The European Commission on Human Rights in Strasbourg January 18 accepted the case of three gay British men who were jailed for having consensual sadomasochistic sex.

The arrests were part of British police's infamous "Operation Spanner" in which 16 men were charged with assault in 1990 as a result of SM sex play in their own homes.

They were sentenced to up to four-and-a-half years in prison. The sentences were reduced on appeal.

British courts said consent is not a defense in sex acts where bodily harm is committed. The European Commission disagreed.

The commission will try to settle the case directly with the British government. If that fails, it will go to the commission's committee of ministers or the European Court of Human Rights.

"The European Court has recognized that the individual in Britain has a right to privacy with respect to their sexual lives," one of the men, Roland Jaggard, 47, told Reuters. The other defendants are Tony Brown, 58, and Colin Laskey, 52.

Answers from the German government

In answering an inquiry by MP Volker Beck (Cologne) and BÜNDNIS 90/DIE GRÜNEN on December 29th 1994, the German government has stated this:

Situation of human rights for gay men and lesbians

1) How does the government consider the human rights situation for gays and lesbians and which measures will it take to improve it?

The government endeavors to avoid or fight all forms of discrimination.

2) Would the government encourage the parliament to discuss the issue or would it integrate the issue in general statements in the future?

The government has always dutifully replied to inquiries relating to this issue. It does not see any need for the above.

3) Does the government know in what countries gays and lesbians are persecuted or harassed?

We know that homosexual acts are prohibited and the laws are enforced in several countries. As we do not

have sufficient information on that, countries will not be named.

4) What measures will the government take in future to improve the situation?

We put pressure on the countries to adhere to national or international commitments. This is done either via the UN or the EU

5) Does the government support the recognition of ILGA as NGO at the UN?

Because of ILGA's alleged support or tolerance of paedophilia the status was suspended. The Committee on NGOs, where Germany is not represented, will now investigate this issue.

7) Does the government support ILGA's efforts to stipulate the rights of gas and lesbians in CSCE documents?

Several CSCE documents stipulate human rights and fundamental freedoms which are to be enjoyed by anyone without discrimination.

8) How does the government consider the proposal to include an anti-discrimination paragraph for gas and lesbians in the European Convention on Human Rights?

Because of the anti-discrimination provision in Article 14 we consider such an inclusion as unnecessary.

9) What role played the human rights situation for gays and lesbians during the admission process of new members to the Council of Europe?

Applying countries must fulfil the following requirements:

Rule of law, observance of human rights and fundamental freedoms. After admission, the new members should ratify the Convention asap so that their citizens can lodge complaints at the European Commission for Human Rights.

10) Which member countries persecute homosexual adults?

Romania and Albania,

11) What follows from this for the government?

At the Vienna CoE summit in 1993 an Action Plan against racism, xenophobia, anti-semitism and intolerance was agreed. The government will continue to fight intolerance.

Members of relevant CoE committees

Committee on Parliamentary and Public Relations

Joint Committee "Parliamentarians-NGO Liaison Committee"

Parliamentarians:

President:

M.	GOTLEV, Vassil	Bulgaria
M.	AMARAL, Fernando	Portugal
M.	BOBELIS, Kazs J.	Lithuania
M.	BÜCHLER, Hans	Germany
M.	COLOMBIER, George	France
M.	FASSINO, Piero	Italy
M.	KORAHASIS, Vassilios	Greece
M.	LAAKSO, Isako	Finland
M.	MASSERET, Jean-Pierre	France
M.	ROMAN, Rafael	Spain
M.	SEEUWS, Willy	Belgium
Mrs.	RAGNARDOTTIR, Lara Margret (ex officio)	Iceland

NGO Liaison Committee

President:

Mme	MIEG-SCHALLER, Catherine	Switzerland
M.	BORRAS, Manuel	France
Mme	DURRER, Maryse	France
MM.	GERARD, Jacques	France
	GICQUEL, Jean-Bernard	France
	LE MOINE, Pierre	France
Past.	MERMINOD, Gerard	France
Mlle	PAILLUSSON, Marie-Therese	France
Mme	RALL, Marichu	France

Committee on the Budget and the Intergovernmental Work Programme

Sub-Committee on the European Civil Service

President:

M.	BUGLI, Pierre	San Marino
Vice-President:		
M.	MANESCU, Miron	Romania
M.	COX, Thomas	United Kingdom
M.	MARQUES, Joaquim	Portugal
M.	REDMOND, Martin	United Kingdom
M.	STEINER, Heinz-Alfred	Germany

Sir SPEED, Keith (ex officio) United Kingdom

Committee on Legal Affairs and Human Rights

Sub-Committee on Human Rights

President:

Mme HALLER, Gret Switzerland

Vice-President:

M.	VOGEL, Friedrich	Germany
M.	AMARAL, Fernando	Portugal
M.	COLUMBERG, Dumeni	Switzerland
M.	FRUNDA, Gheorghe	Romania
M.	GODMAN, Norman	United Kingdom
M.	HAGÅRD, Birger	Sweden
M.	JANSSON, Gunnar	Finland
M.	JASKIERNIA, Jerzy	Poland
M.	JAMBRUIN, Pierre	France
Mrs	LENTZ-CORNETTE, Marcelle	Luxembourg
M.	LOPEZ, Henares	Spain
M.	RODEGHIERO, Flavio	Italy
Sir	SMITH, Dudley	United Kingdom
Mrs	WOHLWEND, Renate	Liechtenstein
Lord	KIRKHILL (ex officio)	United Kingdom

Sub-Committee on Penal Law and Terrorism

M.	AMARAL, Fernando	Portugal
M.	DEASY, Austin	Ireland
M.	ERR, Lydie	Luxembourg
M.	FICO, Robert	Slovakia
M.	FRANCK, Hans Göran	Sweden
M.	GODMAN, Norman	United Kingdom
Mme	HALLER, Gret	Switzerland
M.	JANSSON, Gunnar	Finland
M.	JAMBRUIN, Pierre	France
M.	KEMPINAIRE, André	Belgium
M.	KUKK, Tonu Reid	Estonia
M.	RATHBONE, Tim	United Kingdom
Sir	SMITH, Dudley	United Kingdom
Mrs	SOUTENDIJK Van APPEL-DOORN	The Netherlands
Lord	KIRKHILL (ex officio)	United Kingdom

New EU proposal on HIV and AIDS

As mentioned in EuroLetter 30 the European Commission presented last november a new community action plan on the prevention of aids and certain other communicable diseases within the framework for action in the field of public health. It is available at the European Commission's Information centres in all

of the capitals of the EU member states reference number COM(94) 413 final 94/0222(COD).

Under the new Union Treaty the European Parliament will have a considerable say in the final decisions.

The Committee on the Environment, Public Health and Consumer Protection, chaired by Ken Collins (UK, Lab) decided in december to have Mr.Noel MAMERE, (FR, Alliance Radicale Europeen/Generation Ecologique) as its rapporteur.

Mr. MAMERE is working on a first draft now that will be presented for a first reading in Committee in the coming weeks. The proposal of the European Commission proposes a total budget for the period 1 9951999 of 49.6 million ecu. with the following sub headings:

HIV/AIDS and other communicable diseases

Collection of epidemiological data,	
establishment of networks	1.4 m
Specific prevention measures (vaccination, safety of blood and blood products)	11,5 m
Information and awareness raising for general public and target groups	2,7 m
Training and promotion of human resources	8,7 m

HIV/AIDS

Measures for children and young people	7.0 m
Health and social support and assistance	9.1 m
Measures to combat discrimination	2.3 m

Other Communicable Diseases

Early detection and systematic screening	6.9 m
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In the proposed text by the Commission the action program is rather concrete and with some additions and clarifications it look like rather acceptable. Mr. MAMERE is interested in getting comments and suggestions.He may be contacted through Mr. Francois Rigoud, collaborator for environmental and health questions of the ARE group in the EP.+ 32 2 2 842836.

Hein Verkerk is also interested in comments and suggestions.

OSCE Seminar on Building Blocks for Civic Society

The OSCE Office for Democratic Institutions and Human Rights presents its compliments to the Representatives of the participating States of the Organisa-

tion on Security and Cooperation in Europe and has the honour to forward the agenda, timetable and organizational modalities of the Human Dimension Seminar "Building Blocks for Civic Society: Freedom of Association and NGOs", to be held on 4-7 April 1995 in Warsaw.

The copies of the relevant Registration Forms an enclosed and the participating States are kindly requested to notify the ODIHR about their participation in the Seminar at their earliest convenience.

Further information on preparation and details about technical arrangements for the Seminar's participants will be provided soon.

The ODIHR would appreciate very much If the information regarding this OSCE Seminar could be distributed as widely as possible among interested relevant institutions, non-governmental organizations and media in the participating States.

The OSCE Office for Democratic Institutions and Human Rights avails itself of this opportunity to renew to the Representatives of the participating States the assurances of its highest consideration.

Warsaw, 17 January 1995

I. AGENDA

1. Opening of the Seminar by the Director of the ODIHR.
2. Keynote speech.
3. Discussion on building blocks for civic society; freedom of association and NGO's, including: right to association and its administrative, legal and financial aspects; and how to build successful programmes that attract public support and influence governments.
4. Summing up and closure of the Seminar.

II. TIMETABLE AND OTHER ORGANIZATIONAL MODALITIES

1. The Seminar will open on Tuesday, 4 April 1993 at 10.00 a.m in Warsaw. It will close on Friday, 7 April 1995.
2. All Plenaries and the Discussion Groups will be open.
3. Agenda items 1, 2, 3 and 4 will be dealt with in the Plenary. In addition, the closing Plenary, scheduled for Friday morning, will focus on practical suggestions for dealing with the issues and problems raised during the Discussion Groups.

4. Agenda item 3 will be dealt with in the Plenary, as well as in the two Discussion Groups:

DG1 Right to association: administrative, legal and financial aspects

Topics may include:

- statement of purpose: vague or precise, examples of successful NGOs;
- organisational models, election of officers, executive bodies, what makes an NGO successful;
- obtaining legal recognition, registration formalities, control procedures;
- non-profit rule, receiving financial support, meeting financial reporting requirements in various countries;

DG2 How to build successful programmes that attract public and influence governments

Topics may include:

- the NGO and the public: responsibility and transparency, building of constituency: use of media, meetings, being part of a country's civic culture;
 - the NGO and the legislative and executive branches; expertise and consultancy; relationships with politicians, governmental officials;
 - specific problems of the human rights NGO;
 - international organisations and NGOs-positive experience;
5. Meetings of the Plenary and Discussion Groups will take place according to the attached work programme.
 6. An ODIHR representative will chair the Plenary Meetings.
 7. The ODIHR will invite the Moderators to guide discussion in the Discussion Groups. ODIHR representatives will assist them.
 8. During one half day in the course of the seminar no session will be scheduled in order to provide opportunities for possible contacts with NGOs and different NGO meetings.
 9. Standard CSCE rules of procedure and working methods will be applied at the Seminar.

Fact Sheet about The Organization for Security and Co-operation in Europe

The Organization for Security and Co-operation (OSCE) in Europe was created in the early 1970's under the name of Conference of Security and Co-operation in Europe (CSCE) as a multilateral forum for dialogue and negotiation between East and West. The history of the CSCE is twofold. From 1975 to 1990, the CSCE, as its name implied, worked as one continuous conference. The Paris Summit Meeting in 1990 marked the beginning of institutionalisation, reflecting the changes in Europe and the new challenges for the post-Cold War period. The developments in the security situation in Europe in the 1990's have led to a fundamental change in the CSCE and to a dramatic strengthening of its role. Reflecting this change, the 1994 Budapest Summit, recognising the CSCE was no longer a conference, changed its name to OSCE. Today, the CSCE comprises 53 Participating States from the region stretching from Vladivostok to Vancouver, including the United States, Canada and all the countries of Europe and the former Soviet Union (the former Yugoslav Republic of Macedonia has observer status, Yugoslavia is suspended). All member States have equal status and are represented on the basis of common interest, common rules and norms.

Historical Development

The origin of the OSCE can be traced to the early 1950's, with a proposal from the Soviet Union to create an all-European security conference. Finland offered Helsinki as a venue for the conference in 1969, inviting all European countries, the United States and Canada. In 1972, the 35 States agreed to enter into multilateral consultations concerned with preparations for the conference, and the stage was set for the preparatory talks in Helsinki with the original 33 nations. In 1973, the consultations concluded with the "Blue Book" which outlined final recommendations for the scope and rules of procedure for the Conference.

On 1 August 1975 in Helsinki, heads of the 35 participating States signed the Helsinki Final Act of the Conference on Security and Co-operation in Europe also known as the Helsinki Accords. The act established basic principles, known as "the Helsinki Decalogue," for behaviour among the participating States and of governments toward their citizens. The Helsinki Final Act laid the basis for further development of the CSCE Process. The document is not a treaty, but a politically binding agreement. It is divided into three main categories, or "baskets" concerning:

- 1) Questions relating to Security in Europe;

- 2) Co-operation in the Field of Economics, Science and Technology. and the Environment;
- 3) Co-operation in Humanitarian and other Fields

Furthermore, it called for regular follow-up meetings to review the implementation of CSCE agreements, to set new standards and norms, to expand co-operation and to maintain political dialogue. In the 1970s and 1980s, such meetings were held in Belgrade, Madrid and Vienna. At these meetings, the Heads of States and Government of all CSCE Participating States agreed upon important commitments aimed at upholding human rights, and measures to build confidence among the participants through the advance notification of military activities and the exchange of military information. In addition, a number of expert meetings were held on such specific topics as democratic institutions, human rights, human contacts, peaceful settlement of disputes, environment, media, science, culture and economic co-operation.

The Charter of Paris of November 1990 marked the turning point in the history of the CSCE in the post - Cold War era, serving as a transition for the CSCE from its role as a forum for negotiation and dialogue to an active operational structure. At the first summit meeting since Helsinki, the Heads of State or Government adopted the "Charter of Paris for a New Europe" aimed at defining the CSCE's identity in a new international environment. New "Guidelines for the Future" were created together with standing institutions like the Conflict Prevention Centre in Vienna, the Office for Free Elections in Warsaw and the Secretariat in Prague. The Charter also established three main political, consultative bodies: The Council of Ministers consisting of foreign ministers from the participating States; a Committee of Senior Officials to assist the Council and manage day-to-day business; and regular summit meetings of heads of State or Government. Meanwhile, newly independent states from Central and Eastern Europe and the former Soviet Union applied for membership, and the number of CSCE participating States expanded to 53.

During the same period, an important arms control agreement, the Treaty on Conventional Armed Forces in Europe (CFE) was negotiated in the framework of the CSCE process and signed in November 1990. The CFE limits non-nuclear ground and air forces from the Atlantic to the Ural Mountains. A follow-up agreement to CFE sets limits on personnel strength in the same region. Also in 1992, the CSCE adopted a comprehensive document on Confidence- and Security-Building Measures as well as a declaration on the Open Skies Treaty. In September, 1992, a new

body, the Forum for Security Co-operation was formed in Vienna to negotiate and consult on concrete measures aimed at strengthening security and stability throughout Europe.

Further impetus and possibilities for concerted action in the CSCE framework were outlined in the new Helsinki Document of July 1992. It established a number of practical tools to strengthen CSCE's contribution to the protection of human rights and manage the unprecedented change underway in Europe. In particular, it called for an ambitious role for the CSCE in early warning, conflict prevention and crisis management. The newly created High Commissioner on National Minorities was tasked to respond, at the earliest possible stage, to ethnic tensions that have the potential to develop into a conflict within the region. In December, 1992, the OSCE Council established a new post of Secretary General and in 1993, a strengthened Secretariat in Vienna.

In December, 1993, a new body, the Permanent Committee (now the "Permanent Council"), was established in Vienna, significantly expanding the possibilities for political consultation, dialogue and decision-making on a weekly basis.

The new operational profile of the CSCE expanded with the dispatch of several conflict prevention and crisis management Missions in areas of potential or actual conflict- Since February, 1993, the CSCE has also been co-ordinating the enforcement of sanctions imposed on Serbia/Montenegro with Sanctions Assistance Missions-

Determined to give the CSCE new political impetus at the 1994 Budapest Summit, 52 Heads of State and Government from CSCE participating States renamed CSCE the Organization for Security and Co-operation in Europe (OSCE). The Budapest document established the OSCE as the primary instrument for early warning, conflict management and crisis management in the OSCE region. The document authorised the OSCE to send a peacekeeping mission to Nagorno-Karabakh. The document also called for the strengthening of the Chairman-in-Office as well as the secretary general and the secretariat, the High Commissioner of National Minorities and the Office for Democratic Institutions and Human Rights. A "Code of Conduct on Politico-Military Aspects of Security" was adopted setting forth principles guiding the role of armed forces in democratic societies. The document also called for a discussion within the OSCE on a model of common and comprehensive security based on CSCE principles and commitments.

The results will be submitted to the next Summit meeting in Lisbon in 1996.

OSCE Structures and Institutions

Summits

Summits of Heads of State or Government of OSCE member States set priorities and provide orientation at the highest political level. The last meeting took place in Budapest on 5 - 6 December 1994. The next summit, planned for 1996 in Lisbon, will decide on the frequency- of future meetings.

Ministerial Council

The Ministerial Council (formerly the CSCE Council), whose members are the Foreign Ministers of the OSCE member States, is the central decision-making and governing body of the OSCE. It considers issues relevant to the OSCE and takes appropriate decisions. The Ministerial Council meets at least once a year towards the end of every term of chairmanship.

Senior Council

The Senior Council (replacing the Committee of Senior Officials), is responsible for overview, management and co-ordination of OSCE activities. It discusses and sets forth policy and broad budgetary guidelines. The OSCE member States are encouraged to be represented by at the level of political directors from capitals or at a corresponding level. The Senior Council meets at least twice a year in Prague and once a year as the Economic Forum.

The Permanent Council

Based in Vienna, the Permanent Council (formerly Permanent Committee) is responsible for the day-to-day operational tasks of the OSCE under a representative of the CIO. Its members, permanent representatives of the OSCE member States, meet weekly in the "Hofburg" Conference Centre. The Permanent Council is the regular body for political consultation and decision-making and takes decisions on all issues pertinent to the OSCE. It can also be convened for emergency purposes.

The Forum for Security Co-operation (FSC)

The FSC, consisting of representatives of the delegations of the OSCE participating states, is an integral part of the OSCE. It meets weekly in the Vienna "Hofburg" and negotiates and consults on concrete measures aimed at strengthening security and stability throughout Europe. Its main objectives are a) negotiations on arms control, disarmament and confidence- and security-building; b) regular consultations and intensive co-operation on matters related to security; c) the hither reduction of the risks

of conflicts. It is also responsible for the implementation of Confidence- and Security-Building Measures (CSBMs) the preparation of seminars on military doctrine, the hold of annual implementation assessment meetings, and for the provision of a forum for discussion and clarification of information exchanged under agreed CSBMs.

Chairman-in-Office (CIO)

The CIO is vested with overall responsibility for executive action. He/She is the Foreign Minister of the State which at last arranged the Ministerial Council Session. The term of chairmanship normally lasts one calendar year. On 5 December 1994, Hungarian Foreign Minister, Laslo Kovacs became Chairman-in-Office. The CIO may be assisted by:

- the Troika, consisting of the preceding, the present and the succeeding Chairmen (currently Italy, Hungary and Switzerland);
- Ad-Hoc-Steering Groups, which may be established on a case-by-case basis in order to hither assist the CIO, in particular in the field of conflict prevention and crisis management;
- Personal Representatives, designated by the CIO with a clear and precise mandate in order to assist the CIO in dealing with a crisis or a conflict.

The Secretary General

The Secretary General is appointed by the Ministerial Council for a period of three years. Based in Vienna, he acts as the representative of the Chairman-in-Office and supports the CIG in all activities aimed at fulfilling the goals of the OSCE. The Secretary General's tasks also includes the management of OSCE structures and operations. He is the OSCE's Chief Administrative Officer. He works closely with the CIO in the preparation and guidance of OSCE meetings and ensures the implementation of OSCE decisions. Dr. Wilhelm Höynck was appointed the OSCE's first Secretary General in June 1993.

High Commissioner on National Minorities (HCNM)

The OSCE created the job of HCNM to respond, at the earliest possible stage, to ethnic tensions that have the potential to develop into a conflict within the OSCE region. The HCNM functions as an instrument to identify -- and promote the early resolution of -- ethnic tensions that might endanger peace, stability, or relations between OSCE Participating States. Former Netherlands Foreign Minister Max van der Stoep was appointed the first High Commissioner in December 1992. The HCNM office is based in the Hague.

The Secretariat

The Secretariat, under the Secretary General's direction, operates mainly in Vienna and consists of four departments:

- a) Department for CIO Support, which is responsible for preparation of meetings, contacts with international organizations, press relations and public information.
- b) Conflict Prevention Centre, which is responsible for overall support of OSCE tasks in the fields of early warning, conflict prevention and crisis management; operational support of OSCE Missions. It also runs the OSCE data base and communications network.
- c) Department of Conference Services, which is responsible for conference services, interpretation services, documentation and protocol.
- d) Department for Administration and Budget is responsible for administrative services, personnel policies and financial control.

The office in Prague, which belongs to the Secretariat in Vienna, services the CSO meetings, maintains OSCE archives and distributes documents.

The permanent staff of the OSCE Secretariat totals about 65 employees.

Office for Democratic Institutions and Human Rights
Based in Warsaw, the ODIHR, the former Office for Free Elections, is the OSCE institution responsible for furthering human rights, democracy and the rule of law. It provides the forum for meetings and expert seminars to address the implementation of human dimension commitments. It serves as the institutional framework for sharing and exchanging information on the building of democratic institutions and the holding of elections within Participating states. It co-ordinates the monitoring of elections, provides expertise and training on constitutional and legal matters. The ODIHR is headed by Ambassador Audrey Glover.

OSCE Missions

There are currently eight Missions of the OSCE working in Latvia, Estonia, Tajikistan, Moldova, Former Yugoslav Republic of Macedonia, Georgia, most recently, in Ukraine and Sarajevo. OSCE Missions serve as instruments of conflict prevention and crisis management. Their mandate generally calls for the establishment of good contacts to local representatives and the further strengthening of initiated dialogue between the parties concerned. The mandates for the respective mission are adjusted to the specific situation in the region where the mission is deployed.

Sanctions Assistance Missions

The OSCE mandated the creation of Sanctions Assistance Missions in February 1993. Their functions include the oversight of the implementation operation of the sanctions imposed on Serbia/Montenegro and of the arms embargo against all Republics of former Yugoslavia. The Missions are deployed in all countries bordering the FRY: Albania, Bulgaria, Croatia, Hungary, FYROM, Romania, and Ukraine. The Sanctions Assistance Missions cooperate within the Sanctions Liaison Group (SLG), chaired by the EU/OSCE Co-ordinator, Ambassador Antonio Napolitano.

Other Bodies

The Parliamentary Assembly (PA)

In April 1991, parliamentarians from the OSCE participating States agreed to the creation of the OSCE Parliamentary Assembly. The PA meets once a year and is supported by a Secretariat in Copenhagen. The CIO stands in regular contact with the PA and informs on the work of the OSCE. Mr. Frank Swaelen is President.

Court of Conciliation and Arbitration

The Court was established by the Convention on Conciliation and Arbitration within the OSCE, which was put into force in December 1994 after the deposit of the twelfth instrument of ratification or accession. It aims at settling disputes which are submitted to it by the OSCE States which signed the convention through means of conciliation and, when appropriate, arbitration. The Court will be based in Geneva.

OSCE Funding

All activities of the institutions, negotiations, ad hoc meetings and missions are financed by contributions made by the member States, with the exception of the salaries of the seconded personnel which remain the responsibility of the seconding national administrations.

Comparative Survey of the Legal and Societal Situation of Homosexuals in Europe

By Alexandra Duda

I. A total ban on homosexual relations exists in

Albania (see page 1)
Belarus

Bosnia-Herzegovina
 Cyprus
 Macedonia
 Moldova
 Romania

II. Countries with different age of consent for hetero- and homosexual relations

	repeal of ban	Age of consent	
		hetero-	homosexuals
Austria	1971	14	18
Bulgaria	1968	14	18
Croatia	1977	14	18
Finland	1971	16	18
Germany-West	1969	14	
Hungary	1961	14	18
Liechtenstein	1989	14	18
United Kingdom (Northern Ireland)	1967 1982	16 17	18 18

Remark: The Faroe Islands also apply a discriminatory higher age of consent.

III. Special provisions

In Austria (§ 220), Finland (Art. 20:9.2), and Liechtenstein (§ 220) "promoting" or "encouraging" homosexuality is forbidden. All modern studies show that this is indeed not possible. These laws encroach on the individuals' right to freedom of speech.

In Austria (§ 221) and Liechtenstein, lesbian and gay organizations are prohibited (Freedom of assembly).

IV. Some forms of discrimination (non-exhaustive list)

Anti-homosexual legislation and especially its criminalization implies society's misperception: homosexuality is considered a mental or genetic disease; incidents of "treatment" with drugs and electroshock are commonplace in many countries.

After divorce, gay men and lesbians face severe difficulties in maintaining custody rights for their children or realizing their visiting rights. The denial of their rights is even more likely if they live together with a same sex partner.

In some countries, proposals are being discussed to forbid lesbians receiving artificial insemination (Norway, Italy, France, UK). E.g. in Austria, non-married women and thus all lesbians are excluded from such an option by law.

Same-sex couples are denied adoption rights in all countries, since only married couples are entitled to adopt children. In many countries separated parents are likely to be denied custody rights because of their homosexuality.

Laws on "public indecency" and "obscenity" are used against gay men and lesbians showing affection in public (hugging, kissing) e.g. in Bulgaria, UK, Spain, Italy. In numerous countries provisions on "public morale" are applied against publications of gay/lesbian organisations thereby infringing their right to freedom of speech (and press). Organisations are regularly banned and activists harassed with condemnation or even involvement of local authorities.

Not least because of many forms of "legal" discrimination homosexuals are exposed to an increasing amount of violence from fascist groups and prejudiced individuals. "Legally sanctioned stigmatization" often prevents victims from reporting attacks.

In Greece homosexual prostitution is banned by the Criminal Law while there is no such ban on heterosexual prostitution. The law applies only to male homosexuals.

Homosexuals are either generally excluded from access to "sensitive sectors" (e.g. diplomatic service, science, military) or are dismissed in case their sexual orientation becomes known. Many open homosexuals face a hostile climate at work as well as restrictions on promotion and career development.

V. Case Law

1) In 1981 in *DUDGEON vs. United Kingdom* the European Court for Human Rights in Strasbourg decided that a ban on homosexual activities contradicts with stipulations in the European Convention on Human Rights by violating the right to privacy (Article 8). The UK government had to comply by abolishing the ban.

2) In October 1988 the European Court for Human Rights upheld its position in the case *NORRIS vs. Ireland* and urged the Republic to repeal the respective law. Interestingly, the plaintiff's defendant was Mrs Mary Robinson, then practising lawyer and today President of the Irish Republic. The Committee of Ministers of the Council of Europe as the monitoring body on follow-ups of the Court's decisions repeatedly urged the government to abolish the ban. It was not before June 24, 1993 that the Irish parliament decided to comply.

3) On April 22, 1993 the European Court for Human Rights upheld its earlier position in the case *MODINOS vs. Cyprus* that a ban on homosexuality interferes with the private life of citizens. Mr Modinos was paid compensation. The law, however, has not been abolished yet.

4) In March 1994 the Human Rights Committee of the United Nations decided in *Toonen vs Tasmania* that the criminalization of homosexuality not only violates the right to privacy (Art. 17) but also the non-discrimination clauses (Art. 2 and 26) of the International Covenant on Political and Civil Rights interpreting it as discrimination based on sex.

VI. European Institutions

The Parliamentary Assembly of the Council of Europe (Recommendation 924/81 and Motion for Recommendation 6348/90) as well as the European Parliament of the EC (Resolution on Sexual Discrimination at the workplace 1984) have urged their member states to entirely equate homosexuals with heterosexuals in all fields of legislation and especially to set up equal ages of consent.

The Council of Europe investigates the human rights situation of gay men and lesbians in countries applying for membership. In February 1993 members of the Parliamentary Assembly adopted the Written Declaration No. 227 stressing the necessity to end the practice of discrimination against homosexuals in former Communist countries.

In September 1993, Romania was admitted as a member to the Council of Europe despite of its anti-homosexual legislation, while the Parliamentary Assembly of the Council requested the government to abolish anti-gay legislation (Opinion # 176) to bring it into line with the ratified European Convention. A reform bill is pending before the Chamber of Deputies.

An Additional Protocol to the European Convention on Human Rights supported by The International Lesbian and Gay Association (ILGA) is pending before the Committee for Human Rights and Legal Affairs for deliberation.

In 1991 the Commission of the European Union extended its code of practice on sexual harassment at the workplace with provisions for the protection of gay men and lesbians.

In April 1993 the European Human Rights Foundation launched the study "Homosexuality: A Community Issue" detailing the consequences of the

Single Market in general and the "Free Movement" principle in particular.

In February 1994 the European Parliament of the EU adopted a Recommendation sponsored by Claudia Roth (MEP Green Party) of the Committee on Civil Liberties and Internal Affairs calling upon the member states to recognize and protect homosexuals and their relations as equal with those of heterosexual people.

EU staff members founded the working group "Egalité" advocating elimination of all aspects in EU staff regulations discriminating against homosexuals (e.g. tax benefits and social security issues in same-sex partnerships). The European Citizen Action Service (ECAS) supports the abolishment of all EU practices which deny homosexuals equal enjoyment of the rights laid down in the Maastricht Treaty (e.g. free movement) as well as non-discrimination language in future charters/agreements.

In 1993, the Secretary General of ILGA addressed the Plenary of the CSCE Implementation Meeting in Warsaw explaining the discrimination homosexuals face world-wide. The Final Document includes these concerns. The Human Dimension has not yet explicitly condemned discrimination against gay men and lesbians in the participating states - an omission that can be interpreted as its acceptance!

VII. International Institutions

In September 1991 Amnesty International's World Conference officially decided to recognize people imprisoned because of their sexual orientation as prisoners of conscience.

In December 1991 the World Health Organisation (WHO) deleted homosexuality as an illness in the International Classification of Diseases (chapter V, code 302). Remarkably, this decision did not come into force before January 1993 (ICD-10-version).

As first organisation advocating homosexual equality, the International Lesbian and Gay Association (ILGA) was granted Roster NGO-status at the Council of Economic and Social Affairs (ECOSOC) of the United Nations in March 1993.

VIII. Recent developments

Norway (1981), France (1985), Denmark (1987), Sweden (1987), The Netherlands (1992) and Ireland (1989) have enacted regulations prohibiting discrimination against homosexuals.

In 1986 Denmark equated homosexual couples with married ones concerning the right of succession.

In 1989 the Irish Parliament adopted a "Prohibition to Incitement to Hatred Act" covering hate speech against homosexuals.

In May 1989 the Danish Parliament enacted a "law on the registered partnership" of homosexual couples. It stipulates equal rights with one exception: same-sex couples are not allowed to adopt children together.

In 1991 the total ban on homosexual relations was abolished in the Ukraine.

In 1992 a number of Dutch local authorities started accepting the official registration of same-sex partnerships. In October 1993 a bill was introduced in parliament equalizing legal protection for "registered partners" vis-vis married couples.

In 1990 and 1992 respectively, Estonia and Latvia abolished laws penalizing homosexuality.

In June 1992 the German "Land" Brandenburg enacted a new Constitution emphasizing recognition of non-marriage partnerships by the state. In 1993 the "Land" Berlin included sexual identity as a non-discrimination criteria in its Constitution.

In Germany same-sex couples who were denied the right to marry have appealed at the Supreme Courts. Judges interpret the right to marry as an exclusive right for heterosexuals (while family law does not specify gender). In its decision of October 4, 1993 the Constitutional Court upheld this view and ruled the appeal inadmissible, while emphasizing the task for the legislative power to bring about legal protection for same-sex partnerships.

In 1992 the total ban on homosexuality was abolished in Gibraltar and the Isle of Man (both under UK Home Office jurisdiction).

In spring 1993, the Norwegian parliament adopted the same-sex partnership law based on the Danish one.

France, Ireland and The Netherlands have provisions against discrimination of gays and lesbians at the workplace.

In April 1993 the Russian Parliament enacted a new Penal Code which no longer includes the prohibition of homosexuality.

Lithuania which became member of the CoE in May 1993 repealed the ban on homosexuality one month after its admission.

In June 1993, the Irish parliament abolished the law prohibiting male homosexuality and simultaneously, set an equal age of consent at 17.

In autumn 1993 the French government adopted a law directing insurance companies to accept joint insurance coverage for non-married couples.

In October 1993, the "Unfair Dismissal Act" in Ireland was extended to include the prohibition of discriminating treatment on grounds of sexual orientation.

In November 1993 the parliament of the German free state Thuringia adopted a new Constitution prohibiting discrimination on grounds of sexual orientation - pending public approval by a referendum in late 1994.

The Irish Parliament is planning to establish an Equality Commission to monitor all forms of discrimination against homosexuals.

In June 1994, the Swedish parliament adopted a partnership law based on the Danish and Norwegian model.

In August 1994, the total ban on homosexual relations was repealed in Serbia (incl. Kosovo).

IX. Conclusion

This survey aims at giving a multifaceted overview of the different stages the recognition of homosexuals has reached in the various European countries ranging from recent decriminalization to granting legal partnership status while also highlighting ongoing persecution, stigmatization and denial of basic human rights.

In representing some 400 member organisations in more than 45 countries worldwide, the ILGA has made it its first priority to work towards abolishment of all legal, social, cultural or economic discrimination against homosexuals.

All human beings irrespective of their sexual orientation must be granted equal enjoyment of human rights! The realization of this goal will contribute to a peaceful coexistence and mutual understanding in a New Europe.

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and others

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Please indicate source when quoting text or excerpts.

INDEX TO LETTER 1-10, EC- LETTER 1 AND EURO-LET- TER 1-29

This is the full index to the Euro-letter. We have collected the most important issues from the 40 letters that have been written since LBL in 1991 overtook the task of informing the working party about COE/CSCE.

Any comments on the collection of issues are very welcome.

Some practical information:

The first ten letters are only dealing with COE and CSCE. Number 1 from January 91, number 2 February 1991 and number 3 May 1991 and so on up to 10. All these are in the index named L and the number.

One EC-letter was sent out in 1992. It is named EC in the index. The remaining EuroLetters are named with the number in the index.

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