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IN THIS ISSUE

- **CONCLUSIONS OF THE 18th EUROPEAN REGIONAL CONFERENCE**
- **MEPs WITHHOLD EQUAL TREATMENT FOR GAYS AND LESBIANS**
- **EUROPEAN PARLIAMENT COMMITTEE PUTS OFF EQUAL TREATMENT OF THE EU INSTITUTIONS' FEMALE AND GAY STAFF TILL THE NEXT MILLENIUM?**
- **PORTUGUESE PENAL CODE CHANGED**
- **ICELAND'S GAYS PROTECTED AGAINST DISCRIMINATION**
- **DUTCH PARTNERSHIP MEASURE PASSES LOWER HOUSE**
- **SPANISH PARTNERSHIP LEGISLATION INTRODUCED**
- **SWISS GOVERNMENT SNUBS GAYS**
- **SWEDEN WELCOMES ABUSED FOREIGN GAYS**
- **ROMANIAN LAW REFORM**

An update of the Survey on the Legal Situation for Gays and Lesbians in Europe and guides to the structure of the European Union, the Council of Europe and The Organisation for Security and Cooperation in Europe can be found on this URL:

<http://www.inet.uni-c.dk/~steff/gilil.htm>

CONCLUSIONS OF THE 18th EUROPEAN REGIONAL CONFERENCE

27-31 December 1996, Madrid

Representatives of the European associations members of ILGA convened in Madrid for a 5 day Conference whose primary objectives were the setting up of a Constitution for ILGA Europe, the election of the Executive Board for ILGA Europe and the elaboration of an Action Plan defining a comprehensive strategy and a set of measures aimed at eliminating legal, social, cultural and economic discrimination against lesbians and gay men in Europe and outside.

The Conference was conducted on the basis of the results of Working Groups which dealt with specific themes.

The Conference congratulated

the European Parliament for its invaluable work to defend the equality and dignity of all citizens and in particular for its 1994 "Resolution on equal rights for homosexuals and lesbians in the EC" (A3-0028/94) as confirmed by the 1996 "Resolution on the respect of Human Rights in the European Union" (A4-0223/96), its opinion on the modification of the staff regulation of the European Communities officials and its international action to ensure non discrimination for lesbians and gays

the European Commission for having implemented under the various Community policies certain measures to eliminate discrimination on the basis of sexual orientation and in particular for the measures applicable to homosexual and heterosexual cohabitation alike adopted on 9 July 1996 as part of the Commission staff policy

those national governments and parliaments who have enacted or are in the process of enacting legislation providing for same-sex partnerships with equivalent rights and advantages to marriage and for the prohibition of any discrimination on the ground of sexual orientation

those state, regional, local authorities, which, in the sphere of their competence, have taken steps to ensure equal treatment for all, regardless their sexual orientation, through various measures including the establishment of registers for same-sex partnerships, the granting of city housing to same-sex couples, the support for initiatives from lesbian and gay organisations

those judicial authorities whose decisions have allowed enormous progress towards the elimination of all discrimination based on sexual orientation

those employers, whether public or private, who have granted or are in the process of granting equal rights to employees in a same-sex relationship

those non governmental organisations who promote human rights and non discrimination on any ground whatsoever

The Conference invited

The European Commission

- to consider systematically the implementation of actions aimed specifically at lesbians and gay men in the context of more broadly based EU initiatives. These include programmes to combat discrimination of all types; to promote equality of opportunity; in the field of health, education, culture, of social policies, of external policies, etc.. The aim is to increase lesbian and gay visibility and to promote non discrimination, in particular through support to initiatives outlined in the attached Action Plan
- to implement the 9 point action plan set out in the Commission-sponsored study "Homosexuality: a European Community issue",
- to implement the European Parliament resolution of 1994, in particular through the elaboration of a recommendation on equal rights for gays and lesbians and of a periodic report on the situation of lesbians and gays in the Community
- to hold regular meetings between ILGA representatives and Commission officials responsible for those Community policies where action to combat discrimination on the basis of sexual orientation is particularly relevant, such as social policy, free movement of persons, culture and education, external policies and human rights
- to send an observer to attend the next ILGA European regional conference to be held in London in October 1997
- include sexual orientation in the sphere of activity of the European Observatory on Racism

The European Parliament

- to continue its efforts to promote equal rights for homosexual men and women and to set up an intergroup of MEPs dealing with lesbian and gay issues

The European Council

- to ensure the inclusion of a non discrimination clause on the basis of sexual orientation in the context of the Intergovernmental Conference for the revision of the European Union Treaty

National governments and parliaments

- to recognise same-sex partnerships with equivalent rights and advantages to marriage
- to include gays, lesbians and their children in the concept of family, including the right for family life
- to abolish discriminatory provisions against lesbians and gays, where in place, in the criminal code, in partnership laws and in the field of employment, in the field of education, information and organisation, on adoption for same-sex couples, on artificial insemination for lesbians, on joint custody and authority for same-sex parents

State, regional, local authorities

- to take steps, in the sphere of their competences, to ensure equal treatment for all, regardless their (sexual orientation, through various measures including the establishment of registers for same-sex partnerships, as a first step whenever a national same-sex partnership law is not yet in force, the granting of city housing to same-sex couples, the support for initiatives from lesbian and gay organisations

An action Plan is the process of being formulated and will be published in the EuroLetter at a later stage.

MEPs WITHHOLD EQUAL TREATMENT FOR GAYS AND LESBIANS

By Egalite

Members of the European Parliament have rejected a report which would have guaranteed an end to discrimination against its own staff members who are women, members of ethnic minorities - and lesbian or gay.

In a surprise move 27 January the Legal Affairs Committee of the European Parliament rejected a report which, among other things, would have extended equal treatment to gay and lesbian members of the EU's staff who have legal partnerships in their own countries.

The EP has in the past been consistently supportive of gay and lesbian rights. In a major report (The Roth Report) on Gay and Lesbian rights adopted no more than 18 months ago, the Parliament asked the European Commission to take steps to end discriminatory treatment against lesbians and gays, including those on the EU's own staff. Again, in its contribution to the Inter-governmental Conference (or Maastricht II), the Parliament demanded that discrimination against lesbians and gays be forbidden by the EU.

This latest development therefore comes as a surprise to those who follow this issue - not least the 350 members of the EGALITE group of lesbian and gay members of the EU's own staff, based in Brussels and Luxembourg. EGALITE's Co-President, Marion Op-
rel - herself an employee of the European Parliament - said: "The Parliament has repeatedly urged the ending of discrimination against lesbians and gays - but when it has a chance to put its own house in order and set a practical example to other European employers, it has failed. Its credibility as an employer and as a legislator on working conditions has been badly damaged by this."

The Report, drafted by Swedish Green MEP Malou Lindholm, recommended measures to guarantee equal treatment for women, ethnic minorities and lesbian and gay members of the EU's staff. Swedish and Danish lesbians and gays can currently register their partnerships in their own country, giving them and their partners similar rights to married people. The Report proposed that the EU institutions should follow suit for their employees whenever they were in such registered partnerships - and, following other employers such as IBM, the World Bank and the European Monetary Institute, that the same rights be given to non-married couples - both heterosexual and homosexual - if they register their partnership with their employer.

Although the Parliament's Committee voted for all of the separate amendments, it rejected the report in its totality - in a vote taken when several Socialist MEPs were out of the room - throwing the process into confusion. Division also surfaced in the EU's executive body, the European Commission, with its civil servant representative at the meeting arguing against the Report, whilst his political boss Commissioner Erkki Liikanen is said to have been consistently supportive of the campaign for gay and lesbian equality.

"Homophobia has once again reared its ugly head and in an institution we had believed to be free of it," said Marion Op-
rel EGALITE's Co-President. "But the victims of this homophobia are not only homosexuals, but also women and ethnic minorities, who were equally the beneficiaries of this Report. In throwing out all of Mrs Lindholm's recommendations, these MEPs have ensured that the EU's staff policy will stay rooted in the mentality of the 1950s. What does this say about the EU's commitment to equal rights for all Europe's citizens? If it can't even treat its own employees equally, then what hope is there for women, ethnic minorities and lesbians and gays - in Europe as a whole?"

"We call upon the European Parliament as a whole to overturn the decision of this Committee and to

reinstate Mrs Lindholm's recommendations when this issue is discussed by a plenary session, in line with the Parliament's previous policy."

Background information follows.

EUROPEAN PARLIAMENT COMMITTEE PUTS OFF EQUAL TREATMENT OF THE EU INSTITUTIONS' FEMALE AND GAY STAFF TILL THE NEXT MILLENIUM?

Over the years the institutions of the European Union have made themselves champions of equal rights, pressing for non-discrimination and human rights clauses in the EU Member States' laws and in international agreements.

Paradoxically, this advocacy of explicitly stated non-discrimination outside has not been paralleled inside the institutions, whose employees have had as their basic contract of employment a set of Staff Regulations little changed since the fifties. The Staff Regulations now cover employees from fifteen countries, not just the original six, and with further expansion of the EU in the next century this is set to rise.

A move to catch up came in 1993, with a proposal from the European Commission to incorporate into the Staff Regulations a clause on equal treatment of men and women. As is usual practice, the European Parliament was also consulted, produced a report (the Vayssade Report), and called for amendments to expand the scope of non-discrimination.

It was not until 1996 that the Commission returned with an amended proposal. This set out the principle of equal treatment without regard to race, political, philosophical or religious beliefs, sex, or sexual orientation.

In the intervening years things had changed inside the European institutions: EGALITE, a group established in mid-1993 to represent gay and lesbian European civil servants (now with around 350 members), added its weight to the campaign for changes to the Staff Regulations. In January 1994, the European Parliament reported on equal rights for gay men and lesbians in the EU (report by German Green MEP Claudia Roth) and called for an end to discrimination in policy and legislation. In May 1995, Leo Klein Leblink, an employee of the European Parliament, drew up a petition calling for the rights of employees in stable same-sex relationships to be recognised by the institutions, particularly as such recognition was already available in individual Member States. It gathered 700 signatures. In March 1996, the Intergovernmental Conference (IGC), which will determine the shape of the EU in years to come, got under way. The

European Parliament's contribution to the debate called for a comprehensive non-discrimination clause in the successor to the Maastricht Treaty.

The EU institutions lag behind other international organisations like the World Bank and the European Monetary Institute, whose recognition of unmarried partners can bring entitlement to benefits. However, in response to pressure from their employees, the European Parliament and European Commission introduced partnership-recognition forms giving unmarried partners access to some facilities (restaurants and canteens and language classes, for example).

Responsibility for reporting to the European Parliament on the Commission's new proposed changes to the EU Staff Regulations fell to the Committee on Legal Affairs and Citizens' Rights and member Ms Malou Lindholm, a Swedish Green MEP. The Lindholm Report, with its insistence on genuine equal opportunities in the European public service and a more accurate reflection of the changes in society in the Member States made further amendments, pressing for references to a specific marital status to be removed, and for an equal opportunities watchdog to be set up. It faced its final Committee vote on Monday 27th January, prior to being debated by the full Parliament.

Nobody who has followed developments over the past five years could have imagined the outcome of this vote. Although virtually all the Lindholm Report's amendments were approved individually, the Report as a whole was voted down. The European Parliament is noted for acting as a catalyst for change. This time it has struck a blow to non-discrimination in recruitment, employment and employer-employee relations on its own doorstep. If this issue is now shelved for the foreseeable future, the European Union will enter the next century with employees in its Member States far ahead of its own staff in terms of conditions of employment. With the European Union occupying a prominent (and some would say notorious) role in shaping employment legislation, we can only wonder where it will stand if it sets no example, particularly to the countries which are next in the queue for membership.

PORTUGUESE PENAL CODE CHANGED

By Goncalo Diniz

The new Portuguese Penal Code recently introduced, abolished the difference in age of consent homosexuals and heterosexuals. While the old law established the age of consent at 14 for heterosexuals and 16 for gay men, the new penal code levels everyone at the age of 16.

Its not all good news though. Article 175 still stands. Article 175 specifically criminalizes homosexual acts of adults with minors between the ages of 14 and 16. Although there is a similar law for heterosexual acts with the same age frame and even the same prison sentence limit (2 years), it is very odd to have two identical laws for a different sexually oriented population. The result may be heavier sentences for gay offenders, however, at this time we have no proof that this situation has ever taken place.

ICELAND'S GAYS PROTECTED AGAINST DISCRIMINATION

By Bjoern Skolander

The Icelandic parliament, Althingi, has late 1996 voted for a change of the anti discrimination clause of the country's penal code.

According to 1996's annual report of Samtoekin '78, the Icelandic gay and lesbian organization, the bill includes two provisions dealing with discrimination against homosexuals.

Firstly, a provision that criminalizes every action that humiliates, degrades, slanders, defames and so on an individual or a group because of sexual orientation. Secondly, the bill makes it punishable to deny someone service or merchandise because of sexual orientation.

Samtoekin's magazine SAMTAKA '78 (January 1997) writes further that a total number of 17 same-sex couples registered their partnerships during 1996. The Icelandic partnership law gained legal force on June 27, 1996.

Samtoekin spokeswoman Klara Bjartmarz states finally in a faxed dated Reykjavik January 12, 1997:

"Our next priority is a bill regarding a full right for step-parent adoption, and we hope that Althingi will come forward with that bill in the next few months.

We are now preparing for our General meeting, which will be held on February 22. We are also beginning to search for new facilities. Our present center is far too small for all our activities and services."

DUTCH PARTNERSHIP MEASURE PASSES LOWER HOUSE

By Rex Wockner

Holland's Lower House voted 150-104 in late December for a gay-partnership law that grants all rights of marriage except access to adoption.

Similar laws are in effect in Denmark/Greenland, Iceland, Norway and Sweden. Hungary has common-law gay marriage that includes all spousal rights except access to adoption.

Dutch State Justice Minister Elisabeth Schmitz said that once the law takes effect, gay couples who have signed the symbolic partnership registries offered by numerous Dutch cities will become automatically married under the new statute.

Meanwhile, Dutch officials are seriously considering legalizing regular marriage for gays. Parliament has instructed the government to present the necessary legislation by August.

If the Netherlands moves quickly, it could beat Hawaii, which, in early 1998, is expected to become the first place in the world where same-sex couples will be permitted to marry under the exact same laws as heterosexuals.

SPANISH PARTNERSHIP LEGISLATION INTRODUCED

By Rex Wockner

Spain's Socialist Party has introduced partnership legislation that grants pension, inheritance and other spousal rights to gay couples.

Adoption rights were withheld from the proposal.

The governing Popular Party -- which has a conservative, Christian Bent -- said in December it supports the measure.

Some gay-activist groups have refused to endorse the bill because of the adoption exclusion.

SWISS GOVERNMENT SNUBS GAYS

By Rex Wockner

The Swiss government's proposed new constitution does not ban discrimination based on sexual orientation.

The document, which incorporates results of a public-opinion poll, overlooks gays even though two dozen organizations and 400 citizens told pollsters the anti-bias clause should protect homosexuals.

The gay groups Pink Cross and Lesbian Organization of Switzerland said they are "indignant" and plan to fight the exclusion.

The constitution will be debated in parliament this year and adopted in 1998.

SWEDEN WELCOMES ABUSED FOREIGN GAYS

By Rex Wockner

By unanimous vote Dec. 10, Sweden's Parliament categorized gays as a group of people sometimes needing asylum under the provisions of the Aliens Act.

The measure was supported by the Social Democrats, Conservatives, Centrists and Christian Democrats.

The Liberals, Leftists and Greens want to go further and categorize homosexuals as "refugees" as defined by the Geneva Convention.

ROMANIAN LAW REFORM

By Steffen Jensen

According to information from the Danish Foreign Ministry article 200 of the Romanian penal code has been changed so that it now reads:

"Par. 1: Sexual relations between persons of the same sex, committed in public or causing public scandal, are punishable by 1 to 5 years imprisonment.

Par. 2: Sexual relations by an adult with a minor of the same sex are punishable by 2 to 7 years imprisonment and deprivation of certain rights.

Par. 3: Sexual relations with a person of the same sex who is unable to defend himself/herself or to express his/her will, or by force, are punishable by 3 to 10 years imprisonment and deprivation of certain rights.

Par. 4: If the acts referred to in paras 2 and 3 result in serious injury to body integrity or to health they are punishable by 5 to 15 years imprisonment and deprivation of certain rights, if they result in the death or suicide of the victim, they are punishable by 15 to 25 years imprisonment and deprivation of certain rights.

Par. 5: Urging or seducing a person into committing sexual acts between persons of the same sex as well as the propaganda of associations or any other encouraging acts committed with this view are punishable by 1 to 5 years imprisonment."

Although the ban has been lifted the provisions in the penal code are still unacceptable. The provisions in paras 2 to 5 represent an intensification of the legal state. The deprivation of certain rights are new and so is the ban on propaganda of associations.

The Danish minister of foreign affairs has promised that Denmark continuously both on a bilateral base and together with other EU members will point out to Romania that its legislation must be in accordance with the obligations following membership of the Council of Europe.

Furthermore the minister reminds us that people that claim to be offended by the law can complain to the Committee of Human Rights.