

# EURO-LETTER

No. 51

July 1997

The Euro-Letter is published on behalf of ILGA-Europe - The European Region of the International Lesbian and Gay Association by The Danish National Association for Gays and Lesbians in co-operation with Gay and Lesbian International Lobby.

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

Contact to Euro-Letter:

E-mail: [steff@inet.uni-c.dk](mailto:steff@inet.uni-c.dk)

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

Fax: +45 2036 7856

Tel: +45 3324 6435

Mobile: +45 2033 0840

Mail: c/o Steffen Jensen, Gl. Kongevej 31, 4.th, DK-1610 Copenhagen V, Denmark

You can receive Euro-Letter by e-mail (send a message to the above address) and from no 30 onwards the Euro-Letters are available on the Internet at

<http://www.france.qrd.org/assocs/ilga/euroletter.html>

<http://www.qrd.org/qrd/www/orgs/ILGA/euroletter>

An Italian translation of EuroLetters from no 47 can be found at <http://www.geocities.com/~pride/el.htm>

You can find a link to Euro-Letters at <http://www.inet.uni-c.dk/~steff>

## IN THIS ISSUE

- **PARTNERSHIP LAW IN THE NETHERLANDS**
- **ANTI-DISCRIMINATION CLAUSE IN THE NEW PROPOSAL FOR EU TREATY**
- **PROPOSAL FOR A PORTUGUESE PARTNERSHIP LAW**
- **THE SPANISH PARLIAMENT DECIDES A PARTNERSHIP BILL WILL HAVE TO BE PASSED WITHIN THIS LEGISLATURE**
- **POLISH CONSTITUTION WITHOUT ANTI- DISCRIMINATION FOR G/L**
- **NEW PENAL CODE IN POLAND**
- **EUROPEAN COURT DECIDES THAT BRITISH GOVERNMENT HAVE A CASE TO ANSWER**
- **THE FINNISH PARTNERSHIP LEGISLATION**
- **2nd EUROPEAN CONFERENCE ON FAMILY RESEARCH**
- **BILL TO REDUCE INHERITANCE TAX FOR REGISTERED PARTNERS**
- **FINISH MINISTERS RESPONSE ON THE SITUATION IN ROMANIA**
- **ILGA-EUROPE MEETS EUROPEAN UNION**
- **DANISH PARLIAMENT BANS ASSISTED INSEMINATION FOR LESBIANS**
- **NEW HIV PREVENTION INITIATIVE FOR GAY MEN IN IRELAND**
- **GRANT CASE TO EU COURT**

The Action Plan and other documents relating to ILGA-Europe can be found at ILGA-Europe's homepage

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

An update of the Survey on the Legal Situation for Gays and Lesbians in Europe can be found at <http://www.inet.uni-c.dk/~steff/survey.htm>

## **PARTNERSHIP LAW IN THE NETHERLANDS**

*By Steffen Jensen*

The Dutch Parliament has passed a law on registered partnership similar to the Scandinavian laws, but including a possibility for heterosexual couples to use the law.

Further details will be given in the next EuroLetter.

## **ANTI-DISCRIMINATION CLAUSE IN THE NEW PROPOSAL FOR EU TREATY**

*By Roy Dickinson*

At the European Council in Amsterdam, a Treaty was approved by the fifteen leaders of the EU member states which, for the first time gives protection to European citizens against discrimination on grounds of sexual discrimination.

ILGA-Europe had campaigned actively for such a provision in the Treaty (which is the successor the infamous Maastricht Treaty) and, whilst we didn't get everything that ILGA-Europe wanted, this is a huge step forward.

It means that our political leaders have, for the first time, together decided that being lesbian or gay is no reason why people should be discriminated against. It is a huge step forward for all of us in political terms, even if the practical benefits may take time to materialise.

In effect it means that the European Union is on our side!

The relevant treaty article reads as follows:

"Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."

This is something to celebrate! It means that the EU now has the power to take concrete action to fight homophobia and bigotry.

But it is only a beginning. It doesn't (as the British press claimed today) outlaw discrimination. Unfortunately, it doesn't mean, for example, that all EU countries must now recognise same-sex partnerships. It doesn't automatically get rid of national legislation which is discriminatory.

So, the fight for equality is not over - not by a long way. But now we have a new weapon in that fight. Together with another new article which means that all EU countries must respect human rights and fundamental freedoms, we have the means to get the EU on our side in that fight.

## **PROPOSAL FOR A PORTUGUESE PARTNERSHIP LAW**

*By Goncalo Diniz*

As mentioned in a earlier press release, Portugal is moving towards recognition of gay and lesbian couples.

Excluding homosexual couples from adoption rights, this bill is a huge step forward. A revolutionary aspect in this bill is the rights of aliens in a partnership for at least two years (article 7). Foreigners may stay in the country without the usual bureaucracy if they can prove that they are in a relationship with a Portuguese national for at least two years.

In the last month, three parties proposed individual bills on registered partnerships: The Green Party, The Communist Party and the Socialist Party.

The first parliamentary discussion took place on June the 25th, having the Green and Communist Bills failed the vote on the 26th. The Socialist Bill, (which is copied in this mail), will probably only be discussed in parliament after the summer break, and voted upon early next year.

In the past few weeks, this bill has been subject of a national debate over gay and lesbian registered partnerships, on television, newspapers, radio etc.

ILGA-Portugal is confident that the positive atmosphere surrounding the whole issue will provide a passing of the bill in early 1998. There are, however, still a few socialist MPs reluctant on the vote.

The Socialist government holds a majority in Parliament but will need the other left votes (communist and green) to get this bill passed.

As the national Lesbian and Gay organisation, we initiated a postcard campaign in early June directed at the Prime-minister Antonio Guterres regarding this bill. We are also very happy that the lobbying aimed at the Prime Minister before the Amsterdam IGC bore its fruits with the inclusion of Sexual Orientation in the European Union Treaty.

This is the draft text of the Portuguese Socialist Party Partnership Bill:

#### Article 1 (Aim)

This diploma equalises the rights of members of a family living together to married couples, in what concerns civil, fiscal, social and labour matters, maintaining however the specificities of either situation.

#### Article 2 (Application)

1. The present diploma applies to those who, having attained majority or being emancipated, notoriously live in a situation similar to married couples for at least two years.

2. What is stated in the preceding item does not apply to those who still maintain marriage links or those subjected to marriage impediments specified in the Civil Code.

#### Article 3 (Extension of rights in civil matters)

Partners living together receive the same benefits of protection the married couples do, and rights such as:

- a) transmission of lease rights
- b) adoption
- c) nourishment
- d) right of residence

The 85th article of the Urban Lease Regime will be changed as follows:

#### Article 85 (Transmission of lease rights)

1. Lease contract will not end by death of the first tenant. Not even with the death of the person in the following situation: consort not judicially separated or person living in union with the first tenant for at least two years, when the tenant is not married or judicially separated.

(...)

#### Article 4 (Adoption)

1. Heterosexual couples living together for a minimum of four years and being at least 25 years old may adopt, according to article 1979 of the Civil Code, if they are not married or judicially separated.

2. Couples living together may also adopt each other's children.

#### Article 5 (Rights related to the end of the union of unmarried couples living together)

1. The members of the union in this situation will be subjected to the same condition of married couples in what concerns nourishment and according to the items stated in the Civil Code.

2. In the situation mentioned above, the court may give lease to each of the members of this union, if required, the family residence if it belongs to the other partner, considering the interests of their children.

#### Article 6 (Rights related to the end of the union due to the death of one of the partners)

1. If one of the members of this union dies, and he is the owner of the family residence, the other member has the right of keeping it if there is not anything against this in a Will.

2. The right of residence ends when the surviving member remarries or begins a new relationship.

#### Article 7 (Legislation related to foreigners and the right of asylum)

In what concerns legislation about entry, exit or expulsion of foreigners from the national territory and the rights to asylum, members of a union have the same rights of consorts when notoriously living together for at least two years.

#### Article 8 (The same fiscal rights)

Registered union of unmarried couples living together, as stated in article 1 of this document, will benefit, in what concerns taxes, of the same rights established for married couples.

#### Article 9 (The same social rights)

In social security matters, registered unions of unmarried partners living together will benefit the same way married couples do.

#### Article 10 (The same rights in working matters)

As for holidays and absences from work, registered unions of unmarried couples living together have the same rights of married couples.

#### Article 11 (Register)

1. Due to what is expressed in articles 11 through 13 of this diploma, the unions above mentioned have to be registered in a book existing in Regional Social Security Centres of the members of the union's area of residence.

2. The above mentioned register depends on the testimony, under oath, attesting the existence of the union.

3. Members of the union may cancel the register anytime, declaring this intention together or individually.

4. It is not possible a new register without cancelling the previous one.

#### Article 12 (Estate of Property)

The estate for property applied to unmarried couples living together is separate estate. However, other options are possible if the members of the union declare their intention in a contract.

#### Article 13 (Regulation)

Government will approve, 90 days after the publication of the present diploma, the necessary legislation to provide its execution.

#### Article 14 (Coming in force)

The present diploma comes in force with the approval of the budget for the economic year of 1998.

### **THE SPANISH PARLIAMENT DECIDES A PARTNERSHIP BILL WILL HAVE TO BE PASSED WITHIN THIS LEGISLATURE**

*By Cesar Cleston*

As you may recall from preceding message (sent on march 20th), on march the 18th, after two tie votes, the Lower House of Parliament dismissed taking into account two bills submitted by the Spanish Socialist Party (PSOE)) and Izquierda Unida (IU) - United Left, a coalition integrated by the communist party plus many left-wing and green groups. The aim of such bills was certainly important: providing partnerships (gay or straight) with some sort of legal recognition stressing meanwhile the fact that non-married unions of either sex are also families.

The actual result was: 161 for, 163 against. The votes against came from the party in office, Partido Popular, as well as from CiU, a Catalonia based coalition in office at the regional government. All other parties voted in favour, including the Basque Nationalist Party - PNV -, who has consistently taken sides in favour of having such law passed.

As we said in such message, not all the battle was lost. Actually, the very day after such vote (which also served to put under the spotlight the fact that the ruling Popular Party - PP - was in a too narrow minority), that is, on march 19th, the PSOE and IU submitted AGAIN the same bills. The party which actually defeated the tie vote, Coalición Canaria, who has two seats in Parliament, declared bitterly that not only weren't they against the fact of having partnerships recognised but actually they were going to submit their own partnership bill to Parliament, which they actually did a few days later.

May the 27th the three bills actually submitted were voted again. On procedural reasons (for each party had submitted its own text), the vote (whether the bills should be taken into consideration or dismissed

took place on three phases: one per bill. Not unexpectedly, the two bills submitted by the PSOE and IU were defeated by a reasonable margin, for PP, CiU and PNV voted against. The third bill to be voted was the one submitted by Coalición Canaria (CC for short)... and incredible as it may sound, this bill (whose actual resemblance with the socialist text was almost 100 %) was passed. The only parties to vote against were the christian-based PP, now in office, and the PNV. The actual vote was 165 in favour and 159 against

Votes in favour came from virtually all the opposition parties, mainly PSOE and IU, plus CC (quite remarkable for they usually take sides with the Government).

Another vote in favour came from one MP of the party in office, Ms Celia Villalobos, the major of Malaga. This is most remarkable for one of the main features of Spain's' Parliamentary system is the party discipline at parliament votings.

The votes against came from the Party in office, PP and the PNV, one of its usual allies. The most remarkable thing is that the PNV had voted in favour on march 18th! The explanation is that just last week, the two parties signed a substantial agreement on finances for the Basque Country which improved largely their financial resources.

What made the most remarkable difference was the vote of the CiU Catalan nationalists. This is a coalition integrated by two parties (Convergència and Unió) who has been ruling as such coalition in Catalonia since 1979 and who has been supporting the PP minority government since 1996. For the first time we can recall, the coalition splitted. The Unió MP's (more conservative) voted against, while -and that MADE the difference- the more progressive minded MP's of Convergència (9 MP's) voted in favour.

Only two abstentions were recorded. Most of the MP's attended the vote

#### *Our assessment:*

It must be said that this has actually been a major setback for the PP administration at all levels. Either from the point of view of the gay movement or from a general point of view this is a historical moment. The party in office has lost its first vote in Parliament after 1 1/2 years of rule.

The Fundación Triángulo views this as a major development in the fight for civil rights and equality of citizens and this fact confirms our strategy: applying for marriage downright was a wrong

strategy. This step-by-step procedure may seem slower but is certainly fruitful.

The Fundación has always been and will always be against segregated laws for homosexuals one way and heterosexuals another way. Also, our approach of non-married couples of either sex was definitely right. This is the way the Spanish society views the problem and this is the way the issue must be faced. With this approach, we also managed to gain the support of the civil rights movement for the focus was not considering it as a lesbian issue but as a civil rights issue.

The bill to be passed still has got to undergo all the parliamentary proceedings: in other words, still a year will have to go (at least) before the bill is no longer a bill and becomes a law. Majorities are in any case too narrow and there is still a lot of work to be done. We are sure the party in office will commit its very best resources (and thereby some of the nation's most likely) to have a law they can better live down, i. e., not recognising homosexuals and/or heterosexuals as families. But the fact is that the Parliament has now an explicit obligation to produce such a law before the end of the legislature. We will also commit our very best efforts not to allow them to do so. And we hope to rely on your co-operation!

### **POLISH CONSTITUTION WITHOUT ANTI-DISCRIMINATION FOR G/L**

*By Slawek Starosta*

The people of Poland has approved by majority of 56,8% the new Constitution.

It is not the best Constitution for lesbians & gays you can imagine.

The Art. 18 says: "The marriage as a relationship between woman and man, the family, motherhood and parenthood are under protection and care of Republic of Poland." That does not mean it forbids registered partnership between the people of the same sex, but certainly defines marriage as a heterosexual one.

Then art. 32 part 2 reads:

"Nobody can be discriminated based on any ground in political, social or economical life". In the draft of the Constitution the sexual orientation was mentioned as one of the grounds. Now all the grounds were removed.

On the other hands the new Constitution guarantees all the democratic rights and freedoms the people and

organisations enjoy in democratic societies. And it is certainly better than the old, communist one.

### **NEW PENAL CODE IN POLAND**

*By Slawek Starosta*

On the 6th of May Polish Parliament approved the new penal code which legalise pornography consenting, non-violent pornography (only children, animal & violent pornography will be prosecuted). We would like to thank you for your letters, faxes & e-mails to the Speaker of the Parliament.

We definitely needed this new Code since I learned a week ago that an investigation is in process in the city of Pulawy (south-eastern Poland) against another gay magazine - FILO. FILO is a gay & lesbian lifestyle & news magazine and never showed anything more than just male nude (without erection). We hope that under the new code both: case against NOWY MEN and investigation against FILO will be dropped.

In spite of this victory in Parliament there is still a proposal to create a black list with publications containing pornographic materials, encouraging to prostitution, violence, war, nazism and anarchism. The special commission should decide which publications contain the forbidden matters. These publications should be sold only at special closed sections in certain bookshops where minors would have no access.

Fortunately this bill is contrary to

- a/ the new Constitution
- b/ the new Penal Code
- c/ the Press Code.

So I personally think it does have no chances to become a law.

*GAYS IN THE MILITARY:*

### **EUROPEAN COURT DECIDES THAT BRITISH GOVERNMENT HAVE A CASE TO ANSWER**

*By Mark Watson*

Labour government must decide whether or not to defend the blanket ban on lesbians and gay men in the british armed forces

The applicants in the armed forces cases being supported by Stonewall and Rank Outsider have now won the first round in their application to the European Court of Human Rights.

Jeanette Smith, a RAF nurse, John Beckett, a naval rating, Duncan Lustig-Prean, a former Lt. Commander in the Royal Navy and Graeme Grady, a

RAF administrators have claimed that the blanket ban on lesbians and gay men in the British armed forces is in breach of Articles 8 (Right to privacy, Article 14 (on discrimination), Article 3 (degrading treatment), and Article 10 (right of freedom of expression) of the European Convention on Human Rights.

Last year applications for judicial review in the High Court and the Court of Appeal were turned down although Lord Justice Simon Brown in the High Court and Sir Thomas Bingham, then Master of the Rolls, found for the applicants on the merits of the case and expressed the view that they were likely to succeed in the European Courts.

Britain is the only country in NATO, other than Turkey, which retains a complete ban on all those with a homosexual orientation.

The communication of the decision of the European Court will require a much needed clarification of Labour's position on the issue. Before the election Tony Blair, Jack Straw and David Clarke, then shadow minister for Defence made clear that they opposed the ban in principle but that any change in policy should take place in consultation with the Chiefs of Staff.

However the new minister for the armed forces, Dr. John Reid, reiterated his support for the ban in an interview in *The Observer* last Sunday (1 June) declaring a new policy of zero tolerance for racism, sexism and bullying he again ruled out any easing of the ban.

Commenting on the decision of the European Court, Angela Mason Director of Stonewall said, I believe the Labour government must now make clear their principled opposition to the ban and put in train the process of consultation they have promised.

Stephen Grosz of Bindman and Partners, solicitor for Duncan Lustig Prean said, The government are committed to incorporating the European Convention on Human Rights, and this application is one the most significant human rights cases now before the Court. It would be sad and ironic if a government committed to human rights in this country still tried to dodge the issue and let the European Court decide for them.

## **THE FINNISH PARTNERSHIP LEGISLATION**

The Committee of Law requests the Government to bring the legislation to the Parliament

*By Hannele Lehtikuusi*

On the 17th of June the Committee of Law concluded the report concerning the Bill on Recognised Partnership. The Committee of Law proposes to the Parliament:

- to reject the Private Bill of MP Ojala
- that the Government prepares legislation that will eliminate the inequality in legislation concerning same sex couples

The Parliament will debate on the partnership legislation in August or in September. Then we will see if the Parliament obligates the Government to prepare this legislation as suggested.

### *History:*

The Bill on Recognised Partnership was handed over to the Parliament on the 28th of May 1996. The Bill was signed also by the Left Wing Alliance and Social Democrat Ministers - which can be considered as remarkable support for this Bill. The Parliament has its first debate on this bill on the 5th of June 1996 and it was handed over to the Committee of Law. During the past year the Committee of Law has received the report from the Ministry of Justice and also heard the representatives of the Church, National SETA and the University (Department of Law) and prepared its own report on the legislation in question.

## **2nd EUROPEAN CONFERENCE ON FAMILY RESEARCH**

*By Helmut Graupner, Rechtskomitee LAMBDA, Vienna*

Following the 1st European Congress on "Family Models And Family Reality in Change" which took place in October 1994 in Bamberg (Germany), the State Institute for Family Research at the University of Bamberg (ifb) and the Austrian Institute for Family Studies (OIF) co-organised the 2nd European Congress on "Living Arrangements and Family Facts and Norms", 12-14 June 1997, Vienna International Centre ("UNO-City").

This international and interdisciplinary congress has been organised in connection with the 25th Convention of European Family Ministers which convened in Vienna at the same time.

Over 200 delegates from all over Europe - scientists, representatives of governments and of NGOs - discussed the situation of families in Europe.

Rechtskomitee LAMBDA has been represented by six delegates.

Emphasis in discussion was placed on how new types of families and living arrangements could be handled politically and legally in the different countries in the future, and which models already exist in Europe at the present.

The organisers arranged one specific workshop on "Homosexual Couples". Rudiger Lautmann (University of Bremen), Gerfried Fischer (University of Halle) and Bea Verschraegen (European University of Bielefeld) presented papers on the legal situation of same-gender couples in Europe and Northern America. While Lautmann and Fischer supported the Scandinavian model of "registered partnership", Verschraegen however opposed it and instead pleaded for a partnership not registered by state authorities but by notaries only (to which partnership the legislators then could extend some of the regulations now restricted to spouses and/or non-married cohabiting heterosexual partners). In the discussion we strongly emphasised that the right to equality (between the sexes) demands that all partnership- and family-models whichever do exist for bi-gender couples must also be open to same-gender couples. There is nothing like a little bit of equality, like nobody can be a little bit dead or a little bit pregnant. In the discussion there has been voiced no opposition against the legal recognition of same-gender couples at all.

But the discussion of homosexual partnership was not restricted to this specific workshop. Time and again speakers addressed the issue and all of them favoured the legal recognition of same-gender partnerships, most of them in the form of the Scandinavian "registered partnerships".

The congress did not elaborate any resolutions or recommendations but nevertheless it became clear for every participant (many of the from Governments) that the current legal situation of same-gender couples in most European countries is unsatisfactory and that there must be taken legal action to legally recognise them.

*Belgium:*

#### **BILL TO REDUCE INHERITANCE TAX FOR REGISTERED PARTNERS**

*By Alan Reekie*

According to press reports (eg Le Soir, Brussels, 10 June 1997), agreement has been reached within the majority coalition of the Flemish regional government to amend the tax regulations so that persons who have

been living together as registered partners for at least three years will pay inheritance tax at the same rate as married couples when one partner dies. Currently, inheritance tax is payable at a rate of 30% or more by anybody who is not related by blood or marriage to the deceased person, whereas the rate payable by the surviving spouse is only some 10% for the first three million francs.

According to the Bill tabled by Guy Swaenen (Socialist) and Sonja Becq (Christian Social Party), unmarried couples registered with the local authority and wishing to be able to take advantage of these provisions, which are expected to come into effect from 1 January 1998, must also deposit wills naming each other as beneficiaries with the notary public of their choice. Both political parties concerned have agreed to pursue a policy of gradually eliminating the other legal provisions discriminating against unmarried co-habiting couples in Belgium.

#### **FINISH MINISTERS RESPONSE ON THE SITUATION IN ROMANIA**

*By Hannelee Lehtikuusi*

The foreign minister of Finland has sent this letter to SETA:

Thank you for your letter of 8.4.1997, in which you express your concern about the situation of homosexuals in Romania.

The countries of the European Union, including Finland, have been closely monitoring the human rights situation in Romania. The EU promotes tolerance and would like to see the norms of the EU approved and adopted by Romania as well. Through their representatives in Bucharest, the countries of the EU have been active in trying to influence the Romanian legislature, and the efforts have been successful in some respects. The matter has also been discussed in the Committee for Central Europe of the EU.

The Finnish ambassador to Bucharest, Mr. Mikko Heikinheimo, has met with Mr. Ioan Maxim, head of the judicial department of the Romanian Foreign Office. Maxim was able to tell Heikinheimo that the part of the penal code that concerns homosexuals took its final form in the Romanian parliament. The suggestion by the government was in accordance with the norms of the EU.

The Romanian government acknowledges the problem and intends to have meetings with leaders of the parliament as well as members of its human rights commission.

Romania is full member of the European Council and is therefore under obligation to comply with European human rights principles. The Parliamentary Assembly of the Council of Europe recently decided to end its close observation of Romania, but noted that Romania should change parts of its criminal legislation in order to make them comply with European standards.

The Parliamentary Assembly justified its decision by stating that it wanted to reward Romania for the positive development in the country, but the Parliamentary Assembly of the Council of Europe also demanded that the remaining problems in the legislation be promptly solved. The Parliamentary Assembly of the Council of Europe can restart the observation unless Romania fulfils its obligations. The main observer in Romania was Gunnar Jansson from Finland. Finland will pay close attention to the situation also in the future.

The rights of minorities - including the rights of homosexuals - are one of the main parts of the Finnish human rights policy. Finland will watch closely how the legislation concerning homosexuals is going to be shaped in Romania. I hope that we can stay in close contact with SETA as regards this matter.

Tarja Halonen  
Minister for Foreign Affairs

## **ILGA-EUROPE MEETS EUROPEAN UNION**

*By Kurt Krickler*

As a result of ILGA-Europe's mailing introducing the Action Plan, several meetings between EU officials and ILGA representatives took place in Brussels. On April 23, 1997, Alberto Volpato met with Mr. A. Pierucci from the Cabinet of Commissioner Oreja, responsible for information, culture and audio-visual policy. On 21, 22 and 23 May, ILGA-Europe had meetings with Isabel Pérez-Minayo, assistant in the Cabinet of Commissioner Manuel Marin, Vice-president of the European Commission, responsible among other things for the relations with Mediterranean, Latin American and Asian (except Japan, China, Korea, Taiwan) countries, Ranveig Jacobsson, Deputy Head of the Cabinet of Commissioner Anita Gradin, responsible for immigration, justice and home and interior affairs, Julie de Groote, member of the Cabinet of President Jacques Santer, Cueto Faus, administrator in DG V (she received us on behalf of Commissioner Pádraig Flynn, responsible for employment and social affairs), Babette Nieder, member of the Cabinet of Commissioner Édith Cresson, responsible for

research, education and youth. ILGA representatives in these meetings were Alberto Volpato, Kurt Krickler, and Mark Watson in the meeting with Ms Jacobsson.

The main purpose (and probably the main result) of our meetings was certainly to introduce ILGA and ILGA-Europe, start a PR and lobbying offensive, and to confront our interlocutors with our concerns and demands. We also explained the importance of taking up the issue of "sexual orientation" and "homosexuality" on all EU levels and in all relevant contexts. All the services and institutions of the EU should be sensibilised for the topic, and ideally they would integrate and include it as a matter of course in all their activities where appropriate. This message of "mainstreaming" our concerns was perfectly understood by all our female interlocutors who obviously are familiar with this approach from the fight of women to mainstream women's issues. In this context, we asked that the Action Plan be distributed in the services of the Commission as broadly as possible in order to raise and create awareness.

Another common "trait" in all meetings was the importance that was attributed to the fact whether "sexual orientation" will be included in the Amsterdam Treaty or not. Obviously, it would make things much easier for them if it is in - in terms of supporting and acting upon our demands, but on the other hand this attitude is dangerous because if "sexual orientation" will not be included, this might be used as a pretext not to do anything about this issue. Thus, we made it quite clear that for us, sexual orientation is already an issue which is in the mandate of the EU, and it can already today be included in many existing programmes - in this context, we referred to the Action Plan.

*Meeting with Mr A. PIERUCCI (Cabinet Oreja):*

He presented the various programmes of DG X suitable also for lesbian & gay projects. Such project should be submitted now for funding in 1998. In particular, it was also suggested to use the programme "Building Europe Together", under this programme it is possible to receive up to 50 % EC funding for a conference discussing EU themes, e.g. non-discrimination based on sexual orientation after Maastricht II etc.

*Meeting with PÉREZ-MINAYO (Cabinet Marin):*

The various programmes of the EU in Marin's area of competence were mentioned, such as the MEDA (Mediterranean) Democracy Programme.

We also discussed Human Rights in this context; Pérez-Minayo mentioned that it would be important that human rights violations against lesbians and



gays be reported to the EU delegations in third countries. Local groups should just write to the office of the European Commission in their countries and document human rights abuses. This information could be included in the EU reports on the human rights situation in third countries. Local NGOs should be invited to feed into these reports. We proposed that the EU monitors the human rights situation of gays and lesbians, too, and the reports on third countries should automatically include a chapter about that.

Alberto had also contacts with the Human Rights Co-ordination Unit in DG IA (Ms Napoli). She had already distributed the Action Plan to the Human Rights Interservice Group for comments. In order to have more concrete results it is necessary to keep the pressure.

*Meeting with Jacobsson (Cabinet Gradin):*

Jacobsson was the most high-level official we talked with in our meetings. We discussed the problems of free movement and family reunification of same-sex partners, immigration and asylum matters. The definition of "family" and "partners" actually is virulent in several issues and also in the heterosexual context (Lindholm report, Veil report of March 1997 - responsible Commissioner: Monti). We mentioned the special aspect of Danish and Swedish "registered partners" who are not recognised neither within the EU system nor in other EU countries.

Here Jacobsson expressed the opinion that initiatives to change this should originate in the countries concerned which are Denmark, Sweden, and soon probably the Netherlands and Finland.

It was a general remark by Jacobsson that such legal matters as so-called "third pillar" issues are still very limited for action within the EU. However it is possible that the EU will have more powers after the IGC. At this stage, it would be more appropriate to lobby national parliaments and governments and to struggle for changes on the national level which then could have an impact on the EU.

Lobbying should also be addressed to the Permanent Representations of the EU countries, obviously, and to the Parliament which could include relevant budget-lines for studies and seminars on these issues which then could come up with conclusions which could be the basis for further action. An inventory of the situation concerning non-traditional families including same-sex partners in all EU member states would be a kind of pre-requisite for concrete actions. Actually, the above-mentioned Simone Veil report calls for such a study. Jacobsson mentioned the GROTIUS programme under which relevant projects could be funded. Again, ILGA-Europe needs to get in

contact with friendly MEPs to act upon these proposals. Mark presented the draft project on immigration prepared by Stonewall. He will continue to communicate with Jacobsson about this.

*Meeting with de Groote (Cabinet Santer):*

The main items of discussion with de Groote were again "mainstreaming" the issue of sexual orientation within the EU system and possible funding.

De Groote proposed to try to get "sexual orientation" on the agenda and under the mandate of the Group of Commissioners for Equal Opportunities which so far only deals with equality issues between women and men. This would also be an issue we could lobby the Parliament for support.

*Meeting with CUETO FAUS (DG V):*

Here again, mainstreaming "our concerns" and funding were the main points of discussion. In case, sexual orientation is included in the Amsterdam Treaty, recommendations could be presented to the Commission about possible actions. The Parliament could also question the Commission about such possible action.

*Meeting with NIEDER (Cabinet Cresson):*

Mme Cresson is responsible for science, research, education and youth. We mentioned IGLYO and the European Youth Forum where IGLYO is involved. Nieder mentioned that there is a socio-economic programme on the impact of new technologies on social exclusion which may fit for applications on lesbian and gay issues. She mentioned that the cabinet would not deal with legal issues. She also presented the Youth for Europe Vademecum "Guidelines for applicants". Interested ILGA-Europe members should get this detailed cook-book from their EU representation if they want to submit project applications in this area.

She promised to consider a draft proposal co-ordinated by the University of Paris for a project involving lesbian and gay studies in law at various universities in Europe and overseas.

## **DANISH PARLIAMENT BANS ASSISTED INSEMINATION FOR LESBIANS**

*By Soeren Laursen, president of LBL*

May 27 the Danish parliament passed a bill on artificial insemination. The law was proposed in a form including no constrictions as for who could be treated. In the second parliamentary negotiation on the law a change was passed claiming marriage or marriage-like partnership between man and woman. The National Danish Gay and Lesbian Organisation,

LBL, made a large lobbying campaign in the parliament, and in the third and final negotiation three proposals were put forward. One would remove the article introduced, whereas another would narrow down its applicability to insemination where the conception is made exterior to the body. This would make it possible to provide artificial insemination to lesbians. A third proposal would make available treatment to lesbians if the identity of the male donor was known. All of the three proposals fell.

Thus from October 1st assisted insemination in a medical environment is no longer available to lesbians, neither in public hospitals nor in private clinics. The law does not, however, regulate non-clinical treatment. Thus artificial insemination in private is not criminalized.

### **NEW HIV PREVENTION INITIATIVE FOR GAY MEN IN IRELAND**

*By Christopher Robson and Kieran Rose*

The Irish Department of Health has agreed to support a one-year project which aims to improve significantly HIV prevention work for gay men by facilitating new programmes, resources and linkages. This is a major step forward and provides a key opportunity to develop effective HIV prevention strategies based on a partnership between the gay community, the Department of Health and regional Health Boards, and other agencies.

The project is resourced by a full-time worker and is based in the offices of Nexus Research who have wide experience of similar initiatives at Irish and European level and they will be able to provide invaluable support and advice.

The project has developed from the report, HIV Prevention Strategies and the Gay Community; Phase One Report, A Baseline study, (GLEN/Nexus), which was commissioned by the Department of Health. As the report put it, "the decision to carry out this study reflects a renewed consensus that the continuing annual increase in the numbers of HIV positive gay men is unacceptable. This increase calls for comprehensive action within the framework of an agreed national strategy".

The report, produced after consultations with all existing gay groups and other organisations, was widely welcomed both as a needs assessment and as a framework for future work. The results have made clear that measures to promote the development of the gay community and the self-esteem of gay men, are essential to effective HIV prevention work. (The report is also available on the Nexus web site). The

project also builds on Poverty' Lesbians and Gay Men; The Economic and Social Effects of Discrimination, (GLEN/Nexus, 1995, published by the Combat Poverty Agency, tel. 353-I 5708746)

The objectives of this project can be set out as follows:

- To develop a consensus-based and feasible plan of action for HIV prevention at national, regional and local level which involves all relevant statutory and voluntary agencies and sets out clear targets for action.
- The identification and mobilisation of resources and funding mechanisms for further initiatives.
- To develop mechanisms for the implementation of the plan of action on a co-operative basis.

We would welcome liaison with other similar projects.

### **GRANT CASE TO EU COURT**

*By Bruce Cohen*

A case expected to have major repercussions on the treatment of homosexual workers in countries that are members- of the European Union is scheduled for a hearing on July 9, 1997 at 10 A.M. at the European Court of Justice in Luxembourg.

The case is Grant vs. South-West Trains (formerly a part of British Rail) and involves travel benefits for the partner of the lesbian employee Lisa Grant. The British Industrial Tribunals who will finally rule on the case have referred several prejudicial questions to the European Court.

The questions put to the Court are:

1. Is it contrary to the principle of equal pay for men and women established by Article 119 of the Treaty establishing the European Community and by Article 1 of Council Directive 75/117 for an employee to be refused travel concessions for an unmarried cohabiting same-sex partner where such concessions are available for spouses or unmarried opposite sex cohabiting partners of such an employee?
2. For the purposes of Article 119, does "discrimination based on sex" include discrimination based on the employee's sexual orientation?
3. For the purposes of Article 119, does "discrimination based on sex" include discrimination based on the sex of that employee's partner?
4. If the answer to question 1 is yes, does an employee, to whom such concessions are refused,

enjoy a directly enforceable community right against his employer?

5. Is such a refusal contrary to the provisions of Council Directive 76/207?

6. Is it open to an employer to justify such refusal if he can show (a) that the purpose of the concessions in question is to confer benefits on married partners or partners in an equivalent position to married partners and (b) that relationships between same-sex cohabiting partners have not traditionally been, and are not generally, regarded by society as equivalent to marriage; rather than on the basis of an economic or organisational reason relating to the employment in question?

Ms. Grant is being represented by Cherie Booth, who in private life is the wife of the new British Prime Minister, Tony Blair, and the British press are expected to take advantage of the opportunity to have cameras in the courtroom, which is not permitted in Britain.