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IN THIS ISSUE

- **NGO STATUS TO ILGA WITHIN THE COUNCIL OF EUROPE**
- **ILGA-EUROPE ADDRESSES THE OSCE IMPLEMENTATION MEETING ON HUMAN DIMENSION ISSUES**
- **UPDATE ON THE LEGAL SITUATION CONCERNING HOMOSEXUALITY IN THE SUCCESSOR REPUBLICS TO THE FORMER SOVIET UNION**
- **PORTUGAL DE-EQUALIZED AGE OF CONSENT IN 1995**
- **AUSTRIA PROPOSED TWO PRO-GAY CANDIDATES FOR THE NEW COURT ON HUMAN RIGHTS**
- **CYPRUS**
- **LATVIA**
- **DUTCH MAY ALLOW ADOPTIONS BY GAYS**
- **EUROPEAN PARLIAMENT ESTABLISHES INTERGROUP ON GAY AND LESBIAN ISSUES**
- **SYMBOLIC DOMESTIC PARTNERSHIP IN HAMBURG**

The ILGA-Europe EU Action Plan and other documents relating to ILGA-Europe can be found at ILGA-Europe's homepage <http://inet.uni2.dk/~steff/ilgaeur.htm>

An update of the Survey on the Legal Situation for Gays and Lesbians in Europe can be found at <http://inet.uni2.dk/~steff/survey.htm>

A description of partnership laws and other laws regarding same-sex partners can be found at <http://inet.uni2.dk/~steff/partner.htm>

NGO STATUS TO ILGA WITHIN THE COUNCIL OF EUROPE

By Steffen Jensen

Following ILGA's application for consultative status (NGO-status), the Secretary General of the Council of Europe has decided in favour of granting consultative status to ILGA.

In conformity with the rules, the Secretary General has informed the Committee of Ministers and the Parliamentary Assembly of the decision on 15 October 1997. If no objection is raised by these two organs of the Council of Europe within a period of three months, the decision will become effective from 15 January 1998.

The opinion of the Secretary General reads:

"The ILGA is an active and representative organisation in its field of competence. It has already established working relations with the Council of Europe. Furthermore, the organisation has a specific contribution to make to any discussion on discrimination generally as well as on more specific issues such as discrimination against people with HIV and AIDS.

For these reasons, the Secretary General decides in favour of granting consultative status to the International Lesbian and Gay Association (ILGA)."

ILGA-EUROPE ADDRESSES THE OSCE IMPLEMENTATION MEETING ON HUMAN DIMENSION ISSUES

by Kurt Krickler

Every second year, the Organisation for Security and Cooperation in Europe (OSCE) holds a three weeks implementation meeting to review the honouring of the human rights commitments of the 55 OSCE member states (which are all 45 European states, the eight Asian former Soviet republics plus Canada and the USA). In 1993, the first OSCE implementation meeting recognised that the commitments to non-discrimination also cover sexual orientation although this commitment has never been included in one of the binding OSCE documents.

This year's implementation meeting took place from 12 to 28 November in Warsaw. ILGA-Europe submitted a Written Presentation to this meeting (see below) in order to be allowed to give an oral statement at the meeting itself. ILGA-Europe board member Kurt Krickler of HOSI Wien attended the meeting during three days and gave an oral statement under agenda item "Tolerance and Non-discrimination" (see below).

Additionally, a written contribution prepared for agenda item "freedom of expression and association" was distributed to all delegations (see also below).

Contrary to previous OSCE meetings, national delegations did not refer at all to this topic with the exception of the Netherlands whose delegate mentioned "homosexuals" in an enumeration of vulnerable groups in a statement on "Tolerance and Non-discrimination" on 18 November on behalf of the European Union. This was rather disappointing because ILGA-Europe had written before the Warsaw meeting to both the Luxembourg EU Presidency (Jean-Claude Juncker), the Dutch Foreign Minister (because the Netherlands were responsible for the EU position and paper on agenda item "Tolerance and Non-discrimination") and EU Commissioner Hans van den Broek demanding that the aspect of sexual orientation based discrimination be addressed by the EU in Warsaw. Considering that the Netherlands and Norway had already delivered a joint statement exclusively dealing with "Tolerance and Homosexuality" at the 1994 OSCE Review Conference in Budapest, the relevant input this year is really modest, not to say mediocre.

Kurt Krickler had also the opportunity to talk with representatives of the delegations of Denmark, Sweden (on the topic mentioned in the oral statement), Austria, Georgia, Armenia, Azerbaijan, Tajikistan and Turkmenistan. Unfortunately, the delegates from the Asian republics in most cases had no idea about the present legal situation concerning homosexuality in their country. However, an up-date - also based on information distributed by amnesty international - is put together in this Euroletter.

Written presentation to the meeting by Kurt Krickler on behalf of ILGA-Europe

Discrimination Based on Sexual Orientation is a Human Rights Violation

In recent years, non-discrimination on the basis of sexual orientation as a human rights obligation has received increasing attention at the international level and has been acknowledged as a relevant issue at several international and regional human rights platforms and bodies, such as the 2nd United Nations World Conference on Human Rights in Vienna in 1993 and the 4th UN World Conference on Women in Beijing in 1995.

Recognising non-discrimination based on sexual orientation as a human rights issue - Achievements on the international level

The pioneer in this respect was the Parliamentary Assembly of the Council of Europe which adopted - as early as in 1981 - Recommendation 924 condemning all legal and social discrimination against homosexuals.

On three occasions, the European Court of Human Rights in Strasbourg ruled the prohibition of homosexual acts between consenting adults to be a violation of the European Human Rights Convention. In October 1997, the European Human Rights Commission ruled that an unequal age of consent for homosexuals and heterosexuals likewise constitutes a human rights violation.

In 1994, the United Nations Human Rights Committee ruled (in *Toonen vs. Australia*) 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" (ICCPR). Criminal laws prohibiting homosexuality among consenting adults violate Article 17 of the ICCPR. What makes this decision to the most important one to date in international human rights law, however, is that the Committee also noted in its decision that "the reference to 'sex' in articles 2 (1) and 26 [of the ICCPR] 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 1994. In this Resolution, the EP calls on all member states to repeal all anti-homosexual law provisions and to end all sexual orientation based discrimination, including the barring of lesbian and gay couples from marriage or equivalent legal framework.

This Resolution was reiterated by the European Parliament on two more occasions, e.g., in the annual reports and resolutions on the observance of human rights in the EU for 1994 (A4-0223/96) and 1995 (A4-0112/97).

Finally, the 15 EU member states included "sexual orientation" in the anti-discrimination clause - the new Article 6a - of the Treaty of Amsterdam.

Achievements on the national level

Since the OSCE Review Conference in Vienna last year, further improvement and progress have also occurred in various OSCE member states. Austria finally repealed the ban on positive information about homosexuality and the ban on the founding of gay and lesbian organisations, Macedonia has prepared - in line with commitments entered on the occasion of her admission to the Council of Europe - a new penal

code which does not provide for a total ban on homosexuality any longer. San Marino has abolished the only anti-homosexual provision in her penal code. Russia equalised unequal age of consent laws. Joining the Scandinavian countries and Iceland, the Dutch Parliament voted a registered partnership law which will give same-sex couples almost the same rights as married couples. Similar bills on registered partnership are debated in the Parliaments of Finland, Spain, France, Portugal, Luxembourg and Belgium. Luxembourg introduced an anti-discrimination law that also prohibits discrimination and hatred crimes against lesbians and gays - and thus joined eleven OSCE countries with similar provisions.

Unfortunately, these positive advances are only part of the story. Discrimination against lesbians and gay men continue in some OSCE countries: Cyprus has not yet implemented the 1993 verdict of the European Court of Human Rights to repeal the total ban on homosexuality. Romania has only partly decriminalised homosexuality in 1996, but introduced a severe provision that provides up to five (!) years imprisonment for founding gay and lesbian associations and for all forms of "proselytism" for homosexuality. According to the information available to us, a total ban on homosexuality still exists in Bosnia-Herzegovina, most of the non-European former Soviet republics as well as in more than 20 states of the United States of America. Unequal age of consent laws, according to the recent decision of the European Human Rights Commission a violation of the Convention, still exist in Austria, Bulgaria, Croatia, the Faroe Islands, Finland, Hungary, Liechtenstein, Romania, Serbia, the United Kingdom, the Channel Islands, the Isle of Man, and Gibraltar.

"Sexual Orientation" in the OSCE process

The issue of sexual orientation based discrimination was discussed within the CSCE/OSCE on several occasions, including all Implementation Meetings and Review Conferences. It was also mentioned in the Final Reports of the 1993 Implementation Meeting ("It was pointed out that CSCE Commitments in the area of non-discrimination cover homosexuals as well.") and the 1996 Review Conference. In July 1995, the Parliamentary Assembly of the OSCE adopted a Resolution which calls on member states "...to ensure that all persons belonging to different segments of their population be accorded equal respect and consideration in their constitutions, legislation and administration and that there be no subordination, explicit or implied, on the basis of ethnicity, race, colour, language, religion, sex, sexual orientation, national or social origin or belonging to a minority..."

Appeal to all OSCE member states to honour their commitments in the field of non-discrimination based on sexual orientation

The above quoted decisions and resolutions clearly show that non-discrimination based on sexual orientation is not only a commitment in the framework of the OSCE process but also a commitment under a series of other human rights conventions and instruments.

We, therefore, appeal to all OSCE member states to honour these commitments and to take steps to eliminate all existing legal and social discrimination against lesbians and gay men and to guarantee full human rights to their homosexual citizens.

(Written) Statement presented to the OSCE IMPLEMENTATION MEETING, SUBSIDIARY WORKING BODY 1, by ILGA-Europe

Concerning the issue of the freedom of expression, association and peaceful assembly, the European Region of the International Lesbian and Gay Association has to constate that these fundamental freedoms and human rights are not fully respected in all OSCE participating States when it comes to lesbians and gay men.

When Romania finally decriminalised homosexuality among consenting adults in 1996, severe provisions were, instead, introduced in the notorious Article 200 of the Romanian criminal code. The "reformed" article, for instance, provides for prison terms from one to five (!) years for "propaganda, organising, associating and any other forms of proselytism" in the context of homosexuality. People could go to jail for founding a gay and lesbian association or for spreading positive information on homosexuality, e.g., for exercising their guaranteed freedoms of expression, association, and peaceful assembly.

Alone the term used in the new version of Article 200, "pro-selytism", shows what weird concepts of homosexuality seem to exist in the minds of certain people, politicians and legislators. Homosexuality is nothing you can proselytise for, nothing to persuade people into. Homosexual or heterosexual orientation is nothing a person can deliberately choose or change. It is impossible to turn heterosexuals into homosexuals - or vice versa - by advertising or propaganda. People do not acquire their sexual orientation in the same patterns as they choose a certain brand of tooth paste or washing powder.

This new provision of the Romanian penal code, therefore, is not only ridiculous but a severe

restriction and violation of the fundamental freedoms of expression, association and peaceful assembly of lesbians and gay men. This law is a permanent intimidation of gays and lesbians in Romania and, therefore, must be rejected by the international community of democratic countries. Moreover, the severe punishment provided - one to five years in prison - is completely disproportionate in comparison with sentences for genuine crimes.

Romania, by the way, is not the only OSCE country that violates the freedom of expression and association of gays and lesbians. We have to mention that Liechtenstein has similar articles in her penal code.

The European Region of the International Lesbian and Gay Association would also like to highlight one aspect which we consider very important in the discussion about freedom of expression and religion. This aspect are the tensions and conflicts involved with these two freedoms in the context of hate speech. Individuals, religious or other groups who express hate speech or even call for violence against certain groups, who reinforce prejudice and hatred against certain minorities should be restricted in their anti-democratic action by anti-discrimination provisions protecting vulnerable groups from such verbal violence. Hate speech violating the human dignity of individuals or groups is a clear abuse of the freedom of expression. Any attempt to misuse freedom of religion to sow hate against certain groups must also be strictly rejected. Such irresponsible abuse cannot be tolerated in a society which respects human rights and fundamental freedoms.

ORAL STATEMENT

*By Kurt Krickler (ILGA-Europe)
in SUBSIDIARY WORKING BODY 1*

Thank you for giving me the opportunity to address this meeting on behalf of the European Region of the International Lesbian and Gay Association (ILGA), a federation of organisations fighting discrimination against homosexual women and men, with members in almost all European countries.

Today's agenda item includes a series of attitudes and behaviour considered as intolerant and detrimental to both the minorities and communities effected and to society at large. Discrimination based on gender, sex, race, religion, colour, etc. is generally conceived as such and as a human rights violation. Sexism, racism, xenophobia, anti-Semitism, however, have a sibling which should be subject to the same concern of us all: and that is homophobia.

Lesbian women and gay men are one of the declared targets of forces which fight against minorities and those who are different. Lesbians and gay men are the victims of death squads in South America, of skinheads and neo-fascists in Western Europe, and of street gangs in North America. This effects also advanced democracies, such as for example Sweden. On 9 September of this year, the Swedish newspaper "Aftonbladet" published a list of 27 gay men and lesbians who have been murdered in hate crimes in Sweden during the last ten years. And still, the Swedish Parliament had refused this year to include homosexuals in a law to criminalise hatred speech against certain minority groups. Legal protection from hatred speech is essential because the transition from verbal to physical attacks is often very short. When physical aggression already occurs, legal protection arrives too late. The "Reichskristallnacht" - we all know - did not either come like a bolt from the blue but the way to these atrocities had been paved by anti-Semitic hatred speech over many years. We, therefore, note with satisfaction that Luxembourg included the prohibition of hatred speech in her new anti-discrimination law passed last June. This should serve as a model for other countries.

However, how can we expect tolerance and non-discrimination from the average citizen if the State itself discriminates against lesbians and gays in the laws? Criminalisation and legally and societally approved stigmatisation of homosexuality are the origin of intolerance against gays and lesbians. Therefore, repealing all anti-homosexual legislation is a precondition for tolerance and non-discrimination in society. And this is also a commitment under the OSCE process and under various human rights instruments such as the International Covenant on Civil and Political Rights and the European Human Rights Convention as ILGA-Europe has documented in detail in its Written Presentation to this meeting.

In 1994, the United Nations Human Rights Committee ruled (in Toonen vs. Australia) that the rights of lesbians and gay men to privacy and equality are guaranteed by the provisions of the International Covenant on Civil and Political Rights (ICCPR). Criminal laws prohibiting homosexuality among consenting adults, therefore, violate Article 17 of the Covenant. According to the information available to us, a total ban on homosexuality, however, still exists in Armenia, Azerbaijan, Bosnia-Herzegovina, Cyprus, Georgia, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, and in more than 20 states of the United States of America.

In October 1997, the European Human Rights Commission ruled that an unequal age of consent for

homosexuals and heterosexuals constitutes a violation of the European Convention. Nevertheless, unequal age of consent laws continue to exist in Austria, Bulgaria, Croatia, the Faroe Islands, Finland, Hungary, Liechtenstein, Romania, Serbia, the United Kingdom, the Channel Islands, the Isle of Man, and Gibraltar.

ILGA has been participating as an NGO in the Human Dimension of the OSCE since 1991, and we find it extremely frustrating that we year after year have to remind the countries just mentioned to honour their commitments entered not only under the OSCE process but also under the International Covenant and the European Convention. We also believe that too little effort is made by the community of the OSCE countries to implement compliance with this part of OSCE commitments in negligent countries that fail to honour these commitments.

We, therefore, urge the OSCE to emphasize the implementation of non-discrimination against lesbians and gay men and to monitor it more closely with non-complying countries.

We also urge the delegations of the countries concerned to more firmly report back to their governments and parliaments that they ignore relevant decisions both of the UN Human Rights Committee and the European Commission and Court of Human Rights and that they do not honour their OSCE commitments in this field.

PREPARATION OF THE OSCE MEETING

On preparing the OSCE Implementation meeting the following letter was sent to the Dutch minister of foreign affairs, mr. van Mierlo:

"ILGA-Europe, the European Region of the International Lesbian and Gay Association, with member organisations in almost all European countries, has been informed that the Dutch government is preparing the EU position and paper on "Tolerance and Non-discrimination" for the Third OSCE Implementation Meeting on Human Dimension Issues to take place in Warsaw from 13 to 28 November 1997.

ILGA has been participating in relevant CSCE/OSCE meetings since the Third Meeting of the Conference on the Human Dimension of the CSCE in Moscow in 1991. We have been lobbying for the recognition of discrimination based on sexual orientation as a Human Dimension issue ever since.

We expect from the Dutch government in particular and from the EU in general to positively include

sexual orientation issues in the relevant paper for the upcoming Warsaw meeting. For we remember that the Dutch and Norwegian delegations had presented a joint statement entitled "Tolerance and Homosexuality" at the CSCE Review Meeting in Budapest in 1994 - this was the first governmental statement in the whole CSCE process devoted exclusively to sexual orientation issues. Both the Dutch intervention on behalf of the EU at the 1995 Implementation Meeting in Warsaw and the statement of Ireland on behalf of the EU at the 1996 Review Conference in Vienna referred again to sexual orientation based discrimination as a matter of concern.

The OSCE also has a good record of recognising sexual orientation based discrimination. At the (First) CSCE Implementation Meeting on Human Dimension Issues in Warsaw in 1993, this issue was for the first time acknowledged by the CSCE/OSCE. The Final Report of that meeting devoted the following lines to the gay and lesbian issue (it was adopted unanimously by the plenary):

"Participants pointed out to groups which were not "national minorities" but which none the less suffered discrimination, including women, homosexuals, migrant workers, and conscientious objectors...

It was pointed out that CSCE commitments in the area of non-discrimination cover homosexuals as well. Suggestions were made that discriminatory State policies against homosexuals, and criminalizing legislation, should be eliminated."

In July 1995, at their 4th Annual Session in Ottawa, the Parliamentary Assembly of the OSCE adopted a Resolution which calls on member states

"...to ensure that all persons belonging to different segments of their population be accorded equal respect and consideration in their constitutions, legislation and administration and that there be no subordination, explicit or implied, on the basis of ethnicity, race, colour, language, religion, sex, sexual orientation, national or social origin or belonging to a minority..."

Discrimination based on sexual orientation was mentioned again as a matter of concern in the final report of the 1996 Review Conference.

In view of this history and the general recognition of non-discrimination based on sexual orientation as a human rights issue in the OSCE context, we are confident and optimistic that the Dutch government will come forward with a paper which not only will not ignore this issue but will stress its relevance for

the Human Dimension of the OSCE and which will be consistent with other EU human rights policies concerning lesbians and gays.

This inclusion of the issue of sexual orientation discrimination is so important because homosexuality is still illegal in several OSCE participating States, others still have discriminatory anti-homosexual provisions in their penal codes. In many countries, the social situation of lesbians and gay men needs urgent improvement. It is crucial for the credibility of the OSCE Human Dimension process that the persecution and oppression of and the discrimination against homosexuals and the violation of their human rights be openly discussed and debated in a forum such as the Implementation Meeting in Warsaw.

We hope that the relevant Dutch paper will take this issue into consideration and look forward to your kind reply which you can also direct to the address given below.

UPDATE ON THE LEGAL SITUATION CONCERNING HOMOSEXUALITY IN THE SUCCESSOR REPUBLICS TO THE FORMER SOVIET UNION

by Kurt Krickler

As mentioned in Euroletter # 54, amnesty international has published a paper called "Commonwealth of Independent States - Amnesty International working against laws punishing sexual relations between men". The following information is taken from this paper and from conversations with the relevant countries' OSCE delegates in Warsaw.

While all seven European successor republics to the Soviet Union (Belarus, Estonia, Moldova, Russia, Latvia, Lithuania, Ukraine) have meanwhile repealed the total ban on male homosexuality inherited from the Soviet era (Art. 121.1 in Russia) which provided prison terms of up to five years, the situation is different in the eight Asian successor republics. The three Caucasian republics Armenia, Azerbaijan and Georgia are applicants for membership in the Council of Europe, and they - like other former East-bloc countries did - receive help from Council of Europe experts in drafting the new penal codes. It, therefore, can be expected that these countries' new criminal codes will not punish homosexuality among consenting adults any longer. The delegate of Georgia at the OSCE meeting in Warsaw informed the author of this update that the new Georgian penal code had already been adopted. She promised to provide concrete information about the new situation concerning

homosexuality. In Armenia, the draft for a new penal code had its first reading in April 1997, the second reading is scheduled, according to the Armenian OSCE delegate, for this winter. In Azerbaijan, the new penal code is still under preparation. Therefore, Article 116.1 of the Armenian and Article 113.1 of the Azerbaijan penal code formally are still in force.

In the five Central Asian republics, the situation also varies. Amnesty had reported already in 1993 that Kazakhstan would have repealed Article 104.1 of its penal code but this turned out not to be correct. However, now in 1997 the new penal code has been signed into law by the President and will enter into force as of 1998. Homosexual acts between consenting adults will no longer be a crime.

According to amnesty international, Kyrgyzstan and Tajikistan still use the old Soviet criminal code which means that Article 112.1 of the Kyrgyz and Article 125.1 of the Tajik penal code formally are still in force.

TURKMENISTAN, however, has already adopted a new penal code in 1997 which meanwhile has been signed into law by the President. It is unclear whether Article 126.1 has been repealed. The OSCE delegate of Turkmenistan could not give any concrete information. In neighbouring UZBEKISTAN the new penal code of 1995 did not bring much improvement for gay men. The new Article 120 still punishes sodomy ("besakalbazlyk" in Uzbek) between consenting adults by up to three years' imprisonment.

PORTUGAL DE-EQUALIZED AGE OF CONSENT IN 1995

by Helmut Graupner, Rechtskomitee LAMBDA, Vienna

In 1995 Portugal introduced a new Penal Code (Decreto-Lei no. 48/95, 15.03.1995). Officially it has been called a sole revision of the Code of 1982 but in fact it is a new Code, since the Articles have been renumbered and regrouped extensively, so that they don't correspond anymore.

In 1945 Portugal decriminalized homosexuality for the second time in its history (the first time was in 1852, but the total ban has been reintroduced in 1912) and set an equal age limit of 16. The Criminal Code of 1982 took over this equal minimum age limit for hetero- and homosexual acts at 16 (HTS: Art. 206, 203, HS: Art. 206, 207). Just the penalties laid down in the case of „seduction“ of 14 and 15 year old adolescents have been different. For homosexual „seduction“ („desencaminhar“) the penalty was up to 3 years (Art. 207), for „seduction“ to (heterosexual)

vaginal intercourse („tiver copula ... abusando da ... inexperiencia ou mediante promessa séria de casamento“) however up to 2 years (Art. 203) and for „seduction“ to all other forms of heterosexual contact just up to 1 year (Art. 206). But when no „seduction“ was involved the penalty laid down for hetero- and homosexual conduct with 14 and 15 year old adolescents was equal, up to 1 year (Art. 206). Also the penalties for sexual conduct with minors under 14 were set equally (Art. 201, 202, 205).

The reform of 1995 lowered the general age limit to 14 (Art. 172 CC) but kept a special offence of homosexual relations with 14 and 15 year old adolescents (Art. 175 CC: up to 2 years jail). Heterosexual relations with 14 and 15 year old adolescents are criminal only if the minor is „seduced“ (Art. 174 CC: „abusando da sua inexperiencia“; up to 2 years jail).

The new provisions have been reproduced in Euroletter 48 (6) correctly but the interpretation given in Euroletter 47 (4) has been incorrect. The reform 95 did not equalize a prior difference 14-16 but - the other way round - did introduce the prior not existing difference.

The discriminatory higher age of consent for gays and lesbians has been criticized in the scientific literature (see Teresa Pizarro Beleza, *Sem Sombra de Pecado - O Repensar dos Crimes Sexuais na Revisao do Código Penal*, University of Lisboa 1996, p. 27) but it is still on the book. And the number of the Article corresponds to the former German anti-homosexual law: Art. 175.

AUSTRIA PROPOSED TWO PRO-GAY CANDIDATES FOR THE NEW COURT ON HUMAN RIGHTS

by Helmut Graupner, Rechtskomitee LAMBDA, Vienna

The Austrian Government recently announced the three proposed candidates for the Austrian judge on the forthcoming permanent European Court on Human Rights. Two of them supported Lesbian and Gay Rights in the past.

Dr. Willi Fuhrmann currently is a member of the Austrian parliament and the spokesperson for judicial affairs of the Austrian Social-Democratic Party (SPÖ). In past year's debate on the discriminatory age of consent for gay male relations (Art. 209 CC) he pushed for a repeal of Art. 209 and voted for that repeal (as all MPs of his party did).

Univ.-Prof. Dr. Manfred Nowak, professor for constitutional law at the University of Vienna and head of the Ludwig-Boltzmann-Institute for Human Rights (Vienna), acted as Special UN-Rapporteur for Sarajevo and as one of the experts heard by the Austrian parliament in 1995 on the homosexual age of consent he stressed the rights of lesbian and gays and pointed to the incompatibility of the higher minimum age for gays with the European Convention on Human Rights. Prof. Nowak strongly supports l/g rights and equality beyond the area of criminal law and underlines that attitude by his membership in the board of trustees („Kuratorium“) of *Rechtskomitee LAMBDA (RKL)*.

Since the present Austrian judge at the European Convention on Human Rights, Univ.-Prof. Dr. Franz Matscher, made a bad impression with his anti-l/g (dissenting) opinions, it would be very important the one of the two mentioned candidates will be elected to the new permanent Court on Human Rights.

Please lobby your countries members to the COE-Parliamentary Assembly in this respect.

CYPRUS

By Bjoern Skolander

As the enclosed article from Cyprus Mail shows, the Cypriot politicians have not yet decided to decriminalise homosexual act between consenting adults. The Swedish Amnesty group for Gay and Lesbian Concerns was earlier this year urging Amnesty International to issue a statement in support of a decriminalisation, which eventually was done in May 1997.

However we believe that more pressure is needed to force the politicians in Cyprus to finally come to the one and only decision. As you know, Cyprus is applying for EU membership. On behalf of the Swedish gl AI group I would like to suggest, that ILGA Europe informs its political contacts within the EU structure about Cyprus' continued refusal to lift the ban on gay sexual acts. We believe that a political discussion in the European Parliament would be extremely helpful at this point in time to have the ban lifted.

CYPRUS MAIL

Saturday, October 11, 1997

Cyprus must lift ban on gay sex

FOREIGN Minister Yiannakis Cassoulides this week said he considered it a "serious mistake" that the

House had not yet decriminalised homosexual relations between consenting adults in private.

He warned that Cyprus would face pressure from the Council of Europe over this failure to bring its laws into line with those in the European Union and elsewhere.

Mr Cassoulides is absolutely right to deplore the House's foot-dragging on this issue. It is inexcusable for a country which considers itself on a par with developed Western countries, and which aspires to become a member of the European Union, to continue to brand homosexuals as criminals. In the West, popular art forms, far from maligning homosexuals as social pariahs, now represent them sympathetically, thus changing the way they are perceived. This is a reflection of the parallel freedom afforded to gay people by the law. Films such as Philadelphia and Four Weddings and a Funeral illustrate how homosexuals have become increasingly integrated into mainstream American and European society.

How then can a supposedly modern, educated country like Cyprus continue to relegate some of its citizens to the fringes of society, denying them the basic right to an identity?

In Cyprus, being called a homosexual is still a term of abuse. Few gay people are open about their sexual orientation because of the prejudice they face. 'Unmanly' behaviour in boys and 'unwomanly' behaviour in girls is frowned upon by adults adhering to the stereotyped ideas of male/female behaviour. We are brought up to believe that homosexuals are the worst kind of degenerate: effeminate, limp-wristed 'queens' or butch, leather-clad 'dykes' who prey on unsuspecting youths and revel in orgiastic excesses and drugs. We ignore the fact that these vices are just as common among heterosexuals who are responsible for the majority of crimes, and that it does not follow that a person automatically has sociopathic tendencies if he or she is gay.

Absurdly, we convince ourselves that these people choose to be homosexual. But which sane person, in the face of so much hostility, not to mention persecution by the law, would 'choose' to be gay? Even women who have been 'left on the shelf' - and that is stigma enough in Cypriot society - are in a better position than homosexuals: at least they don't have to be invisible.

Matters are not helped by the lack of compassion shown by the Orthodox Church. The latter has done nothing to ease the burden of these shunned individuals; encouraging instead the popular fallacy that homosexuality is somehow a sin above all other

sins. There is nothing to suggest this in the scriptures; all sin is shown to have the same measure of evil in God's eyes. Christ himself befriended social outcasts such as tax-collectors, harlots and thieves.

In the face of such unrelenting opposition from the Church, however, it is not surprising that the law still prohibits sexual intercourse between consenting adults of the same sex. The law, which should have been the guardian of homosexuals' rights and which has always had the power to eradicate social taboos, remains an insurmountable obstacle to the acceptance and integration of homosexuals into society. This is plainly unjust.

It is high time to put an end to this injustice and to recognise the rights of a significant section of the Cypriot population. People who have the same legal duties and pay the same taxes as the heterosexual majority should also have the same legal protection. This is the only correct course of action for a country that considers its citizens educated and forward-looking and which hopes to become a member of the European Union.

Ironically, as gay-rights campaigner Alecos Modinos suggested in a recent TV interview, Cyprus more than any other country can ill-afford the luxury of denying such rights; it has experienced first-hand how deep the scars of injustice can run. (© Copyright 1997 Cyprus Mail)

CYPRUS MAIL

Wednesday, November 5, 1997

Government pleads with deputies to decriminalise homosexuality

By Martin Hellicar

THE government again pleaded with the House yesterday to stop dragging its feet and approve a law decriminalising homosexuality.

"I want to repeat to you that the government wants this law passed," Foreign Minister Yiannakis Cassoulides told the House Foreign Affairs committee.

And a representative of the Attorney-general's office told deputies Cyprus ran the risk of being thrown out of the Council of Europe (CoE) if sex between consenting adult males was not decriminalised.

The CoE has repeatedly warned the government that it must conform with a 1993 European Court of Human Rights ruling in favour of Cypriot gay activist Alecos Modinos. The House was due to vote on an amendment decriminalising homosexuality last May,

but the debate was postponed in the face of strong opposition from the Church and some deputies.

The Attorney-general's representative told deputies a refusal to abide by the European court ruling weakened Cyprus's bargaining position in Europe. "We expect the court to pressure Turkey to implement decisions in our favour on human rights issues and at the same time we are in the position of ignoring the court on what is, after all, an issue of far lesser importance," she said.

"We cannot have the luxury of picking and choosing when to conform with the court's decisions. In Strasburg, they equate our non-confirmation with Turkey's," she added.

She said the government had managed to secure consideration of the issue by the CoE last month, but time was running out.

Cassoulides said the postponement had only been secured on the understanding that the government "had a clearly stated position that the law must be passed."

However, committee chairman Tassos Papadopoulos stuck to his party's guns, repeating that Diko deputies would not vote for the bill. "The amendment will not pass," he said. (© Copyright 1997 Cyprus Mail)

LATVIA

By Ainaars, Homosexuality Information Centre, Latvia

Statement of the Homosexuality Information Centre (HIC) "On Homophobia and Intolerance in Police and Other State Institutions in Latvia"

In 1991 the Republic of Latvia regained its independence from the Soviet Union. Shortly afterwards Latvia signed Universal Declaration of Human Rights and other international human rights instruments. However, Latvia has not so far ratified the framework convention on minorities and the European Social Charter. Latvia is also a member of the Council of Europe and a contracting party to the European Convention on Human Rights although with some reservations. The top priority goal in foreign policy of Latvia is to join the European Union. Thus Latvia stated her will to be a part of a collective of democratic states where fundamental rights such as development of each person free from any discrimination, freedom of expression and opinion are accepted and safeguarded.

Nevertheless, intolerance, discrimination and violence towards certain persons and minority groups still exist in Latvia. In an opinion on Latvia's application for membership in the European Union which was adopted this June the Commission of the European Community expressed its serious concern regarding the position of minorities in the country and stated that "Latvia needs to take measures ... to ensure equality of treatment for non-citizens and minorities, in particular for access to ... participation in the democratic process". One such minority group is homosexuals, lesbian women and gay men.

During the investigation which was carried out by HIC it was discovered that this minority group suffers intolerance and discrimination not only from fellow citizens but also from the State authorities. Latvian State authorities openly ignore both the recommendation by the international and European institutions to combat any forms of discrimination and suggestions for legislative amendments aiming to improve the lesbian and gay situation in the country from the non-governmental organizations. Moreover, members of the Latvian parliament openly state their strongly negative attitudes towards lesbians and gays and call them "ill, abnormal". Former prime-minister Andris Skele even suggested that for persons working for the state institutions the "correct" sexual orientation is absolutely imperative. One of the parliamentary human rights commission members, during a discussion on inclusion of sexual orientation into a paragraph of the Criminal Code containing the grounds on which any discrimination is criminalized, ironically commented that homosexuals did not deserve any legal protection and described homosexuals as one of the lowest society groups. Such intolerant comments from the officials of the highest rank promote further discrimination of the lesbian and gay community in Latvia.

Such attitudes are taking as everyday practice by the Latvian Police force. In the summer of 1997 a newspaper of the city of Bauska "Atspulgs" published an interview with a gay couple in which a policeman Gatis Bugoveckis confessed his homosexuality and that he was in a relationship with another man. Gatis also mentioned that he was planning to get a similar job within the police force in Riga and that he had received all necessary documents from Riga and could start his duty there. Answering one of the journalist's questions, Gatis stated that he was not the only homosexual within his police office.

Immediately after the interview was published, the police of Bauska assembled a certification commission which decided to inform the Personnel

Department of the Interior Ministry of Gatis Bugoveckis' homosexual orientation. The commission also attached a copy of the interview to the letter for the Ministry. After the interview was published when Gatis came to the police office to carry on his duty he discovered that another person had taken over his job. Also the police office in Bauska persuaded their colleagues in Riga not to accept Gatis at work although formally he was already accepted. A chief of the Bauska order police office Edmunds Zubeens insisted that Gatis must name other homosexuals within the police station and made it understood that otherwise Gatis would have to leave his job "voluntarily". As a result of the pressure Gatis resigned. However, all conversations in the police office were recorded on an audiocassette which is now the property of HIC to provide evidence of the pressure on Gatis. Members of the Bauska police office considered Gatis' press interview as an insult and humiliation of their honour. Since then the security of Gatis and his partner has been under danger and there are occasions when the partners have been threatened with physical persecution and their dignity humiliated.

This case is one of many where the police forces demonstrate their attitude towards lesbians and gay men. HIC also possesses other evidence of the police forces' homophobic attitude.

It has to be underlined that in order to become a member of the police force in Latvia a candidate has to visit a psychiatrist which among other questions asks about the candidate's sexual orientation.

Members of the lesbian and gay community have on many occasions appealed to different Latvian and foreign institutions in order to attract attention to their situation. Unfortunately, none of these appeals have resulted in any attention from the Latvian State authorities. For example, the Latvian parliament has so far been considering a legislative amendment to include sexual orientation in the list of grounds on which discrimination is prohibited for 4 years!

As the above mentioned facts and described case demonstrate the Latvian authorities do not demonstrate any intention to combat discrimination against lesbians and gays and it is too early to speak about a democratic system of the Latvian state where fundamental rights are declared and safeguarded.

Taking into account that:

- Latvian lesbians and gays do not enjoy legal protection and the same rights as their heterosexual fellow citizens and thus are discriminated against

by legislation, and the legislature does not intend to resolve this discrimination and inequality,

- homophobia does not constitute an unlawful act, moreover it is indirectly promoted by some Latvian politicians and is practised by the police and other state authorities, with words such as "lesbian", "gay", and "homosexual" considered as indecent,
- lesbians and gays suffer physical violence, social rejection, verbal abuse and harassment. As a result lesbians and gays have to hide their sexuality and those who do not hide it face serious problems

HIC calls

upon the President of the Republic of Latvia to:

- initiate the legislative amendments necessary to combat all forms of discrimination against lesbian and gay citizens and to provide for the adoption of substantial legislation guaranteeing their protection and equal rights with the rest of society
- take an initiative and declare such reforms as one of the priority in the area of human rights in Latvia,

upon the Saeima (Parliament) of the Republic of Latvia to:

- include sexual orientation within the list in the paragraph 12 of the constitutional law "On Rights and Duties of Citizens and Men" containing the grounds on which any forms of discrimination are prohibited,
- include sexual orientation in the paragraph 69 of the Criminal Code which criminalizes any discrimination on the grounds of race, nationality, thus criminalizing any forms of homophobia,
- make the necessary amendments to the existing legislation in order to equalize rights of the homosexual and heterosexual citizens in such areas as family, adoption, custody, inheritance, social security, pension, housing, immigration and labour law, or to adopt a partnership law containing such provisions,

upon the parliamentary Committee for European Affairs to:

- initiate legislative amendments for protection of the homosexuals and equalizing their rights with those of heterosexual citizens,

upon the Ministry of Interior of the Republic of Latvia to:

- abolish the questioning of candidates to member of the police force on their sexual orientation,
- call to administrative responsibility all members of the police force who stir a hatred on the ground of sexual orientation,

upon National Human Rights Office to:

- declare sexual orientation as one of the priority areas within its activities;
- implement research and to advise state authorities how to improve the situation of lesbians and gays in Latvia,

upon the Commission of the European Community to:

- demand observation of fundamental rights including those of lesbians and gays during negotiations and actual providing any financial, economical, intellectual, informational support to Latvia,
- not start negotiations on accession to the European Union with Latvia until sufficient systems of safeguarding fundamental rights including those of lesbians and gays are provided in Latvia,

upon all other organizations and the addressees of this statement to:

- send letters of protest (sample letter attached) concerning the above described facts of discrimination of the members of the lesbian and gay community in Latvia and to urge Latvia to combat any discrimination on the ground of sexual orientation and to equalize homosexual and heterosexual citizens in their rights to:

- the President of the Republic of Latvia: Pils laukums 3, Riga 50, LV-1900, Latvia. Fax: +371 7325800. E-mail: chancery@president.lv
- Saeima (Parliament) of the Republic of Latvia: Jekaba iela 11, Riga, LV-1811, Latvia.
- Ministry of Interior of the Republic of Latvia: Raina bulvaris 6, Riga, LV-1050, Latvia.
- Police office of the city of Bauska: Zala iela 12, Bauska, LV-3901. Fax: +371 39 24335.
- HIC: Pastkaste 65, Riga, LV-1001, Latvia. E-mail: GayLatvia@hotmail.com

Board of the Homosexuality Information Centre
Riga, 01.10.1997.

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SAMPLE LETTERS

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To the President of the Republic of Latvia
Mr Guntis Ulmanis

Your Excellency,

We,, would like to express our concern over the situation faced by lesbian women and gay men in Latvia and to ask you to take necessary measures to improve their situation.

As we learned from the Statement of the Homosexuality Information Centre in Riga "On

Homophobia and Intolerance in Latvian Police and Other State Authorities" lesbian women and gay men in Latvia suffer discrimination de jure and de facto. Any discrimination against a person based on her/his homosexual orientation does not currently constitute an unlawful and punishable act. It is not against the law to abuse verbally, persecute physically or in any other way treat unequally individuals with homosexual orientation. Also lesbians and gays do not enjoy the same rights as their heterosexual fellow citizens. As the Statement shows the Latvian state authorities indirectly promote discrimination against homosexual citizens and do not interfere in the cases of such discrimination.

Latvia as a member of the United Nations, Council of Europe and as an applicant for full membership of the European Union, declared its intention to build a society where fundamental rights of each individual are respected and guaranteed. There is significant progress in many countries of Europe and the rest of the world regarding protection of lesbian women and gay men from discrimination and unequal treatment. Also, such authoritative organs as the United Nations Human Rights Committee, the European Commission and Court of Human Rights, and the European Court of Justice demonstrate that discrimination of homosexual women and men is unacceptable in a democratic society.

Taking into account these facts we call upon you to initiate the legislative amendments in Latvia necessary to combat all forms of discrimination against lesbian and gay citizens and to provide for the adoption of substantial legislation guaranteeing their protection and equal rights with the rest of society.

.....
To the Saeima (Parliament) of the Republic of Latvia

Highly honoured members of the Saeima,

We,, would like to express our concern over the situation faced by lesbian women and gay men in Latvia and to ask you to take necessary measures to improve their situation.

As we learned from the Statement of the Homosexuality Information Centre in Riga "On Homophobia and Intolerance in Latvian Police and Other State Authorities" lesbian women and gay men in Latvia suffer discrimination de jure and de facto. Any discrimination against a person based on her/his homosexual orientation does not currently constitute an unlawful and punishable act. It is not against the law to abuse verbally, persecute physically or in any other way treat unequally individuals with homosexual orientation. Also lesbians and gays do

not enjoy the same rights as their heterosexual fellow citizens. As the Statement shows the Latvian state authorities indirectly promote discrimination against homosexual citizens and do not interfere in the cases of such discrimination.

Latvia as a member of the United Nations, Council of Europe and as an applicant for full membership of the European Union, declared its intention to build a society where fundamental rights of each individual are respected and guaranteed. There is significant progress in many countries of Europe and the rest of the world regarding protection of lesbian women and gay men from discrimination and unequal treatment. Also, such authoritative organs as the United Nations Human Rights Committee, the European Commission and Court of Human Rights, and the European Court of Justice demonstrate that discrimination of homosexual women and men is unacceptable in a democratic society.

Taking into account these facts we call upon you to:

- include sexual orientation within the list of the constitutional law "On Rights and Duties of Citizens and Men" containing the grounds on which any forms of discrimination are prohibited,
- include sexual orientation in the paragraph 69 of the Criminal Code which criminalizes any discrimination on the grounds of race and nationality, thus criminalizing any forms of homophobia,
- make the necessary amendments to the existing legislation in order to equalize rights of the homosexual and heterosexual citizens in such areas as family, adoption, custody, inheritance, social security, pension, housing, immigration and labour law, or to adopt a partnership law containing such provisions.

Check out more information about gay and lesbian situation in Latvia at:

<http://www.geocities.com/WestHollywood/7693>

DUTCH MAY ALLOW ADOPTIONS BY GAYS

ASSOCIATED PRESS, October 29, 1997

By WILLIAM J. KOLE

AMSTERDAM, Netherlands (AP) - Dutch society, renowned for its tolerance of homosexuality, is pushing for a federal law that would permit gays and lesbians to adopt children.

The legislation, which would also sanction same-sex marriages, was approved this week by a parliamentary panel. Believed to have broad backing

in Parliament and expected to be enacted early next year, it also gives gay couples the same pension, inheritance and social security rights as married heterosexuals.

"The rights of children in homosexual relationships must be better regulated," said Bas Kortmann, chairman of the parliamentary panel. He called the bill "an important symbolic step against the old idea that homosexuality is heresy."

If the current version passes, the Netherlands would become the first country to sanction homosexual adoption at the federal level. In the United States, matters of marriage and adoption are overseen by states. Some U.S. states allow homosexual adoption and a few forbid it.

The Netherlands is known for its acceptance of homosexuals and openness on the issue. Homosexuals are welcomed in the Dutch military, and Amsterdam will hold next year's Gay Games, the quadrennial Olympics-style sports festival.

There didn't appear to be any organized opposition to the legislation. In fact, public opinion surveys have shown that seven in 10 Dutch think gays can be good parents.

The Dutch Federation for the Integration of Homosexuality hailed the new proposal, saying it would stop gay couples from having to lie about their sexuality in adoption papers.

Dutch lawmakers had planned to approve a similar bill this year but held off because it didn't include adoption rights.

The committee, commissioned by State Justice Secretary Elizabeth Schmitz, said most of its members concluded that "same-sex couples can only receive equal treatment if they are permitted to enter into civil marriage."

Marriage "has always been a flexible institution that has kept pace with social change," the panel said in a report.

Maarten Jan van Mourik, a law professor at Catholic University of Nijmegen, today decried the bill as "the next step in the abolition of marriage."

"The creation of a sex-neutral marriage raises the question: Why make marriage accessible to just two people? And why not make marriage between a parent and a child possible?" he wrote in a commentary in the daily *De Telegraaf*.

Homosexual couples already have won the right to register their relationships and jointly own property in much of Scandinavia, though Denmark, Norway and Sweden have not yet allowed them to adopt.

The Dutch panel conceded that legalizing gay marriage and adoption in the Netherlands could lead to "international complications" for Dutch gays and lesbians who move with their adoptive children to countries hostile to the idea.

EUROPEAN PARLIAMENT ESTABLISHES INTERGROUP ON GAY AND LESBIAN ISSUES

By Egalité

At the European Parliament on 22 October, four political groups from across the political spectrum decided to join forces to develop a structured approach to gay and lesbian issues in EU policy and administration.

The European Parliament, the only democratically elected institution of the European Union, has been consistently supportive of lesbian and gay rights over the past few years. The 1993 "Roth Report" written by German Green Member of the European Parliament (MEP) and EGALITE Prize-winner, Claudia Roth, was the first comprehensive treatment of the question of gay and lesbian rights in Europe. It laid the foundations for an agenda of reforms and legislation which is still being pursued by MEPs with the support of EGALITE and the members of ILGA-Europe. Implementation of Roth's report is going slowly, but concrete steps have been the inclusion of provisions in the Amsterdam Treaty to combat discrimination on the grounds of sexual orientation, and the Parliament's adoption of the "Lindholm Report" earlier this year.

The establishment of a Parliamentary Intergroup on equal rights for lesbians and gays is a further step forward and another sign of the European Parliament's commitment to our cause. An Intergroup provides a forum at which MEPs with a special interest in a particular issue can discuss how to press forward an agenda at the EU level. It also helps MEPs to draw on the advice and experience of interested European citizens.

The inaugural meeting of the Intergroup was chaired by Mrs. Outi Ojala, a Finnish MEP with a record in the Finnish Parliament which includes numerous motions and a draft bill on registration rights for same-sex couples. She is a member of the United European Left/Nordic Green Left group which is one of the moving forces behind this initiative. But the Intergroup has received support across the political

spectrum, and includes Socialists, Greens and Christian Democrats.

fortune, depending on the wealth of the involved parties.

The new Intergroup will meet monthly in Strasbourg and invite experts, national representatives and officials from other EU institutions to discuss topics such as the status of lesbians and gays in national and EU legislation and policy-making, existing discrimination and possible steps to promote equal treatment. Its prime goal will be to assist the European Parliament in its work on this issues, but it will of course facilitate coordination and exchange of information in a broader European context.

At the next meeting on 19 November, Commissioner Flynn will be invited to discuss how the new Treaty article 6a, which enables the EU to combat discrimination on the grounds of sexual orientation, can be put into practice. On that occasion, the Intergroup will formally request the Commission to appoint both a Commissioner and a Commission official responsible for gay and lesbian issues. This would put an end to the juggling-around of matters that concern our position in society and would finally offer gay and lesbian representatives the chance to address their input to a clear-cut authority with the required mandate to take action. In December, the agenda will focus on immigration rules and Interpol.

EGALITE will be playing an active role in the Intergroup, and the ILGA-Europe Conference decided in October that the Executive Board should appoint an ILGA-Europe representative to be in permanent liaison with the Intergroup.

To contact the Intergroup: Paola Giaculli - Intergroup Secretary (pgiaculli@europarl.eu.int).

SYMBOLIC DOMESTIC PARTNERSHIP IN HAMBURG

By Christoph Hebling and Reinhard Sass

After the recent elections a domestic partnership for gays and lesbians is introduced in the coalition agreement of the new government in the Bundesland Hamburg. It is expected to take effect from the beginning of the new year. The partnership is only of symbolic character. Within the coalition treaty it is stated that there are to be registered partnerships but also that no positiv or negative consequences should derive thereof.

It is also only possible to get registered in the registry office if the couple is holding a partnership certificate issued by a notary, which costs usually a