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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>

Consolidated versions of the basic treaties of the European Union including amendments from the Amsterdam Treaty can be found at this web-site: <http://ue.eu.int/Amsterdam/en/traiteco/en1.htm>

CATALONIA HAS GRANTED DOMESTIC PARTNERSHIP RIGHTS

By Cesar Leston

On June 30, the Parlament de Catalunya passed the first partnership bill in all the Southern European Region. This is the first text in Spain and in all the Mediterranean area granting rights to non-married couples, gay or straight.

The text allows couples living maritally but non-married to gain couple status in the eye of the Law, within the matters Catalan law is competent. Thus, such law provides no measures regarding Social Security, widowhood pensions or labour legislation (excepted the staff working for the regional government).

There are indeed differences in terms of the rights granted to gay or straight couples. In some cases, to the advantage of heterosexual couples, as in adoption, a right vetoed for same-sex ones. Nevertheless, same-sex couples gain more advantages, such in testamentary / will issues, for the partner of the deceased member of the same-sex couple is automatically entitled to 1/4 of the estate, when no will has been made. According to the legislative text, such difference is based on the fact that straight couples can always apply for matrimony, a possibility beyond reach for same-sex couples.

The changes this law entails to lesbian / gay couples are dramatic. Hereunder come a few examples:

For the first time ever, our legislation considers what it calls a "homosexual stable union" defined as "a permanent basis couple integrated by same-sex partner living as spouses" and who state their willingness to be covered by this law.

For the first time ever, in case one of the members of the couple is declared legally under age by a court, his/her partner will be the first person qualifying to stand as tutor of the person he/she has shared his/her life with.

For the first time ever, in case one of the partners of the couple dies, the other is automatically deemed as the owner of the assets of the common home (jewels or artistic / historical value items excluded); this leaves behind so very apinful situation leading to the family of the deceased partner pillaging his/her home, virtually robbing it from the other member of the union.

For the first time ever, the member of a same-sex union in an unequal economic situation after the

couple has broken is entitled to an allowance payed by the other member of the couple on a regular basis, for a certain time, in order to allow him/her to rebuild his/her life.

The Catalonian Partnership bill has been agreed by all the groups in the Catalonian parliament but the Popular Party (PP), in office at the federal government.

The Fundacion Triangulo por la Igualdad Social de Gais y Lesbianas has been working for many years for DP rights; during this time we have had a good deal of understanding for the positions of CiU (in office in Barcelona) and we were the only l/g/b/t group to support the bill for, far from perfect, it sure means a big step forward.

Our assessment

We must say we are very happy to see lesbian and gay family units legally recognized as couples; we are also happy to see that the discrimination of non-married straight couples is somehow diminished.

We must bear in mind though that the Catalan law, which we support, is not a perfect one. To our opinion, homosexual and heterosexual couples should be regulated under the provisions of the same law, allowing adoption for same-sex couples.

This Catalan law should trigger similar measures in the rest of Spain and the Mediterranean region. The almost-unanimous vote at the Catalan legislative assembly shows that the Popular Party (PP) and its more ultra-conservative wings, are alone. When the actual decisions are made by the more church-linked sectors of the party, there is no point in trying to provide a socially liberal image for the party. The statements made by the ruling party in Catalonia, crucial for all alliances at a federal parliament levels, are very encouraging on the prospects for such a law (entering much more crucial issues such as pensions or adoptions which depend on the federal law) to be passed. The parties who voted for this law in Catalonia have enough seats at the federal parliament to have this DP bill passed.

The PP has lost positions in Catalonia, while the ruling party in Aragon, the PAR - Partido Aragones Regionalista has left the PP (with whom they rule in coalition) and supports a DP rights bill; in the Spanish Fed. Parliament, the DP Bill can only be stopped with legal tricks; if it were voted, they would lost again. All partnerships, either same-sex or not, will bear in mind that all parties can agree and vote to get our rights granted but the PP.

And, last but not least, the Church seems to be losing pace again in whatever has to do with social advances; they opposed condoms, divorce, the new legal provisions on abortion and oppose now DP rights.

PENAL CODE CHANGES IN FINLAND

By Hannele Leehtikuusi

Finland got its equal age of consent (16) for heterosexuals and gays/lesbians as well as got rid of the "promotion clause". I have to tell once more that it was not a big deal. No surprises, no celebrating. Only sort of surprice was that government proposal for the age of consent was 15 and Parliament decided to have it at 16. For dependants it is still 18 (student-teacher, financially dependant ect) - and again it is for all - heterosexuals and gays/lesbians.

Ministry of Justice is continuing its slow work for the partnership law. And now it seems more than sure that the law will come to the Parliament after the elections that will be held in March 20, 1999.

Legislation that regulaties and defines who can have artificial insemination in Finland might be under handling still in in this year. We expect that the present situation continues and the single women and women couples can have insemination at the private clinics.

AMNESTY: UK SHOULD REPEAL ANTI-GAY LAWS

By David McKelvey

AMNESTY INTERNATIONAL calls on the Government of the United Kingdom to equalize the age of consent and to repeal or amend all criminal laws which place discriminatory restrictions on gay male sexual activity.

The Parliament is expected to take a vote in June on equalizing the age of consent for heterosexual and homosexual relations.

However, the government has not proposed accompanying legislative changes to repeal provisions which criminalize sexual activity between males which is not illegal if the participants are heterosexual.

The application of these laws may lead to the detention or imprisonment of males, whom Amnesty International would consider prisoners of conscience.

Amnesty International includes in its definition of prisoners of conscience people who have been detained or imprisoned solely because of their sexual orientation.

This includes people imprisoned for engaging in consensual homosexual activity in private.

Such laws include those which:

- define the age of consent for sexual activity between males at 18, while the age of consent for heterosexual sexual activity and sexual activity between females is 16; 2
- define privacy for sexual activity between males differently than between males and females or just females.

Consensual sexual acts between males in private places (defined as buggery or gross indecency) are illegal under the Sexual Offences Acts 1956 and 1967 if:

- any participant is under 18 years of age; or
- more than two males voluntarily take part or are present in the private place.

These laws violate international standards which prohibit discrimination and arbitrary interference with personal privacy (see box, below).

However, these laws continue to be applied to prosecute males who have engaged in consensual sexual relations with other males in private places.

In 1996 a man was convicted of gross indecency as a result of having engaged in consensual sexual relations in his own home, because more than two men, who were over the age of 18, were voluntarily present or taking part.

In January 1998, seven men, including one who was seventeen and a half at the time -- known as the Bolton 7-- were convicted of engaging in consensual sexual activities in private homes. Amnesty International joined religious leaders,

Members of Parliament, other non-governmental organizations and hundreds of individuals in expressing concern about the case.

The organization took the position that if any of the men were imprisoned, they would be adopted as prisoners of conscience on the grounds that they were convicted, in effect, solely because of the homosexual nature of their relations.

Although not imprisoned, two of them received suspended sentences. The others received sentences involving community service and probation. This included the youngest of the seven, whom age of consent laws would presumably seek to protect from harm, but who was instead convicted and punished as a criminal.

In both cases, all of the acts were consensual. The acts were not visible to people other than those present, and no one was harmed. No one present or participating in either case complained to the authorities.

They were "victimless crimes". The men were convicted, in effect, solely because of the homosexual nature of their relations.

Rather than enjoying their rights to privacy and freedom from discrimination, these people and others have been convicted and sentenced and suffered harm to their personal and professional reputations by application of laws in the United Kingdom which violate the government's obligations under international law.

RECOMMENDATIONS

Amnesty International urges the Government of the United Kingdom:

- to equalize the age of consent for homosexual and heterosexual sexual relations;
- at the same time, to take the necessary measures to bring the range of legislation regulating sexual offences between men in the United Kingdom into compliance with its obligations under international law to prohibit discrimination and arbitrary interference with the right to privacy.

This would involve repealing provisions which criminalize consensual acts between men in private if more than two people are present or participating.

The Sexual Offences Acts should be reformed so that there is one set of laws that applies consistently and without discrimination on the basis of sex or sexual orientation.

For the full report see:

<http://www.amnesty.org/ailib/aipub/1998/EUR/44501198.htm>

FIRST FINNISH GAY DISCRIMINATION CASE WON

By Rex Wockner

A British man living in Finland has won the nation's first anti-gay discrimination case under a 1995 law that bans bias based on sexual orientation.

Tim Bedford, a high-school teacher in Oulu, filed suit after he was roughed up and kicked out of a predominantly gay bar for kissing his boyfriend on the dance floor.

The court fined the doorman who assaulted Bedford and ordered him to pay court costs.

"This shows that the law exists and that laws are worth more than the paper they're written on," said Rainer Hiltunen, head of the national Finnish gay-rights group SETA.

DENMARK NIXES LESBIAN INSEMINATION

By Rex Wockner

The Danish Folketinget (parliament) voted 70-57 June 19 against lifting the nation's ban on artificial insemination of single women.

The ban applies to state-run and private clinics but not to arrangements that take place outside of a medical setting.

Proponents of the ban argued that lesbian motherhood is unnatural and that children are harmed by not knowing their fathers.

Ironically, in 1989, Denmark became the first of the six nations that grant gay couples nearly every right and obligation of matrimony. Danish registered partners lack access only to adoption, church weddings and artificial conception.

FIRST STEP TO EQUALIZE AGE OF CONSENT IN UK

By Stonewall

In an amendment to the Crime & Disorder Bill, MP's voted at Westminster this evening, 22nd June, by 336 votes to 129 (a majority of 207) to set the age of consent for homosexual sex at 16, on a par with heterosexuals.

Tony Blair, William Hague, and Paddy Ashdown were all absent.

After 31 years of discrimination since the partial decriminalisation of gay male sex by the 1967 Sexual Offences Act, the Equality Alliance welcomes this long-overdue milestone, enshrining in U.K. law the principle that lesbians and gay men deserve parity with heterosexuals.

"The equalisation of the age of consent must now be followed by further legislation to ban antigay discrimination, and to eradicate the long list of statutory provisions which continue to deny equality of treatment and opportunity to lesbians and gay men in this country", said Ian Farmer of the Equality Alliance.

"The first priority must be to repeal Section 28 of the 1988 Local Government Act, replacing this with the requirement for the National Curriculum to recognise and reflect the equal validity of homosexuality. The urgency for this is demonstrated by suicide statistics, where the disproportionate figure for lesbian and gay teenagers is horrendously high.

"Other areas where inequalities remain to be redressed are:

- equal treatment in employment, including the Armed Forces;
- equal validity for family life, (gay partnerships and parenting rights);
- equal treatment in service provision, (health, pensions, policing, prisons, ...).

This is not an exhaustive list."

The Vigil outside Westminster, called by the Equality Alliance, attracted a crowd of supporters estimated by police at around 2000; not counting those who were packing the Strangers' Gallery to watch the debate, or those in committee rooms within the Palace made available to Alliance supporters at short notice through the kind intervention of Stonewall.

After the vote, Angela Mason of Stonewall concurred with Equality Alliance members that the abolition of Section 28 would be the next campaign priority.

(Joe Ashton's amendment, which would have introduced an age of consent of 18 where one party was in a position of authority was rejected by 234 votes to 194.)

NO EQUAL RIGHTS FOR GAY EU OFFICIALS AND THEIR PARTNERS

Press Release by EGALITE

EGALITE, the association of gays and lesbians who work for the European institutions, would like to thank the many national gay organisations and the

media for the attention and support they have lent us in our efforts to obtain equal treatment and full recognition, regardless of our sexual orientation. Last year, the European Parliament requested the EU Council of Ministers to adopt legislation to end discrimination on these grounds within the EU institutions.

Under the British presidency, the Council decided however to leave gay and lesbian EU employees and their partners in the predicament they were in to begin with: unrecognised, whether they have been registered as a couple or not.

Despite our joint lobbying efforts, the Council has not responded to our arguments and so far not even notified us directly of its recent decision to maintain discrimination against gays and lesbians, in the sense that "Officials shall be entitled to equal treatment under these Staff Regulations without reference, direct or indirect, to race, political, philosophical or religious beliefs, sex or sexual orientation, without prejudice to the relevant provisions requiring a specific marital status."

In other words, marriage remains a condition upon which recognition as a couple depends, unless the Court of Justice in Luxembourg decides to reinterpret the concepts of marital status and spouse.

The Swedish government is officially lending support to a Swedish official and his registered partner in a court case against the Council on the grounds that the Council does not respect Swedish law. The advocate general and the Court will no doubt thoroughly examine the concepts of marital status and spouse in the light of this argument, and we hope that the verdict will bring an end to discrimination against registered couples from various Member States.

The European Commission recently launched a reflection group on staff policy. EGALITE has asked to be heard by this group and expects it to propose measures to bring its own house in order. After all, the Treaty of Amsterdam introduced a new procedure to combat discrimination on various grounds in EU Member States. EGALITE expects the institutions to adopt this approach towards their own staff as well.

According to EGALITE's President Marion Oprel, the Council of Ministers has missed an important symbolic occasion to set this record "straight".

ILGA-EUROPE LAUNCHES EU REPORT

by Kurt Krickler

From 24-26 June 1998, ILGA-Europe presented its brand-new report "Equality for Lesbians and Gay Men - A Relevant Issue in the Civil and Social Dialogue" at the European Social Policy Forum organised by the European Commission in Brussels which was attended by more than 1,000 participants representing EU institutions, governmental agencies and non-governmental organisations as well as the social partners from all over Europe. ILGA-Europe had an info-booth in the exhibition area during the whole Forum, gave a 30-minute presentation of the report in the so-called Open Forum on 25 May, and ILGA-Europe representatives attended the three parallel sessions of the Forum.

The publication of this 104-page report is part of a project (with the same title) for which ILGA-Europe had received funding from DG V (cf. Euro-Letter # 56, p. 6); the project is also financially supported by the Austrian Federal Ministry for Labour, Health and Social Affairs and the Austrian Federal Minister for Women's Affairs and Consumer Protection. Donations to the costs of the project were also received from UNISON (the public sector trade union in the United Kingdom) and two of ILGA-Europe's project partners, *Landsforeningen for bøsser og lesbiske (LBL)*, the Danish National Association for Gays and Lesbians *LBL*, and *HOSI Wien*, Austria's First Lesbian and Gay Association.

The report contains two general chapters on the manifold forms of discrimination gays and lesbians are exposed to in the Member States of the EU and on the recent developments of EU law and policy on sexual orientation discrimination as well as contributions about the situation of lesbians and gays in the fifteen Member States. These articles draw an exhaustive picture of the many forms of social and legal discrimination against lesbians and gays throughout the EU, but also of the many positive developments in the pursuit of achieving full equality for them. They also highlight examples of good and best practice in this context.

ILGA-Europe has produced this report as part of a project to promote the co-operation between non-governmental organisations and to strengthen the social and civil dialogue. A dialogue in which ILGA-Europe wishes to participate in a very active way at the European level. One of the first steps in order to pursue this aim was to apply for membership in the Platform of European Social NGOs which was granted in March 1998. The Platform has around 25 members, all of them European federations of NGOs working in a variety of areas, such as disability,

migration, women, children, youth, age, poverty, unemployment, homelessness, etc. ILGA-Europe board members already participated in the Platform's steering group meeting (Brussels, May 1998) and a mini-conference to prepare for the Social Policy Forum (London, June 1998). The report is designed as a tool and instrument to inform other NGOs and associations in the social and human rights field about the legal and social situation of lesbians and gay men in the 15 Member States, and provides a basis for discussion with potential allies and partners in the fight against all forms of discrimination.

On 25 May, ILGA-Europe invited European social and human rights NGOs to a first one-day meeting in Brussels to enter into this dialogue and specifically to discuss the draft version of the report and its recommendations. The meeting was attended by several NGO representatives. ILGA-Europe board members and other experts presented various aspects of the report. MEP Outi Ojala (GUE/NGL, FIN), president of the EP Equal Rights for Gays and Lesbians Intergroup also gave a presentation, as did Kevin Walsh of DG V. The NGO representatives gave valuable input both to the main chapter of the report and for the recommendations. This meeting was also part of the ILGA-Europe project, another meeting with social and human rights NGOs is scheduled to take place in November of this year as part of the project.

As mentioned before, the report also formulates a series of recommendations to improve the situation of lesbians and gay men in the Union - recommendations directed both at other NGOs, the social partners, the Member States and the European Union which has been given the competence by the Treaty of Amsterdam to "take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation".

The report will also be presented at a number of other forums during the year 1998, including the international conference on "Trade Unions, Homosexuality and Work" in Amsterdam in July, the EP Intergroup mentioned above in September, and of course, the ILGA-Europe Conference in Linz in October 1998. At that time, French and German translations of the report should also be available.

ILGA-Europe co-chairs Jackie Lewis and Kurt Krickler used their stay for the NGO meeting in Brussels to continue on the three series of meetings with EU cabinets and services to promote and advocate the ILGA-Europe Action Plan (cf. Euro-Letters # 51, 56, and 58); they met with José Zarzoso Farinos of DG VIII, dealing with human

rights in third countries, e.g., the Lomé Convention countries of Africa, the Caribbean and the Pacific. ILGA-Europe stressed that human rights concerns and monitoring should also include violations and discrimination based on sexual orientation; Mr Farinos explained the various possibilities for funding of projects, some requiring the agreement of the government of the recipient countries, others not. He pointed out that the relevant budget-lines are to be adopted by the Parliament and that lobbying the Parliament would be expedient if appropriate gay/lesbian relevant projects should be covered by these budget-lines.

SWEDEN: (GAY) PROSTITUTION (RE-)CRIMINALIZED

*by Helmut GRAUPNER, Rechtskomitee LAMBDA,
Vienna*

Rechtskomitee LAMBDA, Vienna, did send the following letter to the Government of Sweden protesting against the recent (re-)criminalization of (gay) prostitution.

We would suggest that the international l/g/b/t community takes action as well against this irrational measure. Since Romania reintroduced a total ban on consensual homosexual relations between adults in 1948 this is the first time a European country has (re-)introduced criminalization of (some form of) consensual homosexual behavior between adults.

Why didn't we hear of any protest from gay rights associations so far? Didn't it reach us or hasn't there been any? If not, how can that be possible? The fact that also heterosexuals are criminalized does not seem to us to be a sound reason for such silence. It no way renders state interference (by the criminal law) into consensual homosexual relations between adults less repelling if others (the heterosexuals) have to suffer as well.

To the
Government of the Kingdom of Sweden
Stockholm Sweden

Re.: Re-Criminalization of Prostitution

Dear Ladies and Gentlemen!

According to press reports Swedish parliament recently passed a law (re-)criminalizing (homo-)sexual relations against payment (punishing those who pay for (homo-)sexual contacts).

As a lesbian and gay rights association for years working in educating individuals and

society at large towards a rational approach to sexual issues and dedicated to the promotion of sexual (human) rights, i.e. the right to sexual self-determination and to sexual diversity, we have to strongly protest against this petulant measure.

Prostitution is driven to the criminal underground no matter if one punishes the prostitute only, the client only or both. History should have told us that all attempts to eradicate prostitution had to fail and that all such measures caused massive harm to all persons involved and to society as a whole. Driving prostitution into a criminal subculture leads to brutalization, blackmailing and not least massive (further) stress and economic pressure on sex-workers themselves (no matter if they or the client only will be threatened with punishment).

First of all however the new law, criminalizing sexual behavior between consenting adults, violates the fundamental rights to sexual self-determination and sexual privacy enshrined in (international) human rights law. Human dignity is rooted within the autonomy of the individual. Punishing consensual sexual behavior in private does infringe this autonomy in one of the most intimate areas central to human personality.

All members of society must put their full efforts into combatting violence and abuse, i.e. into combatting the exploitation of sex-workers by souteneurs and clients. Criminalizing consensual sexual relations however, in what form ever, does violate itself the human rights of these very same sex-workers.

Not to mention the ambiguous term „against remuneration“ which puts not only clients of prostitutes under the threat punishment but all persons granting material goods to their „casual“ partners; and also the non-paying „casual“ partners of sex-workers.

The new law being justified as a measure against discrimination of women (whose situation however it will heavily worsen) the (re-)criminalization of gay male prostitution seems to be especially unfounded and inconceivable. Its inclusion into the new law can not be called other than grotesque.

We deeply do regret that your country decided to return to the way of repression exactly at the same time as in Taipeh the International Congress of Sex Workers (representing sex-workers from 14 nations including Sweden) stressed the right of prostitutes to work and called for the complete decriminalization of prostitution.

We therefore in the name of human rights are urging all persons responsible in your country to work for the repeal of this law as early as possible.

Sincerely yours,
Dr. Helmut GRAUPNER Mag. Roland Rittenau

**AUSTRIA: COMPLAINT AGAINST
DISCRIMINATORY AGE OF CONSENT FILED
WITH UN-COMMITTEE FOR THE
CONVENTION ON THE RIGHTS OF THE
CHILD**

*by Helmut GRAUPNER, Rechtskomitee LAMBDA,
Vienna*

Platform Against Art. 209, the national coalition of (nearly all) Austrian l/g organizations and a lot of „mainstream“ associations, filed a complaint against the discriminatory age of consent for gay men in Austria (Art. 209 CC: 18 years, while 14 for HTS and lesbians) with the *UN-Committee for the Convention on the Rights of the Child (CRC)* in Geneva. The *Platform* argues that Art. 209 violates the right of adolescents to privacy and the right of gay and bisexual youth to non-discrimination (Art. 2, 3, 12 & 16 CRC) and asks the *Committee* in the framework of the examination of the Austrian report according to Art. 14 CRC (CRC/C/11/Add. 14) to urge the Republic of Austria immediately to repeal Art. 209 of the Austrian penal code.

Platform against Art. 209 filed its complaint in German language in February 98 and could achieve the support of the Geneva based *NGO Group for the Convention on the Rights of the Child*. Since none of the current Members of the *Committee* however does know German they asked for an English translation which we sent nearly one week before the first meeting between NGOs and the *Committee* on 8th June. Due to postal errors the translation did arrive late.

Luckily however our *Platform* has been represented in the meeting by Mr. Paul Arzt, Child and Youth Ombudsman of the State of Salzburg, and he had in his possession a faxed copy of the (English version of the) report and once he and the *NGO Group* realized the extent of the *Committee's* interest in the issue, they quickly made copies of the report (in English)

and distributed it to the *Committee* members during the course of the meeting.

The *Committee* asked a number of questions with regards to the issue which Mr. Arzt was able to answer to the satisfaction of the *Committee* and the *NGO Group* believes that the *Committee* will raise the issue with the Austrian government during the examination of the initial (Government) report in January 1999.

Please send Letters of Suupport to the *Committee on the Rights of the Child, Geneva!*

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