

EURO-LETTER

No. 78

March 2000

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

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Documents relating to ILGA-Europe can be found at ILGA-Europe's homepage <http://www.steff.suite.dk/ilgaeur/>

SEXUAL ORIENTATION DISCRIMINATION ENDEMIC IN EUROPE CONCLUDES REPORT TO COUNCIL OF EUROPE

By ILGA-Europe

The most comprehensive report ever published on sexual orientation discrimination in Europe demonstrates very clearly that discrimination against lesbian, gay and bisexual persons remains endemic and extremely serious in Europe.

The report has been prepared by ILGA-Europe as a submission to the Legal Affairs and Human Rights Committee of the Parliamentary Assembly of the Council of Europe. This Committee is collecting evidence on the situation of lesbians and gays in Europe, with a view to making recommendations to national governments and the Council of Europe on combating discrimination.

The report's findings include that:

- Homophobic violence is common, even in countries like Sweden which are world leaders in their support for lesbian and gay rights;
- Many states are themselves guilty of oppression and discrimination: for example, in 3 European countries or territorial entities same-sex relationships remain criminal, while in a further 19 discriminatory sexual offences provisions remain on the statute books; moreover, in many countries the state continues to discriminate in employment, particularly in the Armed Forces;
- In some countries in Europe oppressive attitudes remain so dominant that no lesbian and gay community of any sort is able to exist, while in many countries lesbians face even greater isolation and marginalisation than gay men;
- Young lesbians and gays face problems of particular severity: peer pressure to conform, homophobic bullying, rejection by the family, absence of relevant sex education, absence of support groups and discriminatory age of consent laws;

There is much discrimination and harassment at the workplace, but only 9 of the 41 member states of the Council of Europe provide specific protection; The absence of legal recognition for same-sex partnerships often gives rise to hardship and serious practical problems, yet only 7 countries in Europe provide a significant degree of such recognition.

Three areas of general concern are particularly stressed:

- The fact that, for many politicians and religious leaders in Europe it remains both legitimate and

respectable to express homophobic opinions, in terms that would be wholly unacceptable for any other minority;

- The extent to which the expression of these opinions, not infrequently in extreme and inflammatory terms, underpins and sanctions the other forms of discrimination, harassment and violence faced by the lesbian, gay and bisexual community;
- The fact that, when it comes to the rights of lesbian, gay and bisexual people, the fundamental principle that "all people are born free and equal in dignity and rights" (Article 1, Universal Declaration of Human Rights) is ignored by legislators and opinion formers of all persuasions.

On the positive side, the report documents the worldwide trend in recent years towards recognising freedom from discrimination on the grounds of sexual orientation as a fundamental right, and stresses the leading role played in this development by the Council of Europe.

The report includes an appendix setting out a list of recommendations for national governments and the Council of Europe to adopt in tackling homophobic discrimination. Particular importance is attached to the express inclusion of sexual orientation as a prohibited ground of discrimination in the proposed new Protocol No 12 to the European Convention on Human Rights (see section on the Council of Europe below).

Nico Beger, ILGA-Europe co-representative to the Council of Europe, commented: "the Parliamentary Assembly has recently taken a very positive step in recommending that "sexual orientation" be included in the list of prohibited grounds of discrimination in the new draft Protocol No 12 of the European Convention. We are now optimistic that they will come up with strong recommendations both for national governments and for the Council of Europe itself in extending the fight against discrimination."

Her co-delegate, Nigel Warner, added: "it is striking that in so many countries in Europe it is the established churches which are at the centre of opposition to lesbian and gay rights (including some initiatives by the Council of Europe). It is anomalous that the leaders of a religion with the basic tenet "love thy neighbour as thyself" should be so insistent on denying equal rights to fellow human beings for no better reason than that they love a person of the same sex; and even more anomalous, that they should do so in terms which can sometimes be virulent and inflammatory".

The full text of ILGA Europe's submission to the Legal Affairs and Human Rights Committee of the Parliamentary Assembly can be found at:

http://www.steff.suite.dk/final_report.rtf

THE COUNCIL OF EUROPE

The Council of Europe's main role is to strengthen democracy, human rights and the rule of law throughout its member states. Founded in the wake of the Second World War, it is the continent's most important human rights organisation, with some 41 member states committed to observing its human rights standards. The European Convention on Human Rights is the most significant of its many human rights treaties. The European Court of Human Rights settles complaints of violations of this Convention.

The Council of Europe is governed by the Foreign Ministers of its member states (who together form its decision-making body, the "Committee of Ministers") and by Representatives from their parliaments (who make up its "Parliamentary Assembly".) More information on the Council can be obtained from its website, <http://www.coe.fr>

The Committee of Ministers is currently considering the adoption of a new Protocol (Protocol No 12) to the European Convention on Human Rights. The purpose of this Protocol is to strengthen the anti-discrimination provisions of the Convention. The Parliamentary Assembly recommended in January 2000 that this Protocol should make specific reference to sexual orientation discrimination in the list of prohibited grounds of discrimination, in view of its "odious" and "serious" nature. The verbatim report of the Assembly's opinion and debate can be found at: http://stars.coe.fr/index_e.htm (click on the "Parliamentary Works", and the "Sitting Documents" or "Reports on Debates" or The draft Protocol 12 can be found at <http://www.coe.fr/cm/dec/1999/677bis/42.htm>

EUROPEAN PARLIAMENT CALLS AGAIN FOR RESPECT FOR HUMAN RIGHTS OF LESBIANS AND GAY MEN

On 16 March, 2000, the European Parliament adopted its report and resolution on the respect for human rights in the European Union for 1998-99 (EP document A5-0050/2000). Once more, the EP calls for granting equal rights to non-married couples, including of the same-sex, as to married couples. The EP also denounced the continuing social and legal discrimination of gays and lesbians, expressing special concerns with regard to the continuous age of consent discrimination in Austria where people still are imprisoned under the notorious Article 209. The EP calls for the repeal of this article and the release from prison of all those jailed on the basis of it. It also calls upon six of the accession countries to repeal their anti-homosexual penal code provisions (for the full text of the relevant

parts of the resolution, see below).

"ILGA-Europe, who has been lobbying for the appropriate consideration of the human rights concerns of gays and lesbians in the report and in the resolution both towards rapporteur Bertel Haarder, the EP Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and before the full plenary, welcomes the adequate representation of these concerns in the resolution adopted with great majority", says ILGA-Europe co-chair Kurt Krickler. "ILGA-Europe is very pleased to see that several of the amendments we have proposed to the Parliament have been taken on board and been adopted", adds co-chair Jackie Lewis .

FULL TEXT OF THE EP RESOLUTION - PARTS DEALING WITH SEXUAL ORIENTATION:

The European Parliament,

[under the heading of:] LIFE STYLES AND TYPES OF RELATIONSHIP

56. Calls on Member States to guarantee one-parent families, unmarried couples and same-sex couples rights equal to those enjoyed by traditional couples and families, particularly as regards tax law, pecuniary rights and social rights;

57. Notes with satisfaction that, in a very large number of Member States, there is growing legal recognition for extramarital cohabitation, irrespective of gender; calls on the Member States - if they have not already done so - to amend their legislation recognising registered partnerships of persons of the same sex and assigning them the same rights and obligations as exist for registered partnerships between men and women; calls on those States which have not yet granted legal recognition to amend their legislation to grant legal recognition of extramarital cohabitation, irrespective of gender; considers, therefore, that rapid progress should be made with mutual recognition of the different legally recognised non-marital modes of cohabitation and legal marriages between persons of the same sex in the EU;

58. Notes, however, that European citizens continue to suffer discrimination and disadvantages in their personal and professional life as a result of their sexual orientation; calls therefore on the Member States and the EU institutions concerned to remedy such situations urgently;

59. Deplores the fact that some Member States still have a discriminatory age-of-consent provision for homosexual relations in their criminal codes as well as other forms of discrimination, in particular within the

army, although various competent human rights bodies and Parliament itself have condemned these provisions; repeats its demand for such clauses to be repealed;

60. Notes with satisfaction that the United Kingdom is undertaking to change the relevant legislation, but notes with deep concern that Austria continues to apply Article 209 of its Penal Code in persecuting homosexuals; urges Austria once more to repeal this discriminatory provision, and immediately to give amnesty to and to release from prison all persons imprisoned because of this provision;

Human rights situation in the applicant countries

76. Calls on candidate countries to ratify all the Council of Europe Conventions on human rights and calls on Bulgaria, Cyprus, Estonia, Hungary, Lithuania and Romania to remove from their penal codes all laws which entail discrimination against lesbians and homosexuals;

77. States that the European Union will reject the accession of any applicant country which, either in its legislation or in its practice, fails to guarantee respect for human rights;

SWEDISH LEGISLATION TO GIVE GAY FOREIGNERS PARTNERSHIP RIGHTS

By the Swedish Ministry of Justice

Registering partnerships in Sweden is to be made more widely available to foreigners. This is proposed in a government bill to the Riksdag.

For a partnership to be registered in Sweden today, there is a requirement that at least one of the parties is a Swedish citizen resident in Sweden. This denies two gay foreigners the ability to register their partnership in Sweden. For example two gay foreigners who have lived in Sweden for a long time or who were born in Sweden and have lived there all their life are not able to register their partnership.

The Government now proposes that it should be possible to register a partnership in Sweden if one of the parties has had habitual residence here for at least two years. If the partner is a citizen of Sweden, Denmark, Iceland, the Netherlands or Norway, there is no requirement that habitual residence should have been for two years, it is sufficient that the partner has habitual residence in Sweden.

The proposed amendment to the law means that Sweden will be the Nordic country that goes the

farthest regarding possibilities for foreign citizens to register a partnership.

'The purpose of the amendment is to remove an unnecessary limitation and make it possible for foreign citizens to enter into partnerships in Sweden,' the Minister for Justice, Ms Laila Freivalds, says.

The Danish Partnership Act was recently amended so that Swedes in Denmark can enter into partnerships there and similar amendments are also now being prepared in Norway and Iceland so that Swedes who live in these countries will be able to enter into partnerships there.

According to the proposal, the amendment should enter into force on 1 July 2000.

PERSECUTION OF HOMOSEXUALS ON THE THIRD REICH

Resolution agreed by the International Colloquium "The Persecution of Homosexuals in the Third Reich" on 12/13 February 2000 in Berlin

Immediate Rehabilitation of the Homosexual Victims of the National Socialist Judicial System

The participants of the International Colloquium "The Persecution of Homosexuals in the Third Reich" (held in February 2000 in Berlin by the Pink Triangle Coalition, the International Gay and Lesbian Human Rights

Commission, and the Heinrich Böll Stiftung, related to the German green party) demand the rapid and complete legal rehabilitation of the homosexual victims of the Nazi judicial system. We call upon the German federal government and the German Bundestag to take immediate action in this regard.

In 1935, the national socialists severely tightened the provisions of § 175 of the criminal code, both in defining the "crime" of homosexuality and its possible punishment. Any type of sexual conduct between men was threatened with punishment. For some Nazi judges, even "covetous looks" were enough to constitute the crime. In the years 1935-1945, the Nazi judiciary convicted over 50,000 people for homosexual "lewdness." To this day, individuals convicted pursuant to Nazi § 175 have still not received any type of compensation, nor have they been legally rehabilitated.

In June 1998, the German Bundestag passed a "Law to Annul Unjust Sentences Imposed During the National Socialist Administration of Criminal Justice."

Two groups were excluded from the wholesale annulment of unjust Nazi sentences: deserters and homosexuals. This gap in the Nazi Annulment Law must now finally be closed. The sentences imposed on homosexual victims by the Nazi judiciary pursuant to §§ 175 and 175a, No. 4, RStGB (Reich Criminal Code) must likewise be officially set aside in a wholesale manner.

The city of Hamburg and the PDS group in the Bundestag have recently initiated legislation to this effect in independent initiatives. We call upon the Bundestag, the German government, and the other German states to support that initiatives and translate it into action. Those who refuse to do this are perpetuating injustice.

Paragraph 175 retained validity, in its exact 1935 version, in the Federal Republic of Germany until 1969. As such, even following the end of the Nazi dictatorship, it has gravely affected perspectives of the lives of homosexuals. We demand that the German Bundestag apologize for this injustice and gives collective reparation, e.g. by the restoration of a Magnus Hirschfeld Institute on Sex Research in Berlin. We demand individual rehabilitation and compensation for all victims, anyway, if the injustice was sustained before or after 1945.

Letters of support for these demands:

These are the addresses to send demands to: federal ministry of justice:

An die Bundesministerin der Justiz, Frau Prof. Dr. Herta Daeubler-Gmelin, Jerusalemer Str. 24 - 28, 11015 Berlin, Germany

German Bundestag (Parliament) committee on justice (addressed to the chairman):

An den Vorsitzenden des Rechtsausschusses ,Herrn Prof. Dr. Rupert Scholz, Deutscher Bundestag, 11011 Berlin, Germany

We would appreciate to get copies of the letters:

LSVD Projekt Erinnern und Gedenken, Katzbachstr. 5, 10965 Berlin
e-mailto:<etz@snafu.de> and <guenter dworek@gruene-fraktion.de>

AGREEMENT IN PRINCIPLE ON "ANTI-DISCRIMINATION" PACKAGE

Brussels, 13/03/2000 (Agence Europe) - The Social Affairs Council opened work by providing its agreement in principle to the "anti-discrimination" package proposed end-November by the European Commission.

Ministers hope that it will be adopted at the Social Council to be held in June, thus before the Feira Summit. EUROPE recalls that this package comprises:

- a) a directive banning discrimination in matters of employment due to race, racial or ethnic origin, religion or convictions, a disablement, age or sexual orientation;
- b) a directive banning discrimination based on racial or ethnic origin in the field of work, education, access to goods or services, as well a social protection and cultural activities;
- c) a Community action programme (2001-2006) intended to support Member States and complete the implementation of directives through information and experience exchange and by the dissemination of good practices in legislative and non-legislative fields.