

# EURO-LETTER

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not. Lesbians and heterosexuals can have sex at age 16.

Britain's Home Office has until April 14 to respond, said the London weekly Capital Gay.

**Spanish Partnership Law sold out**  
*by Pere Cruells*

Some news about the Spanish Partnership law has been appearing recently, most of it quite hopeful, to the effect that Spain would be the next country to have such laws.

After talking with people from the G-L movement, I realized that the situation is not so good. The Spanish political situation is too precarious to continue with the partnership law and the modification of the penal law, previously expected to be completed before next elections.

In my opinion, the problem is that the socialists do not have the majority and are in need of support from the Catalan and Basque nationalists, who are conservatives. Also, the government has been involved in too many corruption cases and people are quite critical of the socialists, further eroding their support.

These problems keep the socialists quiet, and have stalled their plans to proceed with the legislation.

Naturally, gays and lesbians are quite disappointed with the government.

## **The Human Rights Court accepts Youth Case**

*by Rex Wockner*

The European Court on Human Rights has accepted the case of a 17-year-old British man, Euan Sutherland, who says Britain's ban on gay-male sex prior to age 18 violates the European Convention on Human Rights.

The European Human Rights Commission, which vets court complaints, ordered the British government to explain why young men need more protection than young women and why young gay men are punished for sexual relations when straights of the same age are

## **Claudia Roth is Awarded the First "EGALITÉ PRIZE"**

On wednesday 1 March, EGALITÉ (the groups whose name stands for Equality for Gays and Lesbians in the European Institutions) will be awarding its EGALITE PRIZE for the first time.

The prize will go each year to a prominent person who has advanced the rights of Europe's gays and lesbians. The choice was an easy one this time: the prize will be going to Claudia Roth, the German Green MEP, for her unstinting efforts to achieve non-discrimination and equality of rights for homosexuals. Her name has become irrevocably associated with the report entitled "Equal Rights for Homosexuals and Lesbians in the EC", which rapidly became known as the "Roth Report".

Claudia Roth and the European Parliament have together given millions of Europeans who still do not have equal rights confidence and the voice that is due to them. Among the targets of the Roth Report's numerous recommendations are the Member States and the European Commission.

The group EGALITÉ intends to do its utmost to ensure that these recommendations are translated into action, both in the Member States and within the European institutions, which themselves do not recognize such rights!

## **New Aids Law Passes in Russia**

*by Rex Wockner*

Russia's lower house of parliament, the Duma, passed amended AIDS-control legislation Feb. 24 by a vote of 276 to 0 with 3 abstentions.

It requires foreigners visiting for more than three months to prove they are HIV-free. Diplomats are exempt.

The law will take effect Aug. 1 if President Boris Yeltsin signs it. He vetoed earlier legislation that would have required all visitors to be tested for HIV regardless of duration of stay.

The former Soviet republics together have deported 452 HIV-positive foreigners, according to Russian health officials. Russia has recorded 105 AIDS deaths and 740 people testing HIV-positive. Gay groups and

the World Health Organization say the numbers are inaccurate by at least a factor of 10.

(Sources: ITAR-Tass news agency, Open Media Research Institute Daily Digest)

## **Hungary Legalizes CommonLaw Gay Marriage**

*by Rex Wockner*

Hungary's Constitutional Court legalized common-law gay marriage March 8.

Common-law and formally married couples have all the same rights in Hungary. Any couple that lives together permanently and has sex is considered married under common law.

The court said a law limiting common-law marriages to "those formed between adult men and women" was unconstitutional.

"It is arbitrary and contrary to human dignity ... that the law (on common-law marriages) withholds recognition from couples living in an economic and emotional union simply because they are same-sex," the court wrote.

The justices ordered parliament to make the changes necessary to implement common-law gay marriage by March 1, 1996.

Paradoxically, the court also ruled that formal, civil marriages are for heterosexual couples only.

"Despite growing acceptance of homosexuality (and changes in the traditional definition of a family, there is no reason to change the law on (civil) marriages," the justices wrote.

Gay leaders welcomed the ruling. Lajos Romsauer, president of Homeros Lambda, said it doesn't matter that only common-law marriage was legalized for gays because all the same rights are granted. Homeros initiated the legal action that led to the ruling.

Denmark, Norway and Sweden are the other countries where gay couples have the same rights as married people, under "registered partnership" laws that are commonly called "gay marriage."

## **Moldova's application to the Council of Europe**

is up for examination very soon. HOSI Vienna has in this connection written to the deputy secretary general of the Council of Europe and the chairman of the Parliamentary Assembly to make them aware of the situation for gays and lesbians in Moldova. Article 106 of the penal code stipulated a penalty for homosexual acts.

Alexandra Duda will write to the rapporteurs on behalf of ILGA.

In a letter to Kurt Krickler the chief of the Committee for Foreign Policy of the Parliament of the Republic of Moldova has written "Surely, in the parliamentary process of reforming these laws <the laws violating basic human rights>, which has already started, article 106 of the penal code of the Republic of Moldova will be abolished very soon."

## **EU members against ILGA inclusion in OSCE document**

The Austrian foreign ministry has told that a reason for the non inclusion of gay/lesbian concerns in the final document from the Budapest OSCE meeting was that the EU member states could not agree upon it. The matter was discussed between the EU member states at the meeting, but they could not agree. Who can find out which country(ies) were against?

## **Relevant OSCE Meetings in 1995**

- 1) "Building Blocks for Civic Society; Freedom of Association and NGO's" in Warsaw 4 - 7 April 1995.
- 2) Drafting Human Rights Legislation in Ashgabat 23 - 25 May 1995.
- 3) Seminar on Tolerance in Budapest 23 - 27 May 1995.
- 4) Implementation Meeting on Human Dimension Issues in Warsaw 2 - 19 October 1995.

## **12th Annual IGLYO Conference, Manchester (UK)**

IGLYO is holding its 12th annual conference this year in Manchester (UK).

In the first week of August 100 young lesbians, gays and bisexuals will come together and discuss a variety of topics.

The theme of the conference is \*Celebrating Diversity\*.

Workshops include topics like racism, disability, religion, HIV/Aids, how to run exchange projects, introduction to the European Youth Structures and many more. There also will be wide range of creative leisure workshops including a trip to the British countryside.

Date: July 30, 1995 - August 06, 1995

Place: University of Salford (Manchester, UK)

Costs: approx 230 DM (German Marks)

Participants: any lesbian, gay, bisexual youth under 27 years of age.

For more information and to shortlist your name please write to the address below.

IGLYO Main Secretariat  
PO Box 542  
NL-1000 AM Amsterdam  
the Netherlands

This event is sponsored by the European Youth Foundation (Council of Europe) and the Commission of the European Union (pending)

## **IGLYO Coming-Out Training Course**

IGLYO is offering a one week coming-out training course at the European Youth Centre in Strassbourg, France.

The course is aiming at young Europeans working in the field (either in their youth group or in another agencies).

The course is open to anyone from a Council of Europe country (plus Russia, Belarus, Ukraine, Albania).

Participants have to be under 28 years of age.

Date: October 01, 1995 - October 07, 1995

Costs: approx 225 FF (French Francs) this includes full board accommodation PLUS travel reimbursement!

Those who work qualify for compensation of loss of earnings.

For more information please write to the address below and we'll send you information as soon as it becomes available.

IGLYO Main Secretariat  
PO Box 542  
NL-1000 AM Amsterdam  
the Netherlands

This event is sponsored by the European Youth Foundation and European Youth Centre of the Council of Europe.

## **Application for NGO status with the Council of Europe**

Finally ILGA has sent off the application for NGO status with the Council of Europe. It is sent by Hans Hjerpekjön to the Secretary General of The Council of Europe:

Dear Mr. Tarschys

On behalf of the International Lesbian and Gay Association (ILGA), I hereby submit ILGA's application for NGO Status with the Council of Europe.

ILGA was founded in 1978 with the aim of working for the liberation of lesbians and gay men from legal, social, cultural, and economic discrimination.

Membership in ILGA is open to groups of lesbians and/or gay men and others who support its aims. Individuals can apply for associate membership. In the early years after its foundation ILGA's membership was almost entirely European but the present membership now includes groups from every continent, and from most of the member states of the Council of Europe.

Throughout its history ILGA has taken a keen interest in the work of the Council of Europe as it affects lesbians and gay men, particularly regarding the promoting of human rights.

ILGA groups assisted those members of the Parliamentary Assembly whose report led to recommendation 924 and resolution 756 (1981) based on the Voogd report, of the Thirty-third Session, on discrimination against homosexuals. Other groups have actively assisted individuals in bringing complaints under the European Convention on Human Rights.

ILGA groups also liaised with the experts who produced papers for the Council of Europe's 15th Criminological Research Conference on "Sexual Behaviour and Attitudes and their Implications for Criminal Law", held in 1982.

At this point member groups are assisting members of the Parliamentary Assembly in drawing up an additional protocol to the European Convention on Human Rights, prohibiting discrimination based on sexual orientation.

Finally, ILGA member groups have assisted the Swiss Institute of Comparative Law in Lausanne with the "Comparative Study on discrimination against persons with HIV or AIDS".

The advent of AIDS has had grave implications for homosexuals and will continue to do so for many years to come. Apart from issues of health, it has enormous implications in the area of human rights. ILGA is a unique organisation for the Council of Europe to obtain the perspective of lesbians and gay men in discussing international proposals which affect us.

ILGA representatives participated in the interregional meeting "Human rights at the dawn of the 21st century", organised by the Council of Europe in advance of the World Conference on Human Rights, in January 1993.

Attitudes towards homosexual men and women vary greatly in the different countries of the Council of Europe, from those which have anti-discrimination laws designed to secure full legal and social equality and partnership laws, to others which continue to outlaw all homosexual conduct.

In 1981 in the case *Dudgeon vs. the United Kingdom* the European Court on Human Rights decided that a ban on homosexual activities contradicts with stipulations in the European Convention on Human Rights by violating the right to privacy (article 8). The government of the United Kingdom had to comply by abolishing the ban.

In October 1989 the European Court of Human Rights upheld its position in the case *Norris vs. Ireland* and urged the Republic to repeal the respective law. The Committee of Ministers of the Council of Europe as the monitoring body repeatedly urged the government to abolish the ban. On 24 June 1993, the Irish Parliament complied.

On 22 April 1993 the European Court of Human Rights upheld its earlier position in the case *Modinos vs. Cyprus* that a ban on homosexuality interferes with the private life of citizens. Mr. Modinos was paid compensation.

Opinions are evolving with increasing knowledge and we believe that as part of its historic role in protecting human rights, the Council of Europe will continue to provide the focal point for determining human rights standards as they affect European lesbians and gay men in years to come. As the organisation which most represents homosexual opinion throughout the member states of the Council of Europe, if not the world, we consider that we ought to contribute to that evolution by assisting in it as far as we are able. In that spirit, and to that end, we therefore submit this application.

In July 1993 ILGA obtained consultative status with the United Nations Economic and Social Council.

With this letter I am sending you 30 copies of a file containing ILGA's constitution, a list of its European member organisations, a leaflet about ILGA, a report on its recent activities and a declaration of ILGA's acceptance of the principles set out in the Preamble and Article 1 of the Council of Europe.

Please do not hesitate to contact me if you require further information or clarification of any matter. I would be most grateful if you could keep me informed of the progress of this application.

## **Letter to the CoE Commission against Racism and Intolerance**

The Working Party on the Council of Europe has sent the following letter to the European Commission against Racism and Intolerance.

Re: Combatting intolerance

Dear Madam/Sir

We, the International Lesbian and Gay Association (ILGA), a worldwide umbrella group of organisations fighting for equal rights for lesbians and gay men, with member groups in most Council of Europe member states, are writing to your Commission to draw your attention to the phenomenon called homophobia which is a sibling to racism, xenophobia, anti-semitism, and sexism and part of general intolerance against minorities and therefore should be covered by your mandate.

The Vienna Declaration (Vienna Summit in October 1993) describes the mandate of your committee as to cover the review of member States' legislation, policies and other measures to combat racism, xenophobia, anti-semitism and intolerance, to propose further

action at local, national and European level, and to formulate general policy recommendations to member States.

In this context, we want to stress that homophobia is not only the result of general attitudes in the population nourished for centuries by wide-spread prejudices. Homophobia is also a product of state-ordained discrimination and suppression which may find their expression in anti-homosexual legislation. In order to stop intolerance against lesbians and gay men, it, therefore, is a precondition to stop all legal discrimination against homosexual women and men and to guarantee them equal rights.

Unfortunately, the criminal codes of several member States of the Council of Europe still discriminate against lesbians and gays, such as those of Austria, Bulgaria, Finland, Hungary, Liechtenstein, and the United Kingdom. Austria and Liechtenstein even limit the fundamental freedoms or their homosexual citizens by prohibiting any positive information on homosexuality and the founding of homosexual associations. Such law provisions are clear violations of the European Human Rights Convention. All six countries mentioned discriminate against gay men by fixing a higher legal age of consent compared to heterosexuality.

Such legislation also contradicts several international rulings and recommendations such as Recommendation 924/1981 of the Parliamentary Assembly of the Council of Europe or the Resolution on equal rights for homosexuals and lesbians in the EC adopted by the European Parliament in February 1994. Such legislation is also contradictory to the decision of the United Nations Human Rights Committee in the case *Toonen vs. Australia* which ruled that the rights of lesbians and gays to privacy and equality are guaranteed by the provisions of the International Covenant on Civil and Political Rights. The Committee noted that the reference to "sex" in articles 2 and 26 of the Covenant is to be taken as including sexual orientation.

The Warsaw 1993 Implementation Meeting on Human Dimension Issues of the Conference on Security and Cooperation in Europe also stated that CSCE commitments in the area of non-discrimination cover homosexuals as well.

Thus, all relevant European and international human rights platforms such as the Council of Europe, the United Nations, the European Parliament, and the OSCE are in unison that discrimination based on

sexual orientation is a clear breach of fundamental human rights.

We, therefore, appeal to your Commission and all its expert members to take up the question of homophobia, to discuss it in detail and to come up with clear recommendations to end state-imposed discrimination against lesbians and gay men as a means to combat prejudice and intolerance against minorities. We also want to stress that state authorities and governments may give positive impetus to stop hatred and discrimination by outlawing and banishing any such behaviour by means of anti-discrimination provisions which would protect minorities from discrimination based on their specifics such as race, being a foreigner, or sexual orientation.

We urge your Commission not to neglect the aspect of homophobia in its work and to include clear statements to protect gays and lesbians from intolerance. We would like to offer you our assistance in this task.

We look forward to your appreciated reply and remain,

## Comparative Survey of the Legal and Societal Situation of Homosexuals in Europe (updated version)

By Alexandra Duda

### I. Negative Facts

#### 1) A total ban on homosexual relations exists in

Belarus  
Bosnia-Herzegovina  
Cyprus  
Macedonia  
Moldova  
Romania

#### 2) Countries with different age of consent for hetero- and homosexual relations

	repeal of ban	Age of consent	
		hetero-	homosexuals
Austria	1971	14	18
Bulgaria	1968	14	18
Croatia	1977	14	18
Finland	1971	16	18
Hungary	1961	14	18
Liechtenstein	1989	14	18

United Kingdom	1967	16	18
(Northern Ireland)	1982	17	18

Remark: The Faroe Islands also apply a discriminatory higher age of consent.

#### 3) Special provisions

In Austria (§ 220), Finland (Art. 20:9.2), and Liechtenstein (§ 220) "promoting" or "encouraging" homosexuality is forbidden. All modern studies show that this is indeed not possible. These laws encroach on the individuals' right to freedom of speech.

In Austria (§ 221) and Liechtenstein, lesbian and gay organizations are prohibited (Freedom of assembly).

#### 4) Some forms of discrimination (non-exhaustive list)

Anti-homosexual legislation and especially its criminalization implies society's misperception: homosexuality is considered a mental or genetic disease; incidents of "treatment" with drugs and electroshock are commonplace in many countries.

After divorce, gay men and lesbians face severe difficulties in maintaining custody rights for their children or realizing their visiting rights. The denial of their rights is even more likely if they live together with a same sex partner.

In some countries, proposals are being discussed to forbid lesbians receiving artificial insemination (Norway, Italy, France, UK). E.g. in Austria, non-married women and thus all lesbians are excluded from such an option by law.

Same-sex couples are denied adoption rights in all countries, since only married couples are entitled to adopt children. In many countries separated parents are likely to be denied custody rights because of their homosexuality.

Laws on "public indecency" and "obscenity" are used against gay men and lesbians showing affection in public (hugging, kissing) e.g. in Bulgaria, UK, Spain, Italy. In numerous countries provisions on "public morale" are applied against publications of gay/lesbian organisations thereby infringing their right to freedom of speech (and press). Organisations are regularly banned and activists harassed with condemnation or even involvement of local authorities.

Not least because of many forms of "legal" discrimination homosexuals are exposed to an increasing

amount of violence from fascist groups and prejudiced individuals. "Legally sanctioned stigmatization" often prevents victims from reporting attacks.

In Greece homosexual prostitution is banned by the Criminal Law while there is no such ban on heterosexual prostitution. The law applies only to male homosexuals.

Homosexuals are either generally excluded from access to "sensitive sectors" (e.g. diplomatic service, science, military) or are dismissed in case their sexual orientation becomes known. Many open homosexuals face a hostile climate at work as well as restrictions on promotion and career development.

## II. Positive Facts

### 1) Case Law

In 1981 in *DUDGEON vs. United Kingdom* the European Court for Human Rights in Strasbourg decided that a ban on homosexual activities contradicts with stipulations in the European Convention on Human Rights by violating the right to privacy (Article 8). The UK government had to comply by abolishing the ban.

In October 1988 the European Court for Human Rights upheld its position in the case *NORRIS vs. Ireland* and urged the Republic to repeal the respective law. Interestingly, the plaintiff's defendant was Mrs Mary Robinson, then practising lawyer and today President of the Irish Republic. The Committee of Ministers of the Council of Europe as the monitoring body on follow-ups of the Court's decisions repeatedly urged the government to abolish the ban. It was not before June 24, 1993 that the Irish parliament decided to comply.

On April 22, 1993 the European Court for Human Rights upheld its earlier position in the case *MODINOS vs. Cyprus* that a ban on homosexuality interferes with the private life of citizens. Mr Modinos was paid compensation. The law, however, has not been abolished yet.

In March 1994 the Human Rights Committee of the United Nations decided in *Toonen vs Tasmania* that the criminalization of homosexuality not only violates the right to privacy (Art. 17) but also the non-discrimination clauses (Art. 2 and 26) of the International Covenant on Political and Civil Rights interpreting it as discrimination based on sex.

### 2) European Institutions

The Parliamentary Assembly of the Council of Europe (Recommendation 924/81 and Motion for Recommendation 6348/90) as well as the European Parliament of the EC (Resolution on Sexual Discrimination at the workplace 1984) have urged their member states to entirely equate homosexuals with heterosexuals in all fields of legislation and especially to set up equal ages of consent.

The Council of Europe investigates the human rights situation of gay men and lesbians in countries applying for membership. In February 1993 members of the Parliamentary Assembly adopted the Written Declaration No. 227 stressing the necessity to end the practice of discrimination against homosexuals in former Communist countries.

In September 1993, Romania was admitted as a member to the Council of Europe despite of its anti-homosexual legislation, while the Parliamentary Assembly of the Council requested the government to abolish anti-gay legislation (Opinion # 176) to bring it into line with the ratified European Convention. A reform bill is pending before the Chamber of Deputies.

An Additional Protocol to the European Convention on Human Rights supported by The International Lesbian and Gay Association (ILGA) is pending before the Committee for Human Rights and Legal Affairs for deliberation.

In 1991 the Commission of the European Union extended its code of practice on sexual harassment at the workplace with provisions for the protection of gay men and lesbians.

In April 1993 the European Human Rights Foundation launched the study "Homosexuality: A Community Issue" detailing the consequences of the Single Market in general and the "Free Movement" principle in particular.

In November 1993 the Pilot Study "Lesbian Visibility Project", an ILGA project conducted by LBL Denmark through personal interviews and mainly funded by the EU was finalized. Its aim was to throw light on areas usually not dealt with in homosexual studies. Recommendations and suggestions for further studies were given.

In February 1994 the European Parliament of the EU adopted a Recommendation sponsored by Claudia Roth (MEP Green Party) of the Committee on Civil Liberties and Internal Affairs calling upon the member states to recognize and protect homosexuals and

their relations as equal with those of heterosexual people.

EU staff members founded the working group "Egalité" advocating elimination of all aspects in EU staff regulations discriminating against homosexuals (e.g. tax benefits and social security issues in same-sex partnerships). The European Citizen Action Service (ECAS) supports the abolishment of all EU practices which deny homosexuals equal enjoyment of the rights laid down in the Maastricht Treaty (e.g. free movement) as well as non-discrimination language in future charters/agreements.

In 1993, the Secretary General of ILGA addressed the Plenary of the CSCE Implementation Meeting in Warsaw explaining the discrimination homosexuals face world-wide. The Final Document includes these concerns. The Human Dimension has not yet explicitly condemned discrimination against gay men and lesbians in the participating states - an omission that can be interpreted as its acceptance!

### *3) International Institutions*

In September 1991 Amnesty International's World Conference officially decided to recognize people imprisoned because of their sexual orientation as prisoners of conscience.

In December 1991 the World Health Organisation (WHO) deleted homosexuality as an illness in the International Classification of Diseases (chapter V, code 302). Remarkably, this decision did not come into force before January 1993 (ICD-10-version).

As first organisation advocating homosexual equality, the International Lesbian and Gay Association - (ILGA) was granted Roster NGO-status at the Council of Economic and Social Affairs (ECOSOC) of the United Nations in March 1993.

*4) Positive developments at a national level*  
Norway (1981), France (1985), Denmark (1987), Sweden (1987), The Netherlands (1992) and Ireland (1989) have enacted regulations prohibiting discrimination against homosexuals.

In 1986 Denmark equated homosexual couples with married ones concerning the right of succession.

In 1989 the Irish Parliament adopted a "Prohibition to Incitement to Hatred Act" covering hate speech against homosexuals.

In May 1989 the Danish Parliament enacted a "law on the registered partnership" of homosexual couples. It

stipulates equal rights with one exception: same-sex couples are not allowed to adopt children together.

In 1991 the total ban on homosexual relations was abolished in the Ukraine.

In 1992 a number of Dutch local authorities started accepting the official registration of same-sex partnerships. In October 1993 a bill was introduced in parliament equalizing legal protection for "registered partners" vis-vis married couples.

In 1990 and 1992 respectively, Estonia and Latvia abolished laws penalizing homosexuality.

In June 1992 the German "Land" Brandenburg enacted a new Constitution emphasizing recognition of non-marriage partnerships by the state. In 1993 the "Land" Berlin included sexual identity as a non-discrimination criteria in its Constitution.

In Germany same-sex couples who were denied the right to marry have appealed at the Supreme Courts. Judges interpret the right to marry as an exclusive right for heterosexuals (while family law does not specify gender). In its decision of October 4, 1993 the Constitutional Court upheld this view and ruled the appeal inadmissible, while emphasizing the task for the legislative power to bring about legal protection for same-sex partnerships.

In 1992 the total ban on homosexuality was abolished in Gibraltar and the Isle of Man (both under UK Home Office jurisdiction).

In spring 1993, the Norwegian parliament adopted the same-sex partnership law based on the Danish one.

France, Ireland and The Netherlands have provisions against discrimination of gays and lesbians at the workplace.

In April 1993 the Russian Parliament enacted a new Penal Code which no longer includes the prohibition of homosexuality.

Lithuania which became member of the CoE in May 1993 repealed the ban on homosexuality one month after its admission.

In June 1993, the Irish parliament abolished the law prohibiting male homosexuality and simultaneously, set an equal age of consent at 17.

In autumn 1993 the French government adopted a law directing insurance companies to accept joint insurance coverage for non-married couples.

In October 1993, the "Unfair Dismissal Act" in Ireland was extended to include the prohibition of discriminating treatment on grounds of sexual orientation.

In November 1993 the parliament of the German free state Thuringia adopted a new Constitution prohibiting discrimination on grounds of sexual orientation - pending public approval by a referendum in late 1994.

The Irish Parliament is planning to establish an Equality Commission to monitor all forms of discrimination against homosexuals.

In June 1994, the Swedish parliament adopted a partnership law based on the Danish and Norwegian model.

In August 1994, the total ban on homosexual relations was repealed in Serbia (incl. Kosovo).

In January 1995 homosexuality was decriminalized in Albania.

A bill was introduced in the Cyprus parliament in January 1995 to abolish the ban on homosexuality.

### *III. Conclusion*

This survey aims at giving a multifaceted overview of the different stages the recognition of homosexuals has reached in the various European countries ranging from recent decriminalization to granting legal partnership status while also highlighting ongoing persecution, stigmatization and denial of basic human rights.

In representing some 400 member organisations in more than 45 countries worldwide, the ILGA has made it its first priority to work towards abolishment of all legal, social, cultural or economic discrimination against homosexuals.

All human beings irrespective of their sexual orientation must be granted equal enjoyment of human rights! The realization of this goal will contribute to a peaceful coexistence and mutual understanding in a New Europe.

#### *Sources*

Homostudies - University of Maastricht (NL),  
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and others

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## **Petition for an amendment to the EU Staff Regulations**

The group Egalité is in the process of getting signatures on a petition to the European Parliament:

We, the undersigned, being officials or other servants of the institutions of the European Union,

- A. whereas over the past ten years numerous other lasting forms of partnership have developed alongside the traditional nuclear family, and whereas these also include same-sex, long-term relationships,
- B. whereas recognition of homosexual partnerships as a social reality has already prompted a number of EU Member States to pass relevant legislation and/or adapt existing legal provisions accordingly, or introduce relevant initiatives, to wit:

In Denmark since 1 October 1989, the law on registered partnerships has given partners living in homosexual relationships the same rights and obligations as married heterosexual couples (other than the right of adoption).

In Sweden, a legal process for registering same-sex partners was introduced on 1 January 1995, thus according such partnerships the same legal status as civil marriages. Partners thus enjoy the same rights as married heterosexual couples (other than the right of adoption and the right to a church wedding).

In Finland, the State recognizes homosexual relationships for the granting of legal privileges.

In the Netherlands, the situation is as follows:

- The registry offices in 70 municipalities have already introduced registers in which couples living together may register.
- This was one of the reasons why in July 1994 the government introduced a draft bill in the lower House to secure national legislation giving non-marriage-based partnerships the same legal status

as marriage-based partnerships (with the possible exception of the right of adoption).

- In a number of professions (civil service, health care, education, industry [e.g. KLM]), legislation has been passed giving unmarried partners living together the same financial and social rights as married partners.
- After five years of living together, the provisions of the law of succession for married couples apply fully to cohabiting partners.

In France, the picture is as follows:

- In June 1992, a bill was introduced in the National Assembly incorporating a new legal institution into the Civil Code, the "contrat d'union civile" [contract of civil union]. This legal institution should be open to all persons in long-term, nonmarriage-based relationships, irrespective of the sex of the partners, giving such relationships the same status as marriage in many respects.
- Under the terms of the provisions that entered into force in August 1993, long-term relationships between unmarried persons are recognized defacto for social security purposes. This means that a person living with a dependent partner in a long-term relationship has the right to the reimbursement of sickness and health care costs for that partner.

In Spain, the picture is as follows:

- 35 towns and the regions of Valencia and Asturia have set up registers which are also open to cohabiting homosexual partners.
- In December 1994, parliament asked the government to pass a law on long-term registered relationships (including homosexual relationships). This law is currently being drafted by the Spanish government.
- On 1 January 1995, a new rent law entered into force, giving all cohabiting unmarried partners, regardless of their sex, the legal right to take over a tenancy or lease. This was the first legal recognition of homosexual relationships at national level.

In Germany, the Federal Constitutional Court declared in its Decision of 13 October 1993 that the marriage of homosexual partners was not permissible. However, Paragraph IIc clearly addresses the question of whether discrimination against long-term homosexual relationships is not a violation of the Basic Law and whether legislation should not be passed or changes made to the law to end all such discrimination.

In Belgium, bills were introduced in 1993 that should give partners in long-term registered relationships the same legal rights as married partners.

In a Decision of June 1989, Italy's Constitutional Court asked the legislature to draw up provisions for the legal recognition of partnerships other than marriage,

- C. whereas the principle of non-discrimination is a fundamental principle of the European Union,
- D. whereas homosexual EU officials living with their partners in a long-term relationship suffer twofold discrimination, firstly because they are denied the general right to marry and secondly because their employer, the EU, fails to recognize a legally regulated institution that gives their long-term partnership the same status as marriage (as, for example, in Sweden and Denmark); and whereas, because long-term homosexual relationships are not covered by the EU Staff Regulations, homosexual EU officials are not granted the same financial and social benefits as married EU officials in a heterosexual partnership,
- E. whereas in reaction of 4 July 1994 to petition 845/93, the European Commission stated that it intended merely to end discrimination against homosexual employees for recruitment and career development purposes, thereby implying that discrimination against long-term homosexual relationships akin to marriage (such as the above-mentioned types of financial and social discrimination) would continue unchanged in other areas,
- F. whereas by adopting this position, the Commission is not only at odds with social developments, but is also clearly ignoring the avowed intention of the European Parliament to combat all forms of discrimination and strive for the equal treatment of homosexuals; whereas the European Parliament has formulated this intention in various decisions, most recently in its Resolution of 8 February 1994, in which it calls on the Commission to "combat any discrimination on the basis of sexual orientation in its own staffing policy",
- G. whereas no further initiatives can be expected from the Commission in view of the answer given above,
- H. whereas the petition in no way calls for preferential treatment merely the equal application of existing rights,

*CALL ON THE PARLIAMENT*

1. To make use of its new right of initiative under Article 138b, second paragraph, of the EC Treaty and instruct the relevant committee to draw up a legal institution under which EU officials living with their partners in a long-term homosexual relationship be accorded the same status as married officials and thus under the Staff Regulations enjoy the same financial and social rights as married officials.
2. To submit this legal institution to the European Commission under the same Article, calling on it to make a relevant proposal for amending the Staff Regulations.