



# The challenge of diversity: More of the same or something different?



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ILGA-Europe publications

# The Newsletter is changing its design

After more than two years, we have decided to give the Newsletter a new design.

We hope to keep some of the elements successfully developed in the course of its existence whilst taking on board new ideas. The objective is to present a strong visual image - recognisable and consistent - in all our publications, from the website to policy papers, brochures and, of course, the Newsletter.

Together with Image Plus, we will be working on the new design in the course of the next months and are hoping to have it ready by December.

## Erratum

The editors of the *Newsletter* wish to apologise to Nico Beger for a mistake made in the previous *Newsletter*. ILGA-Europe board member Nico had kindly offered to make two contributions to the last issue: one in his capacity as *act4europe* co-ordinator, the other as our board member. Unfortunately, we failed to make this distinction clearly and included his contribution on the Convention titled "Participatory Democracy and the EU decision-making process" under his article introducing the *act4europe* campaign, when it should have been a separate text written in a different capacity (see *Newsletter* # 3/02, p. 5/6). We hope this erratum rectifies this and clarifies to our readers that this important distinction existed.

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## Editorial

Welcome to the September issue of the *ILGA-Europe Newsletter*. Despite the two-month summer break of the European institutions, much has happened in this busy period, from landmark rulings by the European Court of Human Rights to the Vatican statement on the “immoral union” between same-sex partners. For ILGA-Europe it is an exciting time of expansion thanks to the generous support of the Sigrid Rausing Trust. This will enable us to focus on Eastern Europe, the Council of Europe as well as on transgender issues. Read more on p. 7.

### News from the EU institutions

With a somewhat rocky start Italy took over the Presidency of the European Union on 1 July 2003. The Italian Presidency will oversee the Intergovernmental Conference negotiations on the draft constitution that the Convention chairman Valéry Giscard d’Estaing handed over to the Italians on 18 July (see article on p. 10). July also saw an official EU conference on anti-discrimination (see p. 5) and the deadline for implementing the race directive, which most member states failed to implement on time (see p. 6).

### Feature on Corporate Social Responsibility

Corporate Social Responsibility is the new buzzword in Europe. Conferences and seminars abound, as NGOs, governments and industry get involved. CSR often includes diversity initiatives. In the context of the new legislation on anti-discrimination in employment it is a vital tool for employers to respond to the changing legal framework.

ILGA-Europe invited four authors to explain what it is all about and look at the issues from different angles, shed light on the potentials and limitations, the relevance for LGBT people and finally what it might mean in practice (read pages 12 to 14).

## ILGA-Europe Annual Conference 2003

# Making LGBT equality happen



When you receive this *Newsletter*, the 25<sup>th</sup> ILGA European Conference will be less than a month away – but there is still time to register for participation!

The conference theme, “Policy into Practice – making LGBT Equality happen”, will be explored through a variety of plenary sessions, fringe meetings, poster displays, and a record-breaking choice of 24 workshops. Subjects covered will include all of ILGA-Europe’s work programmes, exciting developments in Eastern Europe, campaigning and capacity-building issues, and discussion of policing, health, workplace and family issues in an LGBT context.

Delegates will vote on a number of proposals, including the future work programme, the composition of the executive board, and the location of the 2005 conference.

Members will have received the necessary nomination forms, and further details can be found in the conference section of our web-site. You will also find registration forms and further details of conference fees and accommodation options. There is still time to propose a conference host for 2005, if your organisation would like to help us to arrange something in your city – again, see the web-site for further details. This year’s conference is in the heart of Glasgow, Scotland’s biggest city with a reputation as a centre for culture, arts, shopping and excellent food. Our programme includes a full range of social events involving the local LGBT communities and promises an unforgettable visit – So book your place now!

AILSA SPINDLER

## ILGA-Europe receives grant from the Sigrid Rausing Trust

# Exciting new development phase

In 2001/2002 ILGA-Europe developed from being a purely voluntary organisation to being a professionally managed NGO with an office in Brussels and 4 staff, thanks to core funding from the European Commission. However the terms of the funding agreement restricted the activities of the staff to European Union issues, leaving three important areas of activity – East and South East Europe, the Council of Europe, and transgender issues – still dependent on the work of volunteers.

In March of this year we applied to the UK-based *Sigrid Rausing*

*Trust* for funding to allow us to fill this gap. We were delighted when in June the trustees made an initial grant to ILGA-Europe of £120,000.

The development will take place in two main phases. First, a Director for East Europe, Council of Europe and Transgender Programmes will be appointed. As the job title implies, the job-holder will be responsible for all our activities not related to the European Union. We have already advertised this position and plan to make the appointment in the autumn. The second phase involves setting up a small office

in East Europe (consisting of three staff), with the purpose of supporting the development



of the LGBT movement. We plan to establish the office in the spring or early summer of 2004.

The East Europe office will be responsible for all East and South East European countries (except

the 10 new EU member states). This is of course a huge area geographically, accounting for well over a quarter of Europe’s population of 800 million, and includes several countries where the LGBT movement is either very weak or non-existent. Clearly, the amount which three people can do in relation to such a vast area is limited. So the office will concentrate on supporting the development of LGBT organisations through training and exchange of best practice. It will also co-operate closely with other organisations working in the field, to ensure that the combined resources

of all participants are used most productively. Apart from the appointment of the Director, immediate priorities are surveying LGBT organisations in the programme countries to understand

their needs better, developing the structure of the East Europe office, and deciding on its location. Another key issue is the development of partnerships with other organisations working in the

field. This work is being handled by a Board working party led by Max Anmeghichean and myself. Fundraising will also be a continuing challenge: the Rausing grant, while extremely

generous, will not cover all the needs of the development, and substantial additional funds will be needed from other sources.

NIGEL WARNER

## Strengthening the trans-element in ILGA-Europe

# New working party formed

ILGA-Europe defines itself as an LGBT organisation. It has always striven to incorporate trans issues into its lobbying efforts. However, its EU funding restricted its activities to sexual orientation discrimination and left transgender issues dependent on the work of volunteers. In order to better co-ordinate and strengthen its efforts in this domain, the trans working group was formed in April 2003, consisting of ILGA-Europe board members and independent consultants.

In its first meeting, the emphasis was on wording and definitions as many problems had been experienced at EU level (see box). So far, the group looked at English, French and German but will seek clear translations into all other EU languages to avoid confusion. In addition to this, the group revised

the 11 core demands adopted at ILGA-Europe's annual conferences in Rotterdam and Lisbon (see box). Finally, some thought was given to the web-page, which was seen to be lacking with regard to both transgender and bisexual content. The group felt that it would be helpful to have a section specifically on transgender containing links to national organisations and information on trans relevant court cases as well as the main working areas, demands and relevant policy papers.

The trans working group will conduct two workshops on trans issues at the Glasgow conference. One will be on capacity building at a national level and the other more specifically on the transgender work of ILGA-Europe. In addition to this, a caucus will be convened to provide space for sharing experiences and getting

### Glossary of terms

#### Transgender:

**ILGA-Europe uses the umbrella term transgender for people whose gender identity and/or gender expression differs from the sex they were assigned at birth. The term may include, but is not limited to: transsexuals, intersex people, cross-dressers, and other gender variant people. ILGA-Europe is aware that the issues relating to intersex people can be significantly different and need to be addressed separately where relevant.**

#### Gender Identity:

**This is the individual's gender concept of self, not necessarily dependent on the sex they were assigned at birth. Gender identity concerns every human being and it is not only a binary concept of either male or female.**

#### Gender Expression:

**Expression of oneself in external presentation and/or appearance through behaviour, clothing, hair-cut, voice, body characteristics, etc.**

to know each other. We look forward to meeting you in Glasgow! Contact the trans working group via Nico Beger or Deborah

Lambillotte at the ILGA-Europe office: [info@ilga-europe.org](mailto:info@ilga-europe.org).

DEBORAH LAMBILLOTTE

### Eleven core demands

1. Full equality and human rights, particularly the right to physical integrity, abolishing for example the legal requirements of irreversible infertility or forced sex reassignment surgery.
2. The freedom for every person to portray their own gender identity or have their intersexuality acknowledged according to their own choices.
3. The freedom from cosmetic genital surgery and or genital mutilation for children before they can give informed consent.
4. The freedom to be fully acknowledged through the law with regard to civil status in own gender identity, all state and other personal documentation without prejudice to hormone treatment or sex reassignment surgery and without legal requirement to irreversible surgical or sterilisation procedures.
5. The freedom not to have to disclose details of the sex recorded at birth or gender identity.
6. The freedom to marry somebody irrespective of the other person's sex or gender identity. The freedom from divorce requirements.
7. The freedom to take and/or keep a biological or social parental role in the chosen gender identity or gender expression.
8. The freedom and right to receive appropriate medical care and assistance for gender reassignment if wanted.
9. The freedom to enjoy a job without fear of dismissal or harassment because of gender identity or gender expression.
10. The freedom to use legal processes of protection in all aspects of one's life in the chosen gender identity.
11. The inclusion of gender identity and gender expression in all anti-discrimination articles and legal provisions.

EU information campaigns to combat discrimination

# For Diversity. Against Discrimination

“For Diversity. Against Discrimination” – is the slogan for the European launch of an information campaign aimed at reinforcing the work of the Community Action Programme which funds (inter alia) the ILGA-Europe EU Work Programme. The campaign was launched in Brussels on 16 June 2003, with Commissioner Anna Diamantopoulou leading the presentation. She emphasised the Commission’s concern that the majority of Member States seemed certain to miss the deadline for implementing the Race Directive (they did!), and were making slow progress towards implementing the Employment Framework Directive.

The campaign started with a focus on workplace discrimination. The theme was introduced with a rather bland poster showing identical, featureless ‘crash-test dummies’ performing routine office work and the

caption “Our differences make the difference” and an excellent booklet entitled ‘New Powers to Combat Discrimination’. The campaign will be promoted at events during the summer – at Europride in Manchester, for example, a team of crash-test dummies handed out campaign materials to raise awareness of the issues.

In addition, there will be national campaigns, developed by national advisory groups. Key stakeholders are consulted to ensure country-specific needs and all relevant interests are taken into account; ILGA-Europe Network members are represented on all national advisory groups. Of course, the detailed information that will be disseminated at national level can only be determined when transposition has taken place. For some states this is likely to be some way off. Until then, we will have to make do with promoting the European-level material.

Meanwhile, through our presence on the EU advisory group, we will work with the media agency and the Commission to develop the next phase of the campaign and ensure that it becomes a valuable and effective tool in the fight against discrimination.

Further details can be found on the web-site dedicated to the campaign: [www.stop-discrimination.info](http://www.stop-discrimination.info).

AS



Commissioner Anna Diamantopoulou at campaign launch

“Fighting Discrimination : from Theory to Practice”, July 2003

# Italian EU Presidency Conference

The European Commission funds a conference each year to discuss the fight against discrimination. With the rotation of the Presidency of the EU Council, this year’s host was the Italian government. Coincidentally, they chose a title very similar to that of the ILGA-Europe conference in Glasgow – but there the similarity ended. The programme had no specific mention of sexual orientation discrimination – we had to fight to even get an invitation to attend.

The proceedings opened with a speech from the Italian Minister

of Labour, which claimed that they had just passed regulations that fully enacted the Employment Framework Directive (2000/78/EC) and the Race Directive (2000/43/EC) –



although our information suggests that this is not the case (see article on p. 17). There was no room to challenge this presentation of events,

though ILGA-Europe delegates (co-chair Kurt Krickler and executive director Ailsa Spindler) clearly stated that we were unhappy with the transposition. Luckily, the workshops offered more opportunity for intervention. This was just as well, since sexual orientation discrimination was largely ignored by the speakers. For example, the chair of the workshop on *Combating discrimination in the workplace – The role of the social partners* relied heavily on the International Labour Organisation’s global report on equality at work. Yet, the ILO publications do not specifically mention sexual

orientation discrimination at all! We made strong interventions to include our concerns, but it is disappointing that we still have to struggle to get on the agenda.

The conference conclusions have yet to be published, but the tone of the conference was indicative of reluctance by the Italian government to address the discrimination faced by LGB people in the workplace, either in the Italian population or further afield. We will continue to fight for more action to address our concerns.

AS 5

## Public Hearing at European Parliament

# Implementing the Race Directive

*I am dismayed that most member states have failed to integrate the Racial Equality Directive into national law. Let us not forget that this Directive was agreed unanimously by the Council three years ago.<sup>1</sup>*

ILGA-Europe has continuously highlighted the hesitant and inadequate implementation of the European Union anti-discrimination legislation on the grounds of sexual orientation. Though undoubtedly, sexual orientation discrimination was a particularly sensitive area in many current and future member states, it appears that

<sup>1</sup> EU Commissioner Anna Diamantopoulou at Italian Presidency Conference in Milan, 21 July 2003.

<sup>2</sup> Racial Equality Directive 2000/43/EC. It prohibits discrimination on the grounds of racial or ethnic origin. The rules cover a wide range of areas, including employment, access to education and training, social security benefits, health care as well as supply of goods and services including housing.

the entire body of anti-discrimination measures proves difficult to adopt at national level. On 19 July 2003 member states were supposed to have finished transposing the new EU rules on racial discrimination into national law.<sup>2</sup> Yet, on the eve of the deadline, the Commission had not received a single notification of complete transposition of the directive. The same picture emerged at the public hearing organised by MEP Claude Moraes (PES / UK) and the European Network against Racism (ENAR). At the time of the hearing (8 July) only four member states had adopted comprehensive legislation to transpose the directive – Italy, Belgium, Sweden and the UK. The latter three did already have substantial anti-discrimination legislation prior to the directive. Italy went through the implementation phase at such great speed that it seems likely that the provi-

sions enacted contain serious shortcomings (see also article on p. 16). France and Denmark had transposed the directive partially whilst the Netherlands and Portugal were in the process of publishing their draft legislation. Eleven days before the deadline, the remaining seven member states had not taken any official steps to implement the directive.

Now that the deadline has passed – what are the next steps? Under the rules for implementing European legislation, member states must inform the Commission of the steps they have taken to integrate the provisions of a directive into national law. As this has not happened at the date of the deadline, the Commission will contact all affected governments in writing to ask for a notification of transposition or, if necessary, an explanation of the delay. Should no action

be taken within three months, the European Commission may decide to follow the so-called infringement procedures at the European Court of Justice and force member states to implement the directive. Another route that is open to individuals is to take individual cases to the European Court of Justice via litigation procedures, thus forcing member states to amend its legislation. Though in principle a possibility, this tends to be a complex and time-consuming process.

It remains to be seen how the story will unfold. It is high time for national governments to prove they meant what they said – the least they can do is to act upon a commitment all of them unanimously agreed to only three years ago, no matter how difficult that may prove.

BIRGIT HARDT

## Social Platform meets future member state NGOs

# The role of civil society in an enlarged Union

After the positive results of the June referenda in Poland and the Czech Republic, 8 of the 10 accession countries have said yes to joining the EU. Estonia and Latvia will hold their referendum on 14 and 19 September respectively. The next step on the road to enlargement will be the ratification of the treaty signed on 16 April 2003. So far, 4 of the 25 contracting parties – Denmark, Malta, Poland and Cyprus – have done so. By 1 May 2004, ratification should be concluded and the enlarged Union will be reality. ILGA-Europe has followed

the enlargement process closely and on numerous occasions expressed concern about many future member states' commitment to minority rights and anti-discrimination (cf. f. ex. *Newsletters* # 4/02 and # 1/03). Whilst we will continue our monitoring efforts in this context, another element of preparing for enlargement is increased co-operation and exchange within civil society networks in old and new member states. This is an important step toward ensuring that representatives of civil society have a voice in shaping the future EU and ensuring that EU policies



ILGA-Europe staff meet Háttér volunteer Bence Solymár (middle)

respond to the real needs of all its citizens. In an enlarged Union,

structured and regular civil dialogue both in the consultation

and the implementation phase of social policy takes on a new immediacy. Yet, adjusting to the complexities of the EU political arena on the one hand and the realities of a Union of 25 on the other is a challenging task. In this context, the Social Platform

in co-operation with the European Commission organised a two-day conference in June on civil society and social policy in an enlarged Union. The conference took place in Budapest and aimed at developing the capacity of NGOs in the new member states and

to provide a forum to exchange experience and information. In workshops participants looked at the main European policies in the social field (including gender equality, anti-discrimination and social inclusion) and exchanged ideas and examples of good practice. ILGA-Europe used the opportunity the conference provided to present its work through an information stand and to communicate with LGBT organisations present.

European networks – including ILGA-Europe – and Czech NGOs. Following on from last year’s study visit to Warsaw, it is an opportunity to strengthen ties between European and national NGO working in the social field. Yet it is not only a chance to exchange experience and best practice. The objective is also to share information – both on EU social policy and on Czech concerns. To this end, high-level government officials from the Czech Ministry of Employment and Social Affairs have been invited.



ILGA-Europe’s info stand in Budapest

Another important event to strengthen the links between current EU networks and NGOs in accession countries is the forthcoming study visit to Prague, organised by the Social Platform. Participants will include both

BH

For further information, please contact: [simona.delisi@socialplatform.org](mailto:simona.delisi@socialplatform.org).

# Landmark rulings at Strasbourg

This summer two important rulings emerged from the Strasbourg Court: one on equal tenancy succession rights (*Karner v. Austria*), the other

on health insurance’s obligation to pay for gender reassignment (*van Kück v. Germany*). Find below a short summary of the

cases. Due to time and space constraints we were not able to publish the full articles. To find out more about the arguments

behind the rulings and the implications these cases will have for LGBT rights, please read the full contributions on the ILGA-Europe webpage.

## Equal rights for same-sex couples

On 24 July 2003, the European Court of Human Rights published its judgment in the case of *Karner v. Austria* against a provision in Section 14 of the Austrian Rent Act that would exclude a domestic partner of the same sex from the right to succeed to the tenancy of a deceased partner – a right granted to partners of the opposite sex.

Although the text of the law is neutral in its definition of “life companion” (*Lebensgefährte*), Austrian courts had argued that the legislator had only opposite-sex couples in mind when the provision was enacted in the 1970s, and consequently restricted, in their decisions, this right to opposite-sex domestic partners.

The Court held by 6 votes to 1 that there had been a violation of Article 14 (prohibition of discrimination) taken together



**Siegmund Karner (1955 – 2000)**

with Article 8 (right to respect for home) of the Convention. It reiterates its findings that “differences based on sexual orientation require particularly serious reasons by way of justification” (para. 37). As justification for the provision, the Austrian government submitted that the aim of it was the “protection of the traditional family unit”. However, the government could not convince the Court that excluding same-sex partners from the right to succeed in a tenancy would help achieve this objective.

KURT KRICKLER

## Health Insurance to pay for gender reassignment

On 12 June 2003, in *van Kück v. Germany*, the Strasbourg Court held by 4 votes to 3 that German courts violated Articles 6 (right to a fair hearing) and 8 (respect for private life) of the European Convention on Human Rights, by interpreting a health insurance contract between a transsexual woman and a private insurance company as not requiring reimbursement of the cost of the hormones, surgery and other medical treatment required for her gender reassignment.

Carola van Kück was born male but changed her given names in 1991 and underwent gender

reassignment surgery in 1994. As an employee of the State of Berlin, she was entitled to reimbursement of her medical expenses, 50% by her employer and 50% by a private insurance company. When the company refused to pay its share, she began a civil action. Under the Insurance Contract Act of 1908, the company was obliged to reimburse “expenses for curative treatment which is medically necessary on account of a disease... The insurer is exempted from liability if the insured person has deliberately caused [his or her] own disease.”

ROBERT WINTEMUTE

The full texts of the judgments are available at: [www.echr.coe.int/hudoc.htm](http://www.echr.coe.int/hudoc.htm),

Title = Karner or: van Kück

European Union – gender equality

# New directive delayed

In June 2000 the European Commission announced its intention to present a proposal for a directive on implementing the principle of equality between women and men. This new gender equality directive was to be adopted by the Commission in July 2003. Yet, due to concerted lobbying campaigns by affected industry representatives – most notably insurance and media companies – the Commission has given in to pressures and is now re-drafting its proposal.

The original (unofficial) draft aimed at eliminating and preventing discrimination on the basis of sex and at promoting

full equality between men and women. It would extend the principle of gender equality to goods and services, education, social assistance, taxation, media and advertising. With regard to



the definitions of discrimination, remedies and enforcements, the role of NGOs and equal opportunity bodies, the proposed new directive was to follow the same principles as the Framework Directive and the Racial Equality Directive.

For LGBT people the directive is relevant for two reasons: first, it would establish new standards and methods that could be applied to sexual orientation discrimination in the future. Second, discrimination based on gender identity would be in breach of the directive. EU law regards discrimination on grounds of gender identity as a form of sex discrimination. This principle was established by the Court of Justice in the 1996 case of *P v. S and Cornwall County Council*, where it was held that the dismissal of an individual following gender reassignment was unlawful discrimination on the grounds of her sex.<sup>1</sup> Regarding a difference of treatment due to gender reassignment, the Court decided that: “such discrimination

is based, essentially if not exclusively, on the sex of the person concerned. ...To tolerate such discrimination would be tantamount, as regards such a person, to a failure to respect the dignity and freedom to which he or she is entitled, and which the Court has a duty to safeguard.”<sup>2</sup> Even though no explicit reference to this case law is made, it nonetheless binds all member states and must be complied with at national level. To date, the fate of the new draft directive is uncertain: the Commission has not yet reached a decision on the content of the final text or the procedure prior to its adoption.

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<sup>1</sup> Case C-13/94, *P v. S and Cornwall County Council* [1996] ECR I-2143.

<sup>2</sup> Paras. 21-22, *ibid.*

European Parliament annual report

# Human rights in the world in 2002

In the first week of September the European Parliament will vote on the *Annual Report on Human Rights in the World in 2002 and the EU human rights policy* (rapporteur: MEP Bob van den Bos, ELDR/ Netherlands).

The situation of human rights in the world remains of great concern, and ILGA-Europe continues to monitor EU human rights policies closely. International human rights law does not generally make any specific reference to sexual orientation or gender identity. Only the Charter of Fundamental Rights in the European Union lists sexual orientation in its anti-discrimination article (Art. 21). Yet, sexual orientation discrimination in the context of human rights is increasingly addressed at both national and EU level, as was demonstrated

by the European Parliament resolutions on the “Queen Boat” case in Egypt. The human rights of LGBT people are taken up both by the UN Human Rights Committee and the UN High Commissioner on Human Rights. Only in April 2003 was a UN resolution initiated by Brazil on “sexual orientation” discussed, though a decision was postponed to next year (see *Newsletter # 3/02*, p. 19). It is fair to say, that by now the issue of human rights and sexual orientation has become part of the broader international human rights agenda.

As part of its human rights project, ILGA-Europe also monitors the European Parliament’s annual reports on human rights in the world. The 2002 van den Bos draft report had a strong focus on a more consistent EU human

rights policy, political dialogue and religious intolerance. The report called for a firm application of the human rights clauses included in co-operation and association agreements, but made no substantial reference to LGBT issues apart from a mention in the context of prison conditions. Thus, ILGA-Europe proposed several amendments calling for the EU institutions to fulfil their human rights obligations in the context of human rights violations by both state actors and non-state actors. The most fundamental amendment ILGA-Europe proposed “calls upon the Council and the Commission to address and take concrete measures in respect of those countries that have laws that discriminate on the grounds of sexual orientation” and was inserted by van den Bos himself.

Still, considering existing legislation, the Parliament’s history of supporting LGBT rights as well as recent case law (see p. 7 on *Karner v. Austria*), the overall result is rather poor. The report has been adopted in the Foreign Affairs Committee. Whether the amendment on sexual orientation discrimination will survive the plenary vote remains to be seen in early September.

Whatever the final outcome may be, sexual orientation as a human rights aspect will have been placed on the agenda once more, and hopefully in the future both sexual orientation and gender identity will become an even more substantial part of international human rights policy.

SHEILA SWATSCHEK



Intergroup on Gay and Lesbian Rights

# The fight against discrimination

Dear ILGA-Europe readers,

On behalf of the Intergroup, we hope you have had a relaxing summer break!

The last months have been full of events related to the fight for equality and LGBT rights. Until the end of this year, the schedule continues to be full. The most relevant, no doubt, is the forthcoming deadline (2 December 2003) for national implementation of the EU Employment Framework Directive, which prohibits discrimination on grounds of sexual orientation.

Whilst this is a vital step toward legal equality for LGBT people in Europe, there is still much left to do. We must not forget, for instance, the situation in the former Soviet Union. On 13 August 2003, human rights activist Ruslan Shapirov was sentenced to 5 1/2 years due to his sexual orientation and related political activism. Many human rights organisations see it as flagrant discrimination and persecution based on sexual orientation and a real threat to free speech in Uzbekistan (see Intergroup Round-up for further information).

The summer also witnessed a series of victorious European Court rulings. In relation to the case "*K. B. v. The UK NHS Pensions Agency and Secretary of State for Health*" on 10 June, the Court of Justice of the European Communities re-confirmed the principle that gender identity discrimination constitutes sex discrimination. Advocate General Ruiz Jarabo concluded that "national rules which, by not allowing transsexuals to marry, deny them entitlement to a widow's or widower's

pension are contrary to community law". In July the European Court of Human Rights finally ruled on the case *Karner v. Austria* and held that a gay man who lost his tenancy when his partner died was the victim of unlawful discrimination. But July also brought a set back in the form of a document issued by the Vatican calling



for Catholic politicians and lawmakers to oppose legal recognition of same-sex relationships. Maurizio Turco, MEP from the Radical Party, published an open letter calling for non-interference of the Vatican in states' policies. He stated that "this new homophobic document will be a new attack to States' anti-discrimination policies and same-sex couples recognition, as well as of citizens' individual and civil rights, in breach of all fundamental rights and freedoms." He also asked for the immediate intervention of the EU institutions and of the heads of state and government of the 15 member states against this interference of the Holy See.

Finally worth mentioning is the work of the Convention which after 16 months presented the Italian Presidency with a draft constitution for the EU.

## Last meeting

Our most recent meeting took place on 3 September in Strasbourg, where we discussed LGBT rights within the UN system.

The idea is to focus on the historic Brazilian motion for a resolution on human rights and sexual

orientation that was presented in April 2003. As reported, the vote on the resolution was deferred to the next session of the UN Human Rights Commission in 2004. We have invited Jan Doerfel, director of the IRCSM (International Research Centre on Social Minorities) and former assistant to the UN Special Rapporteur on Torture and a representative from the Brazil mission to the UN in Geneva.

We analysed the chances for such a resolution to be successful and what the consequences for LGBT rights would be. The Intergroup has drafted a short summary of human rights violations on grounds of sexual

orientation; we explain the aims of the resolution and give examples of how the UN has dealt with sexual orientation discrimination in recent years. You can find this summary on our web-site.

## Intergroup hearing...

We are delighted to announce that we have finally set the date for our public hearing on the implementation of the EU Employment Framework Directive from the perspective of the sexual orientation discrimination. The hearing will take place on 11 Nov 2003 at the European Parliament in Brussels. The final programme and registration form will be sent out shortly. For further enquiries or registration, please, contact our office.

You all know that sexual orientation discrimination still seems an issue at the margins of EU law and the new measures remain quite limited. This is reflected by the great disparities that continue to exist between national laws in this area. This hearing will be a unique opportunity to come together to compare notes in order to identify possible situations of discrimination and to offer information on how to prevent, identify and combat those situations. We would like to send a positive message by showing examples of successful implementation and by sharing information with keynote speakers and with all participants. We hope to have the opportunity to see you all in November.

ROSA SANTRICH

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The Convention on the Future of Europe

# Giscard d'Estaing hands draft constitution to EU Presidency

After the Salonika Summit had agreed to an extension of the Convention's work, the Convention was officially closed on 10 July – and a week later the full draft constitution was handed over to the Italian Presidency of the European Council. From an LGBT perspective, the final draft constitution represents a partial success with serious shortcomings. Compared to the first drafts when anti-discrimination was reduced to the grounds of nationality, and equality was not mentioned, the final draft represents a major step forward. Why?

First of all, the constitution now recognises equality as a founding value of the Union, common to all member states “in a society of pluralism, tolerance, justice, solidarity and non-discrimination”. Beyond the symbolic value, this has important legal repercussions, as the list of values forms the basis for potential sanctions against member states in the case of serious and persistent violation

of one of these values. Furthermore, states wishing to join the Union in the future will have to demonstrate that they respect these values.

Though ILGA-Europe's call for an explicit reference point to sexual orientation issues

**“In defining and implementing the policies and activities referred to in this Part of the Constitution, the Union shall aim to combat discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation.”**

in the Union's objectives was ignored, article I-3 did in the end include the aim of “combating social exclusion and discrimination”. As the objectives identify the main orientation and key priorities of EU policy, it was important to create this thread between the definition of the Union's overall objectives and the concrete policies (Part III). This goal is substantiated in Part III on policies through the addition of Article III-a:

“In defining and implementing the policies and activities referred to in this Part of the Constitution, the Union shall aim to combat discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation.”

The fight against discrimination is further strengthened through the inclusion of the Charter of Fundamental Rights as a legally binding element of the constitution. Article 21 of the Charter explicitly forbids sexual orientation discrimination.

Without the concerted lobbying efforts of NGOs, supportive MEPs and Convention members any such changes hardly would have been made. Still, in the field of anti-discrimination policy,

sexual orientation”. The pressure was on until the last minute. In fact, at the 11<sup>th</sup> hour when a clear majority of Convention members spoke in favour of strengthening the Union's competence in the field of anti-discrimination, it still seemed a real possibility. Yes, the article remained unchanged. This is not only very regressive in the context of the general move to a simplified legislative procedure. It also poses a serious threat to any future legal initiatives in the field of EU anti-discrimination policies: the image of all 25 member states unanimously endorsing new legislation on sexual orientation discrimination just does not materialise in my mind.

What next? The Italian Presidency is due to launch an Intergovernmental Conference on 15 October 2003 to negotiate the future constitution. It is expected to run for six months, leading to the signing of the treaty by all 25 member states in mid-2004. In the course of the IGC national

## Act4Europe conference on the Convention

On 17 June 2003, Act4Europe (cf. *Newsletter* # 2/03, p. 5) organised, in Brussels, a conference on the Convention and the forthcoming Intergovernmental Conference. More than 110 NGO representatives from across Europe participated. The main objective was to assess the outcome of the Convention and to help shape civil society's actions towards the IGC. The day saw the launch of a cross-sectoral benchmarking document on the draft constitution from an environmental, social, human rights and development perspectives. Furthermore, it was an opportunity to discuss both the strengths and shortcomings of the draft constitution with an expert panel including Convention vice-president Jean-Luc Dehaene and the director of the European Policy Centre, John Palmer. The afternoon, finally, was spent in a constructive exchange on what strategy best to use toward the IGC.

For further information, see: [www.act4europe.org/code/en/actions.asp?id\\_events=8](http://www.act4europe.org/code/en/actions.asp?id_events=8)



Convention closed its work on 10 July 2003

the draft constitution contains one serious short-coming: the failure to extend EP co-decision and qualified majority voting to the article that confers the EU competence to “establish the measures needed to combat discrimination based on (...)

governments may still decide to alter the text. This is both an opportunity and a challenge. Civil society will keep up the pressure and monitor the negotiations closely.

NGO co-operation at EU level

# European Women's Lobby

The European Women's Lobby (EWL) is an international not for profit association bringing together over 3,000 women's organisations to achieve equality of women and men and to ensure that gender equality and women's human rights are taken into consideration in all European policies. EWL represents the concerns, needs and interests of women in dialogue with national, European and international institutions. EWL's mission is to promote the empowerment of women in all their diversity; to advance gender equality; to combat all forms of discrimination and violence against women and to ensure full access for all women to their human rights through active involvement in society.

EWL was created in 1990 in response to the lack of representation of women at the highest political level. Many groups and individuals felt the need to rectify this and ensure women's participation in the various European structures. EWL is composed of women's organisations, the women's sections of mixed organisations, individual supporting members and supporting organisations. EWL voices and defends the interests of many women and girls in the European Union, the new member states and the member states in accession. It is often claimed that the emancipation of women has been reached and needs little further attention. Yet, there is ample evidence that the advancement of women is stagnating and that equality between women and men is far from a reality:

- In the EU, the employment rate of women is 54.9%. Yet, women account for 77% of low-paid workers.
- For work of equal value, women in the EU earn only 75% of men.
- Only 17.2% of parliamentarians in Europe are women (worldwide: 14.6%).

- 17% of the Convention on the Future of Europe was women.

Another indication of the unequal power relations between women and men is the troubling level of violence still experienced by women worldwide:

- At least 1 in 5 women in the European Union experiences violence by their intimate male partner. 95% of all acts of violence against women take place within the home.
- Domestic violence is thought to be the major cause of death and disability, ahead of cancer, road accidents and war for women between 16 and 44.
- Internationally, the trafficking of women and children for purposes of sexual exploitation has increased problematically in recent years.
- Between 75 and 80% of women in prostitution have been sexually abused in their childhood.
- Approximately 20% of women in the world have suffered sexual abuse as children; 1/3 of girls report forced sexual initiation.

**“Violence against women is a manifestation of the historically unequal power relations between women and men, which have led to the domination over and discrimination against women by men and to the prevention of women's full advancement”<sup>1</sup>.**

With funding from the EU Daphne Programme, EWL created the *European Policy Action Centre on Violence Against Women*. It provides a forum for NGOs from across Europe to engage with policy makers to strengthen the understanding of and commitment to action to combat all forms of violence against women. In addition, EWL supports the development of national observatories on violence against women. These currently exist in Greece, Portugal, Spain, Denmark and Ireland.



From left to right: Ailsa Spindler (ILGA-Europe), Lydia la Rivière-Zijdel (EWL) and Sofia Konstantatou (EDF) at Budapest conference

For EWL enlargement means expanding the voice of women. In many accession countries, inequalities between women and men have become more severe during the process of economic and social transition. This makes an increased emphasis on gender equality all the more urgent. Funded under PHARE, EWL was able to train many accession country NGOs on civil dialogue and participatory democracy in the EU. Through the Social Platform, EWL collaborates with ILGA-Europe,

further openness for the diversity of women. Difference should be celebrated and welcomed as an added value to the organisation. As a woman, who happens to be also a lesbian and disabled (wheelchair user), I have in-depth knowledge of the intersectional discrimination that I encounter in my daily life. Still, for me, gender discrimination is the most structural aspect of discrimination. It is more profoundly present in society and in all spheres of my life. In turn, being lesbian and disabled for me are variable aspects, more and less depending on place, time, environment and political climate. In many areas of policy ILGA-Europe and EWL share common aims, concerns and goals. I therefore truly hope that we will create a further basis for closer co-operation with ILGA-Europe.

Proud to be triple out!

LYDIA LA RIVIÈRE-ZIJDEL  
PRESIDENT, EWL

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<sup>1</sup> Beijing Platform for Action, para. 118

# FEATURE ON CORPORATE CSR: spin or substance?

Corporate Social Responsibility (CSR) should not be about the public relations of companies, about glossy reports and extra-curricular activities. It should be about fundamental analysis of the impact a company has on the environment and the society in which it operates, and bringing about change in the core activities of that company in the interests of equality, justice and sustainable development. Many companies have one or two good schemes that they can promote and sell as their niche in the CSR market, but what is important is that the responsibility of the company runs central to all their activities, and particularly to their core business.

In October 2002 the European Commission launched the European Multi-Stakeholder Forum on Corporate Social Responsibility, a group of 44 people representing four “families” of stakeholders: employers’ organisations, business groups, trade unions and NGOs. This forum is to produce a report by June 2004 that will make recommendations to the Commission on future actions in the frame-

work of CSR. We have a unique process underway: a chance to discuss the fundamental issues of social and environmental responsibility with the companies themselves; a chance to look at current EU policy and legislation and to see where real improvements can be made. But are we getting the most out of it?

It is important for leading companies to share “best practice” between themselves, but they already have that possibility within different fora where they meet. The Multi-Stakeholder Forum on the other hand needs to take the opportunity of bringing together those of differing backgrounds and opinions and tackle the more controversial issues: Is legislation needed – if so what and how? How does an NGO boycott campaign affect a company – is it a driver for change? How are companies acting in third countries, does that differ greatly from their actions in the EU – if so, how and why? The results of these discussions need to be applicable to a range of companies large and small. They must address not only the branded leaders

in the field, but also those who “green-wash” the issue as a public relations process and those who simply do not care. The NGOs involved in this process maintain that voluntary initiatives are not enough to reverse the unsustainable impacts of corporate activities or to meet the standards set by existing international agreements. For companies to have a positive impact requires changes in their core business activities, throughout the supply chain. It also requires responsible behaviour to be internalised in corporate governance, strategy and business models.

So what would turn the spin into substance? The European Union needs to take a strong stance to promote the guidelines and legislation of the Organisation of Economic Co-operation and Development (OECD) and the International Labour Organisation (ILO). The OECD Guidelines on Multi-national Enterprises should be used as the basis of mandatory social reporting for all EU companies over a certain size. There is increasing recognition from around the table that social and environmental reporting is the essential first step towards transparency and development of standards. Stakeholders need meaningful disaggregated information about the impacts

of companies and products on human rights, society and the environment. In addition the EU public procurement directives should include a strong statement on the environmental and social responsibility of those who tender. Anti-discrimination and equal opportunities guidelines and regulations need to be enforced and monitored. The role of governments – including the EU institutions – is essential to deliver a level playing field through legislation, to ensure compliance with existing standards; and to use public policy measures including public procurement and public subsidies to give incentives to responsible behaviour.

We have ten months ahead of us to work to ensure a meaningful outcome to this EU process. We all have a lot to learn from each other and the responsibility of action rests with all the stakeholders. It’s a big challenge, with all sides having to look closely at their practices and answer some tough questions on a range of complex issues. But we have a unique opportunity to bring about some real change towards global social rights and sustainability.

SUZY SUMNER  
POLICY AND CAMPAIGNS  
CO-ORDINATOR, SOLIDAR  
CHAIR OF CSR WORKING GROUP  
FOR THE SOCIAL PLATFORM

**For more information on the Round Table meetings see:**

[www.europa.eu.int/comm/enterprise/csr/forum.htm](http://www.europa.eu.int/comm/enterprise/csr/forum.htm)  
[http://forum.europa.eu.int/irc/empl/csr\\_eu\\_multi\\_stakeholder\\_forum/info/data/en/CSR%20Forum%20roundtables.htm](http://forum.europa.eu.int/irc/empl/csr_eu_multi_stakeholder_forum/info/data/en/CSR%20Forum%20roundtables.htm)

## CSR: Is it relevant for us?

Corporate Social Responsibility – meaning the ethical behaviour of a company towards society – is the new buzzword in Europe. Conferences and seminars abound, and employers’ organisations work on the issue as much as NGO platforms and governments. It is easy to be baffled by the broad scope of actors in the field – governments, business, civil society

– and by the sheer number of standards, certifications, labels etc.

First of all, CSR touches and interlinks many subjects that have long been treated as isolated issues. In broad terms, it looks at the environmental, social and economic responsibilities of companies. According to this approach, companies

are not only responsible for their economic viability; they also have to respect the environment, their employees and the communities where they are active. A set of indicators is used to measure a company’s CSR. This in turn is increasingly used to choose company stocks for ethical, sustainable or SRI investment funds (SRI = socially responsible

investing). These funds provide leverage to encourage companies to improve their performance and public reporting in these fields.

SRI is becoming more important in the financial world. CSR and SRI have to be understood in the timeline of regulatory approaches, leading from the “command and control” governmental regu-

# S O C I A L R E S P O N S I B I L I T Y

lation of the 60s and 70s to companies' self-regulation in the 80s and 90s, and currently, after corporate scandals that shook the foundations of the global economy, to a more co-regulative approach. Companies should, on the one hand, abide by the law and, on the other hand, go beyond legal requirements wherever possible.

CSR advocates cite many reasons why companies should engage in CSR activities. Two main lines can be distinguished:

1. The business case: companies should improve their competitive edge through creating new markets, improve their profile as employers, minimise reputation risks, reducing environmental costs, etc.
2. The "social justice" case: companies should behave as corporate citizens and therefore contribute to more social cohesion (or at least avoid detrimental activities).

It is evident that to NGOs, and more particularly to the LGBT movement, the second line is more important but the business case argument should not be underestimated. The social perspective of the CSR approach includes the way in which companies treat their employees, and this is where diversity or equal opportunities come in. They are a feature in most analysis schemes for companies' social responsibility. Though within the diversity section, sexual orientation is only one among many categories, a survey of major CSR research organisations in Europe showed that along with gender and ethnic origin, religion, disability and nationality, sexual orientation is a prominent category of diversity analysed.

With regard to diversity management, most companies still struggle to get to grips with changing legal requirements, such as EU anti-discrimination legislation. The number of companies with

a code of conduct addressing equal opportunities on the grounds of sexual orientation is increasing gradually. But there are still very few companies that translate these codes into concrete programmes. European subsidiaries of US-based companies, like Ford or Procter & Gamble, tend to have the most advanced diversity policies, partly because diversity is a US approach that has not found widespread support in Europe yet. But by and by, European companies follow suit. For instance, Deutsche Bank organised the first European conference on diversity management and sexual orientation in Frankfurt this June (see p. 14).

The LGBT community has very clear interests to get involved in the CSR debate. There are 60,000 transnational companies worldwide with 800,000 affiliates, as well as 50,000 domestic companies that are listed on stock exchanges. These are all employers with tens of thousands of employees. CSR

can be a leverage to fight discrimination against LGBT employees and to promote change in human resources management systems. NGOs can choose between carrots and sticks: either they engage in collaborations with companies that are open to their concerns. Or they go for the politics of confrontation where they fall on deaf ears. In any case, the business world has a lot to learn from the specific expertise that only the LGBT community can provide, as they have a lot to contribute to making workplaces work for LGBT employees.

IRENE ZEILINGER  
RESEARCH ANALYST,  
STOCK AT STAKE

For further information, visit:  
[www.stockatstake.com](http://www.stockatstake.com)  
[www.sustainable-investment.org](http://www.sustainable-investment.org)  
[www.eurosif.org](http://www.eurosif.org)  
[www.sricompass.org](http://www.sricompass.org)  
[www.socialfunds.com](http://www.socialfunds.com).

## Discrimination at the work place

# Europe's employers are waking up

The deadline for national transposition of EU Council Directive 2000/78/EC is drawing to a close. By 2 December 2003 all current EU member states have to have minimum standard legislation in place protecting gays, lesbians and bisexuals from discrimination in the workplace. For many national governments this is proving to be a challenge – it is doubtful that all 15 member states will have adequately completed transposition in the permitted timeframe. Legal provisions, however, are one thing. What about employers? Are they prepared to respond to the new legal situation and the increased levels of protection offered?

Whilst sexual harassment has received considerable attention in the workplace, harassment on the

grounds of sexual orientation and gender identity is still largely a taboo. This is not to say, however, that the problem does not exist, on the contrary. The vulnerability of lesbians, gays, bisexuals and even more so, transgender people, is apparent and real. For many, this vulnerability is heightened by the "invisibility of gayness" – often the problem is kept underground as many individuals hesitate to be open about their sexuality at the workplace for fear of dismissal, discrimination and harassment. The difficulty to prove such forms of discrimination coupled with the fear of publicity and complex and lengthy legal procedures means that most victims

<sup>1</sup> See: *The Independent*, UK, 19 August 2003.

do not take action. This might change in future due to the new legislation that shifts the burden of proof and enables employees to claim for compensation for harassment, victimisation and unfavourable treatment at work.

Employers are gradually waking up. No doubt, this is partly prompted by fear of compensation claims. In the United Kingdom, for example, the LGBT lobby group *Stonewall* has witnessed a rush of inquiries from companies and public bodies planning to use monitoring mechanisms to get a clearer picture of the homosexual percentage of their workforce.<sup>1</sup> Though this is somewhat problematic, it is a clear indication that companies are beginning to look into ways of accommo-

dating the new legal obligations. Another driver is the business case perspective (i. e. the belief that diversity policies help the working climate and foster best use of the employees as resources, thus increasing profits). Companies in Europe begin to address sexual orientation discrimination at work in the context of diversity policies at large. Though in theory the diversity approach would include transgender staff as well, the openness increasingly displayed toward gays, lesbians and bisexuals is often still lacking when it comes to trans people. In sum, there is ample scope for further improvement. It is early days yet, but the word is out and employers are reacting.

FEATURE ON CORPORATE SOCIAL RESPONSIBILITY

Discrimination at the workplace

# Diversity management at Deutsche Bank

For Deutsche Bank, diversity management means to foster an inclusive work environment in which all employees, regardless of their nationality, culture, religion, experience, gender, sexual orientation, age, ethnicity or disability work together to enhance our corporate values and our business success. It refers to a business attitude of mutual respect and open-mindedness, a celebration of our employees' individuality and an acknowledgement of this diversity as rich and beneficial. Our global diversity team with hubs in Frankfurt, London and New York supports the Bank in creating a work environment in which all employees have an opportunity to succeed. The team consults with the different business areas and functions of the Bank to design and implement cutting edge diversity initiatives to ensure that all business practices reflect the value of diversity on a daily basis. To us, diversity management is a strategic choice and a sustainable investment. It is beneficial for all our stakeholders – the employees, the clients and the Bank itself.



Diversity Conference at Deutsche Bank

Therefore, Deutsche Bank has begun to translate its commitment to diversity into a variety of programmes. In the context of the

upcoming national implementation of the EU antidiscrimination directive, an employer/works council agreement was reached on a new anti-discrimination policy for Germany. "Fairness at the workplace" condemns sexual harassment, bullying and discrimination on grounds of gender, sexual identity, nationality, culture and religion. The policy establishes consistent procedures and points of contact for employees, managers and HR Advisors. The policy was widely communicated and well received throughout Deutsche Bank.

Another area we focus on is diversity recruitment. In light of the demographic changes but also to comply with EU-Anti-Discrimination legislation, our recruiting objectives are to broaden the pool of candidates and to rule out discrimination in the recruitment process. We sponsor and attend targeted recruiting events and present Deutsche Bank as an "employer of choice", particularly for women, students from ethnic minorities and gay and lesbian students. Through our "Next Steps" and "I Have a Dream" initiatives we offer internships to qualified students from ethnic minorities.

In addition, we support a variety of diversity initiatives targeted to specific employee groups to support an inclusive work environment. One focus group is female employees. DB strives to raise awareness, acceptance and visibility of women in the organisation. Apart from annual conferences, such as "Women in European Business®" hosted in Germany and the UK, we support various

internal women's networking initiatives and mentoring programmes. In 2002, our equal opportunity programme in Germany received the "Total E Quality" award. Diversity also encompasses responsibility for disabled people and their integration into the company and society at large. Deutsche Bank is committed to integrate and support people with disabilities. Again the EU guidelines will give an important impulse to review



the related policies and accommodate employees in the best possible way. A main focus of our diversity initiatives is also targeted to our gay, lesbian, bisexual and transgender (LGBT) employees. Already in 1999 as one of the first employers in Europe, Deutsche Bank actively supported the foundation of the Rainbow Group, our network of LGBT employees. Structured regionally and led by an employee steering committee its main focus is on professional development, networking and support, thus contributing to a positive work environment. The group works closely with the Human Resources to instil mutual trust and respect at all levels of employee interaction. It was also pivotal in ensuring equal treatment vis-à-vis company benefits for partners irrespective of their sexual orientation. Already the Bank extended certain family benefits to gay domestic partners. This includes health insurance, financial products and car policies,

leave of absence in case of marriage, severe illness or death. In light of the upcoming EU framework, we also revised our corporate pension scheme, which now also includes homosexual partners as surviving dependants.

In addition, the group co-operates with external LGBT organisations. In June, DB sponsored and hosted the first conference on "Invisible Potentials – Diversity Management and Sexual Identity in the Workplace" at our headquarters in Frankfurt. It was organised by the gay manager's association *Völklinger Kreis* in conjunction with the Lesbian organisation LIBS. 150 diversity experts from over 20 external organisations including ILGA-Europe were invited to discuss diversity management and how to implement corporate initiatives to foster an inclusive work environment around sexual identity at the workplace. We received the *Max Spohr Award of Völklinger Kreis* in 2002 for our commitment to equality of LGBT employees.

We look forward to taking our diversity initiatives further in the coming years with the emphasis on integrating diversity in all our business and HR processes. We hope to foster Deutsche Bank's reputation not only as a leading financial service provider but also a diversity leader in the European Community.

MAREIKE COPPI, E.MA  
ASSESSORIN, DIVERSITY  
CONSULTANT AT DEUTSCHE BANK

EU transnational projects

# Training professionals to address homophobia and racism

In 2001, the European Action Programme Against Discrimination issued a call for proposals for new project initiatives. The Ministry of Health, Social Affairs, Women and Family of North Rhine Westphalia, Germany decided to apply together with partner organisations in Germany, Austria, France, Italy and the Netherlands. The project was called *TRIANGLE: Transfer of Information on Discrimination against Gays and Lesbians in Europe* (cf. Newsletter # 3/01, p. 12).

European societies are increasingly multicultural. The integration of new populations and ideas, however, is difficult. Problems arise surrounding homosexuality, lifestyles, religion, and culture. These problems are most apparent in education and psychosocial care. Thus, *TRIANGLE* decided to focus on those two fields. The overall objective is to develop innovative models of good practice and effective, practical tools for professionals in form of a manual, used as a tool to combat discrim-

ination. The manual will present guidelines, methods and training material to equip professionals to address racism and homophobia in a professional way. The project addresses two aspects of discrimination: sexual orientation and ethnic origin and will focus on students and young adults as the end-beneficiaries of the project.

In order to develop a useful product, *TRIANGLE* conducted a needs analysis. In 2002, 377 teachers, youth workers and counsellors in Austria, Germany, Italy and the Netherlands were interviewed. It emerged that the main problem for teachers was that pupils were often hesitant or hostile toward homosexuality. Also, many faced parents' resistance to educating youngsters about homosexuality. Overwhelmingly, teachers and youth workers expressed a real need for practical methods and tools to address homophobia. 65% of the respondents wanted to know how to approach homosexuality in a classroom or in youth groups

while 53% needed advice on how to deal with homophobic attitudes in a classroom and 46% replied they did not know how to empower gay and lesbian pupils. The situation in the psychosocial health sector was similar. However,



the main problem encountered when counselling gays and lesbians seems to be the professionals' lack of confidence in their own knowledge about homosexuality in cultural-ethnic minority groups (91%). Furthermore, many respondents felt they needed more information about the coming-out process (61%).

More than anything else, counsellors expressed the wish for practical advice on how to address homosexuality in a counselling situation.

*TRIANGLE* hopes the manual will respond to these needs expressed by teachers, youth workers and counsellors. Condensing the knowledge and experience of many experts, the manual is a tool to identify what is behind this fear of the "other" as well as a practical resource to prevent or react to discrimination. It provides advice on how to encourage young people to reflect on their attitudes and includes information on how to apply antidiscrimination work in the most successful manner.

STEFAN TIMMERMANN  
TRIANGLE

**Web info:**  
[www.triangle-info.de](http://www.triangle-info.de)

The European Gay and Lesbian Sport Federation, EGLSF:

# Fighting discrimination in sport



The EGLSF was founded in 1989 in the Netherlands. It is a network of more than 100 gay and lesbian sport groups from 14 European countries, representing about 40,000 gay and lesbian athletes in Europe. EGLSF aims to fight discrimination in sport on grounds of sexual orientation and to stimulate the integration and emancipation of lesbians and gays in sport. It helps the exchange of information and the co-ordination of European sport groups and tournaments

and supports the founding of new gay/lesbian/bisexual/transgendered and mixed sport groups wherever possible.

Since 1992 the EGLSF has successfully hosted the *EuroGames*, a major LGBT sporting event that takes place in those years when there are no *Gay Games* at world level. This year the 8<sup>th</sup> *EuroGames* took place in Copenhagen, with more than 2,200 participants from all over Europe. Next year's *EuroGames* will be in Munich

and we expect at least 5,000 participants to take part in the 20 different disciplines represented. At global level, EGLSF acts as the European



**EuroGames Copenhagen, 2003**  
(Foto: Claudia Becker)

representation at the Federation of Gay Games and helps organising this 4-yearly event, the next of which will take place in Montreal, Canada, in 2006.

Another focus is the exchange of information on gay and lesbian sports in Europe. We publish a regular newsletter in addition to our webpage, which contains our member organisations' addresses and information on tournaments, the *EuroGames*, and any other relevant initiative.

## FARE brings together the following NGOs:

**Europe:** EGLSF

**Austria:** Vienna Institute for Development and Cooperation (VIDC)/Fairplay

**Germany:** Bündnis Aktiver Fußballfans e.V. (BAFF)

**UK:** Football Unites Racism Divides (FURD), Kick it Out (KIO), Show Racism The Red Card (SRTRC)

**Poland:** Never Again

**Italy:** Progetto Ultrà – UISP Emilia Romagna, Unione Italiana Sport per Tutti (UISP)

With its focus on outreach and visibility, EGLSF hopes to contribute to fight discrimination of LGBT people. In 2001 the EGLSF was granted NGO status by the Council of Europe. This helps us further monitor the position of European gays and lesbians in sport.

### Football Against Racism in Europe

Since 2002, EGLSF co-operates with other organisations in a European Anti-discrimination programme (FARE) that is supported by the EU. FARE brings together European NGOs fighting

discrimination in football and campaigns for the right of every individual to participate at all levels of football free of racism, discrimination and harassment, and to encourage national football associations, football governing bodies, clubs, fans and the media to combat racism and discrimination pro-actively. During the *EuroGames* this year, EGLSF organised a conference on discrimination and homophobia in sports across Europe in cooperation with FARE.

A professional Swedish football player and a handball player talked about their personal experience with homophobia in sports whilst University of Copenhagen researchers looked at the problem from an academic

perspective. Finally, Tony Banks, former UK Minister of Sports explored the possibilities to tackle the issues through the political route. The results of the conference will be available soon on the EGLSF webpage. There will be a follow up conference focussing on building bridges between regular sports and LGBT sports, to take place in Amsterdam on 5 - 7 March 2004. Details can be found on our webpage.

JOHAN VAN DER VEN  
EGLSF

### Web info:

[www.farenet.org](http://www.farenet.org)  
[www.gaysport.info](http://www.gaysport.info)

## COC project: enabling safety for LGB at school

# “Potten en flikkers de klas uit”

## *Dykes and Fags out of the class*

From 26 November to 31 December 2002, the Dutch lesbian and gay organisation COC, the youth magazine *Expreszo* and the *APS Centre for Homosexuality and Education* organised a survey of pupils and teachers on homosexuality and school. The study was spurred by the growing sense that schools were getting more intolerant toward homosexuality: schools are giving less permission to LGBT organisations for information sessions, pupils are complaining more about harassment and more and more teachers are keeping their sexual orientation a secret.

After four weeks with lots of publicity in newspapers, radio and television there were almost 500 responses. The results indicated that neither teachers nor students were aware how hard it is for students to come out at school. Pupils do not feel they get enough support from teachers and often felt threatened by other

pupils. Many complained of bullying, nasty jokes and physical and mental abuse due to their sexual orientation. In a large number of schools homosexuality was a taboo subject with lacking support from teachers and school boards. Pupils feel abandoned. Homosexual teachers feel isolated. The sad conclusion is that the approach still is: if we don't talk about it, it doesn't exist.

Yet, the survey clearly indicates that the only solution is to bring the issue out in the open so that gay, lesbian and bisexual students and teachers feel safe. Every school should have a protocol how to act in cases of discrimination, and every school should incorporate homosexuality as a theme in their education programme.

COC presented the survey

to government officials in August, who expressed disquiet at the unsafe climate for gay students and teachers in Dutch schools. Laws are one thing, but social acceptance is something completely different and often continues to be lacking.

JOS TOMAS  
COC NEDERLANDS



### Testimonials

**“I'm 15 years old and have known for about a year that I am a lesbian. But, apart from two people that I trust I have not told anyone at school. From all the nasty comments I hear, say, in the changing rooms, I would much rather not say anything. Plus I know that one girl was threatened because of her sexuality. This is my final year here so it is not worth saying anything. Maybe at my new school it will be better and I can be more open.”**

**“I never had problems with my school board or my colleagues. Still, in recent years, I have noticed more and more verbal aggression: people calling me nasty names behind my back and similar things. I don't mind being approached about my sexuality but in a respectful way. Still, there is no way I will crawl back into the closet.”**



# news clips

## Slovenia: Bill on Registered Partnership submitted

In Slovenia the process of legally recognising same-sex unions started in 1997, when the government appointed a working group tasked to draft a bill. The working group – thanks to the approval of former Minister for Family Affairs Anton Rop (now prime minister) – co-operated closely with representatives of the lesbian group *SKUC-LL* and of the gay group *SKUC-Magnus*.

The Bill on Same-Sex Partnership was completed in 1998; considering its legal consequences it was very weak, regulating only property rights between the partners and introducing the duty to support a socially weaker partner. However, this first attempt to legally recognise gay and lesbian partnerships in Slovenia failed: the bill was blocked until

2001. Then the negotiations between LGBT NGOs and the government were reopened, and a new bill – the Bill on Registered Partnerships – was drafted. Apart from adoption rights, the draft bill would grant gay and lesbian unions the same rights as married couples. Though unable to adopt as a couple, single individuals are allowed to adopt, which subsequently would enable gays and lesbians to do so. Yet, usually, the prospects of a single person being awarded a child for adoption are significantly lower, compared to heterosexual couples.

The Ministry for Family Affairs officially submitted the bill to the government for approval on 15 July 2003. The bill is expected to be presented to Parliament before the end of

2003. Research within the LGBT community indicated that there is a real demand for registered partnerships: in 2001, 74% of respondents said they would register their partnership if they could. In 2003, this number had increased to 77%. The main reasons in favour given were “confirmation of love”, “inheritance rights”, followed by “property rights”, “pension” and “social security rights”.

Yet, public opinion is still divided on the issue. The liberal media are largely in support, whilst the conservatives oppose it, for fear of Slovenia becoming a “European brothel”, as some put it.

TATJANA GREIF

## Italy: “One cautious step forward”

Following the Italian Parliament’s decision on 1 March 2002 to delegate the implementation of the EU Framework Directive 78/2000 to the government, the Italian Council of Ministers approved a decree, put forward by the Ministry of Equal Opportunities, on 3 July 2003. It was published in the official *Gazzette* on 13 August 2003 and is now law.

Consultation with NGOs and trade unions during the drafting process of the decree was rare despite NGOs’ explicit attempts to get involved. It seemed doubtful that Italy would manage to implement the two anti-discrimination directives in time, but Italy’s EU Presidency seems to have been an effective force in getting the government to act rapidly. Yet, though the implementation might have been on time, it was far from complete. A coalition of NGOs and gay-friendly MPs (the Parliament had consultative status only) managed to address some of these shortcomings before the decree became law. Whilst the original text for example spoke of “sexual tendencies” this has been changed to the more appropriate term “sexual orientation.”

Yet, in other areas, the text continues to be seriously flawed.

The most controversial point is Article 3.3, the exception clause defining under what circumstances discrimination would be allowed. It copies the original wording of the directive closely with regard to the type of exceptions permitted, yet fails to define what “genuine occupational requirements” would be, what constitutes a “legitimate aim” and what is “proportionate discrimination”. This undermines the purpose of the directive as it could extend “genuine occupational requirements” far beyond the original meaning of the directive. Furthermore, the same article allows for discrimination by the armed forces, the police, as well as prison and rescue services. The directive foresees that organisations with a legitimate interest may act legally on behalf of victims. Yet, the Italian decree seems to grant this right to trade unions only. Another serious shortcoming is the fact that the decree fails to establish a reversal in the burden of proof. Whilst the directive obliges the accused to prove that

no discrimination took place, the Italian decree requires the victim to establish that he/she was wronged. Though statistical data can be presented to the judge, it is at the judge’s discretion whether or not to make use of them.

What is important to note, though, is that for the first time, thanks to this decree, sexual orientation discrimination is explicitly banned in Italy. Moreover the definition of discrimination is comprehensive and judges have clear powers to ensure fast proceedings and effective penalties. The flaws notwithstanding, it is an important though cautious first step. Bearing in mind, however, what the decree could have been, the implementation of the Framework Directive is a disappointment not just from the point of view of LGBT groups but all NGOs dealing with any ground covered. Now is the time to co-operate across the different grounds of discrimination to ensure that the blurry and discriminatory provisions contained in the decree will not be applied.

RICCARDO GOTTARDI

## Vatican: Catholic church "out of touch" on same-sex partner debate

The Vatican's latest call for Catholic politicians and law-makers to oppose legal recognition of same-sex relationships shows that the established views of the Catholic church are out of touch with society. Just a week after the historic judgment of the European Court of Human Rights (*Karner v. Austria*), ruling that "protection of the family in the traditional sense" was not an adequate reason for discriminating against same-sex couples, the Vatican issued a 12-page rant against "immoral unions" and demanded that Catholic law-makers vote against any proposed legislation to recognise same-sex partnerships – despite the fact that a majority of EU states already have some form of legal recognition.

At a time when other religious groups struggle to agree a position on same-sex partnerships, the Vatican's interference in the field of social legislation is an affront to democracy and fundamental human rights. A recent survey (*EOS Gallup*) showed that nearly 60% of European citizens are in favour of legal recognition of homosexual partnerships. ILGA-Europe urges politicians to listen to the voice of the majority and not be influenced by an out-dated and distant church.

Dutch gay organisations hit back at the Vatican's campaign just two weeks later, with a guide aimed at activists around the world that explains how the Netherlands became the first country to legalise gay marriages. The 60-page booklet, published in Dutch and English, gives a historic overview of the 16-year lobbying process that eventually led the Dutch government to allow gays and lesbians to marry. It calls on gays all over the world to challenge discriminatory laws and fight for equal rights through the courts. Curiously, the manual is called "No gay marriage in the Netherlands" – because under Dutch law it is the same civil union as is entered into by heterosexual couples. There is no "special arrangement" for same-sex unions.

AS

## Germany: Conference on rainbow families to be held in Berlin

The German LGBT association LSVD is organising a conference on the situation of gay and lesbian families. It will take place on 11-12 October 2003 in Berlin. The focus is on both the social reality and the legal situation, primarily in Germany but also at EU level. For further information, see: [www.lsvd.de/family/index.html](http://www.lsvd.de/family/index.html).

BH

## England and Wales: Section 28 finally "nailed"

After years of campaigning the House of Lords finally repealed "Section 28" on 10 July 2003. Section 28 of the 1986 Local Government Act prohibited local authorities in Great Britain to "promote homosexuality" or portray it as "pretended family relationships". Though it applied only to local authorities, anti-gay organisations used it to prevent LGBT issues to be addressed in schools. It left teachers uncertain about what could or could not be said and done and whether they could intervene against homophobic bullying and abuse. Confusion also arose with regard to what legitimate services local authorities could render

to lesbian, gay and bisexual members of the community. Section 28 never applied to schools directly. On top of it, the Learning and Skills Act 2000 removed any local authority responsibility for sex education. Since then, Section 28 was overdue for repeal. In 2000 Scotland abolished the provision. "Say no to hate – Nail Section 28" was *Stonewall's* final campaign with an on-line petition and the wide distribution of postcards to call on the leaders of the three major political parties – and the effort proved successful in the end!

SW

## Europe: Study on attitudes to same-sex marriage and adoption rights

In June 2003 *EOS Gallup Europe* published a study on attitudes to homosexual marriage and child adoption in Europe. Approximately 15,000 people expressed their opinion on homosexual marriage and adoption rights. The results distinguish between attitudes in the EU now and after enlargement, and the study looks at differences by age, sex, education, occupation, religion, and political proximity.

Currently, almost 60% of the EU population are in favour of authorising homosexual marriage whilst only 39% expressed opposition. Even after enlargement, a slim majority across the EU, 53%, would be in favour of legal recognition

while 43% would be against. The countries most opposed to legal recognition were Cyprus (81%), Greece (80%) and Turkey (79%). With regard to adoption rights, the situation is slightly less positive: in the current EU 42% favour child adoption rights for homosexual couples, whilst 55% disagree. After enlargement the numbers change to 38% in favour of adoption rights, while 57% would be opposed to it.

For further details, see: [www.eosgallupeurope.com/homo/index.html](http://www.eosgallupeurope.com/homo/index.html).

BH

## Germany: Monument to homosexual Nazi victims proposed

On 2 July 2003 the ruling parties – Social Democrats and Greens – launched an appeal to the *Bundestag* to establish a memorial commemorating the homosexual victims of National Socialism.

Under the Nazi regime tens of thousands of men were condemned under "Paragraph 175" of the penal code which, in its version tightened by the Nazis in 1935, prohibited any male homosexual activity as well as any attempt to engage in such activity. Thousands were sent to concentration camps. Female homosexuality was not prosecuted under criminal law, but many lesbians were sent to concentration camps, accused of being "asocial", i. e. unwilling to integrate into society. Few victims survived. Those who escaped prosecution had to live a life of hiding and fear. After the establishment of the Federal Republic of Germany, the prosecution of homosexuals, however, was not over. The Nazi version of "Paragraph 175" remained in force until 1969,

and the Federal Nazi Victim Compensation Act ignored persecution based on homosexuality. After the war, some of the victims even had to face, in new criminal proceedings, the same judges and civil servants who had already sentenced them during the Nazi period.

The proposed memorial is a way of acknowledging the injustices homosexuals have suffered. It will also be dedicated to the struggle for the human rights of lesbians and gay men. The proposal is part of a plan to set up three separate monuments in Berlin, the other two commemorating the murdered Jews of Europe and the Sinti and Roma respectively. Having separate memorials is considered to be the best way to raise awareness of the specific history of each group. For further information and to express support for the proposal, visit: [www.gedenk-ort.lsvd.de](http://www.gedenk-ort.lsvd.de).

SW

## Middle East: Queerforpeace

Imagine a group of Italian LGBTs queuing for hours in front of a checkpoint in the Occupied Territories; imagine them entering Ramallah and heading for Hanan Ashrawi's office under the amused look of Israeli soldiers and Palestinians alike; imagine the same group commuting between Jerusalem and Ramallah, Tel Aviv and Bethlehem, connecting LGBT organisations in Israel with Palestinian NGOs and LGBT individuals in the Occupied Territories.

This may all sound like "Priscilla, Queen of the Desert", but it actually took place in June this year, as delegates of several Italian LGBT organisations visited the Middle East. The objective was to get a clearer picture of the situation of LGBT people, the attitudes of the LGBT community in Israel toward the occupation as well as the level of awareness of the Palestinian civil society regarding LGBT issues. Finally it was hoped to contribute to connecting the right people within the two communities. *Queerforpeace* grew out of the European Social Forum in Florence when several LGBT delegates decided to make their small contribution to solving the Israeli-Palestinian conflict. During the ten-day visit, the activists met various Israeli LGBT organisations including *Jerusalem Open House*, *Black Laundry* and *Agudah*. They also spoke to various Palestinian and Israeli politicians – a former minister of the Palestinian Authority, a former Knesset member, the head of the PA Health Department Information Project, a legal advisor to the PLO and others. The situation was



challenging: most Israeli LGBT organisations showed little opposition to the occupation of the Palestinian Territories (*Black Laundry* being the exception); most Palestinians are not particularly interested in LGBT rights. Still, there are positive steps: *Jerusalem Open House* is going to set up a hotline for Arab LGBT people, also open to Palestinians. No doubt, it will take many more such tentative moves before the situation eases, one might be to recognise the rights of LGBT people in the future constitution of Palestine. And if this proves too difficult due to religious and cultural taboos, there is nothing that should prevent a future Palestinian state from signing the European Convention on Human Rights, thus making room for a future development in the right direction.

For more information, visit [www.queerforpeace.org](http://www.queerforpeace.org). For an engaging article by Jewish lesbian anti-occupation activist Charity Crouse see: [www.greview.com/10.3\\_Crouse.html](http://www.greview.com/10.3_Crouse.html).

RENATO SABBADINI

## France: Summer University of Homosexualities

The Euro-Mediterranean Summer University of Homosexualities (UEEH) was created in 1979. Every two years in the summer around 500 gays and lesbians would gather in Marseilles for a week of debates, conferences, culture and exchange. Because of the AIDS crisis, the summer university did not take place between 1987 and 1999. Since then it has been organised annually.

This year an informal symposium was held instead of the full conference. The objective was to think about how best to use the summer university. Kürsad Kahramanoglu, Secretary-General of ILGA, participated along with 100 other participants. At the symposium, UEEH decided to strengthen its international component, partly through ILGA membership, partly through a focus in its project work.

Ideas included supporting LGBT NGOs in Turkey, focussing on European issues such as asylum and free movement or adoption rights. UEEH strives to be more European in nature and hopes to strengthen its co-operation not just with ILGA but also with national LGBT organisations from all across Europe, the Mediterranean and North Africa. Furthermore, UEEH hopes to develop a broader perspective on social issues, look at the role of men and women in the LGBT movement and finally increase diversity in general.

The next preparatory meeting will take place in Avignon 11-12 October 2003. For further information see: [www.ueeh.org](http://www.ueeh.org).

ROBERT SIMON

## England and Wales: Proposed legislation on same-sex partnerships

In June 2003 the government published a proposal for a scheme under which same-sex couples in England and Wales would be able to register their partnerships. The proposal includes a bundle of rights such as income-related benefits, state pension benefits, parental responsibility for each other's children, recognition for immigration purposes, tenancy succession rights, claim of survivor pension, recognition under inheritance and intestacy rules. The consultation process on the government's proposal titled "Civil partnership, a framework for the legal recognition of same-sex couples" closes on 30 September. Jacqui Smith MP, Minister for Equality, stated that "the civil partnership registration would show that we really respect the diversity of the society we live in".

For further information on the proposal and for *Stonewall's* view, please see: [www.stonewall.org.uk](http://www.stonewall.org.uk).

SW

## France: Senate publishes international study on gay parenting

After lobbying from *Inter-LGBT* and *APGL*, two LGBT associations, the French Senate published, in 2002, a comparative study on legal issues concerning lesbian and gay parents. The 24-page report examines the policies of 7 European countries regarding parental authority, adoption and medical assistance to procreation. The following issues are addressed specifically: the rights of same-sex couples to adopt, the right of a same-sex partner to adopt his/her partner's child(ren), the possibility to share parental responsibility, access to medical assistance for procreation purposes for lesbian couples. Since the publication of the report, Sweden, England and Wales have authorised adoption by same-sex couples. In France, a law was passed in March 2002 allowing shared parental authority if deemed necessary by a judge. For further information see: [www.apgl.asso.fr](http://www.apgl.asso.fr) [www.senat.fr/lc/lc100/lc100.html](http://www.senat.fr/lc/lc100/lc100.html).

RS

# 25<sup>th</sup> ILGA European Conference



15<sup>th</sup> / 19<sup>th</sup> October 2003  
Quality Hotel, Gordon St., Glasgow

Plans for the 25th ILGA European conference in Glasgow are well advanced, and we can confirm that this will be the biggest yet! With more workshops than before, a wider range of issues of concern to our audience, and plenty of opportunity to get involved in the discussions, this is YOUR chance to make a difference.

The conference theme is “Policy into Practice – making LGBT Equality happen”, and this will be explored in a number of ways. The conference will appeal to policy makers, academics, lawyers, government and public service workers, as well as LGBT activists.

In addition, a programme of social events will help you to understand why Glasgow



has been European City of Culture, and remains one of Europe's great tourist destinations.

**ALL THIS for LESS COST than last year!**  
The delegate fee in standard accommodation is actually less than for our 2002 conference, even though we have a city centre location and a conference venue with space for more than 200 participants. Combined

with the fact that Glasgow has budget flight connections to many European cities, makes this great value – **SO BOOK NOW!**

Full details for registration can be found on our website [www.ilga-europe.org](http://www.ilga-europe.org) and a brochure describing the conference is inserted in this newsletter.

#### REMINDER

The conference will select a new Executive Board, and the venue for our conference in 2005. Details of procedures are included in the conference mailing and on the website, but if you need help with a bid, or advice on any procedural matter, please contact the office on [info@ilga-europe.org](mailto:info@ilga-europe.org)