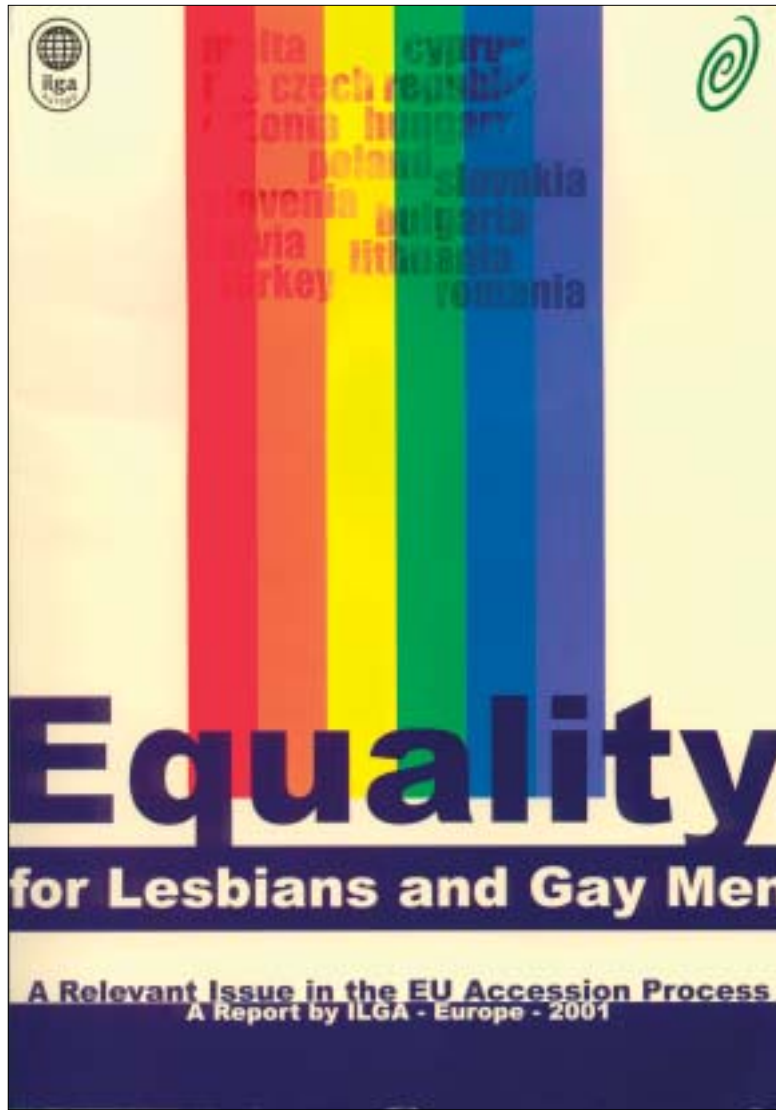




Photo: Marcel Antonisse/ANP/BELGA



New Report

Three years after the publication of the report *Equality for Lesbians and Gay Men: A Relevant Issue in the Civil and Social Dialogue* on the situation of lesbians and gay men in the EU member states, ILGA-Europe has now published a new report on the situation of lesbians and gay men in the candidate countries. It is part of the project "Lesbian and Gay People in Candidate Countries to EU Membership" which receives financial sup-

port from the *Open Society Institute* (Budapest).

All 13 accession countries are represented with individual reports. A further chapter presents the European Union's legislation and policies that are relevant to the rights of lesbians and gays in the accession countries.

This report is a response to the lack of accurate information about the sta-

tus of lesbian and gay citizens in these countries. In filling this gap, it provides a concrete step towards the identification of areas in need of reform, and points to the strategies available for improving the situation of lesbian women, gay men, bisexuals and transgendered (LGBT) people in the accession countries.

Order it now from the ILGA-Europe office.



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Editorial

New millennium, new
resources, new opportunities

As from December 2000, ILGA-Europe is receiving core funding under the European Commission programme "Support for the co-ordination activities of organisations operating at European level and active in fighting discrimination". This breakthrough offers many opportunities. The establishment of an office in Brussels and the hiring of two paid staff members bring new resources for ILGA-Europe and will also benefit the people and organisations working at the national level to push back boundaries of discrimination. The current contract will expire at the end of November 2001, but the European Union's Community action programme to combat discrimination (2001-2006), adopted last November, will provide for core funding possibilities for ILGA-Europe beyond that date.

Part of the contract with the Commission is the publication of a quarterly newsletter. You are holding the first issue in your hands. Our intentions with this newsletter are to inform the lesbian, gay, bisexual and transgender communities in Europe about European issues, about our work and lobbying activities in order to raise awareness for these issues as they have direct implications and repercussions at the national level. We want to reach out not only to our member organisations but also to the many local and regional groups and organisations that are not directly affiliated with ILGA. But we also want to inform our interlocutors in the European institutions and the EU member states as well as the NGO community both at the European and national levels about the relevant issues on our agenda. The newsletter is also intended to report about important developments in the European countries.

We would like to invite you to feedback to us, send us appropriate contributions for the future issues, help completing our mailing list by sending us the names and addresses of people, groups, institutions, etc. in the various countries which you deem expedient to receive the newsletter. And please, confirm that you are interested in receiving the newsletter in the future.

We also accept commercial advertisements, see the back of this issue. If you are interested, please, contact the office for further information.

THE EXECUTIVE BOARD

The ILGA-Europe Newsletter

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of ILGA-Europe

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Avenue de Tervueren/Tervurenlaan 94, Brussels

The new ILGA-Europe office

We are proud to present the newly established ILGA-Europe office, which has taken much hard work to get up and running, and is still in the starting phase.

We would now like to take the



Mette Vadstrup and Olivier Collet in the new office

opportunity of introducing ourselves, the first staff of ILGA-Europe: Olivier Collet, administra-

tive officer, and Mette Vadstrup, information officer.

Readers of the newsletter are encouraged to contact the office team for any information about ILGA-Europe

Mette is Danish and has previously dealt with European affairs and politics in the European Parliament and at the College of Europe, Bruges. She has also worked with human rights issues at the Danish Refugee Council and the Danish UN Association.

Olivier is Belgian and very active in different local organisations, mostly

the French-speaking federation of gay and lesbian associations

(*FAGL*), the gay student group of Brussels (*CHE*) and the green party gay group (*ECOLO nous prend homo*). He is currently working part-time for ILGA-Europe and part-time for the City of Brussels, where he has responsibility for the Equal Opportunities Policy.

We look forward to strengthening and expanding our co-operation

with the NGO community, the European institutions and the European Parliament Intergroup on Gay and Lesbian Rights. Additionally we are here to inform and update members of ILGA-Europe on current activities at the European level and to provide the LGBT network across Europe with information and contacts for their own activities.

We therefore strongly encourage readers of the newsletter to contact us if you want more information about ILGA-Europe or our activities, and to come forward with ideas for ILGA-Europe's work which we can explore further or bring to the attention of our networks.

We look forward to hearing from you

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Official opening

The official opening of the office will take place on Wednesday, 27 June, 7 p. m. This day was chosen because the 27 of June is a historic date that marks the *Stonewall* riots in New York City's

Christopher Street in 1969 and is considered to be one of the birth dates of the modern lesbian and gay movement.

We expect members of the European Parlia-

ment, representatives of the European Commission, friends from the NGO community and of course many LGBT people to participate in this opening party. Please, inform the office if you intend to come.

Ups and downs in 2001

ILGA-Europe's financial situation

The last few months have seen some dramatic ups and downs for ILGA-Europe's finances.

Early in the year the European Commission published detailed information about its Community Action Programme to combat discrimination. This confirmed that the Union is willing to finance up to 90% of the running costs of a European network fighting sexual orientation discrimination over the period 2001-2006. In practice, this means ILGA-Europe, since it is the only general-purpose network operating at European level. Fantastic news!

But then came the "downer". At a meeting at the end of February between Commission officials and representatives of the networks to be funded under these provisions,



it was made clear that we would have to prove that we were able to fund our 10% contribution (totalling € 25,000) before any contract with the Commission would be finalised. Since ILGA-Europe has no regular income, this meant finding donors for the majority of this money in a couple of months!

Confronted with the possibility that we would lose our 90% core

funding if we did not quickly raise € 25,000, the ILGA-Europe board began urgently approaching numerous potential donors across Europe. Thanks to a magnificent

ILGA-Europe has to build up a stable income to avoid emergencies in the future

response from a number of organisations and individuals, it looks very likely that we will avert the immediate crisis. We are still in discussion with a number of donors, and cannot therefore give all the details. However, firm offers of financial support have been received from the UK's *Stonewall Group* (€ 10,000), Germany's *Homosexuelle Selbsthilfe e.V.* (€ 5,113), Switzerland's *Dialogai*, Belgium's *FWH* (€ 1,000). Monika Wienbeck, working with a group of supporters in Berlin, has also raised

a substantial sum. We have made an application for a grant to the Berlin-based *Heinrich Böll Foundation*, and are optimistic that this too will make a significant contri-

bution. Switzerland's *Pink Cross* is also considering making a donation.

We thank most warmly all those who are contributing so generously, and all the many individuals who have played an energetic role in approaching possible donors.

Our experiences of the last couple of months have highlighted the need for ILGA-Europe to avoid such emergencies in the future by building up a stable income. We

will be working on a strategy in the coming months, but this is likely to centre on developing a group of supporting organisations and individuals – perhaps called “Friends of ILGA-Europe” – to give money on a regular basis year by year. Of course, our members already contribute regularly through their annual membership fee. However this does not benefit ILGA-Europe

since this income is retained by ILGA-World, which has insufficient income for its own needs. Moreover, many of its member organisations outside Europe and North America cannot afford membership subscriptions and are therefore subsidised. Europe is by far the largest source of membership income for ILGA-World.

As a first step in giving ILGA-Europe long-term financial stability, we ask readers to begin thinking about whether they or their organisation could help ILGA-Europe through making regular supporting donations. We will come forward with detailed proposals in the next few months. We hope you agree that, with 90% core funding, and with the extraordinary opportuni-

ties outlined elsewhere in this newsletter for working to end discrimination against LGBT people right across Europe, the additional € 25,000 needed to finance ILGA-Europe each year is extraordinarily good value for money!

NIGEL WARNER
Treasurer of ILGA-Europe

Adopted at ILGA-Europe’s Annual Conference in Bucharest

The current work programme

At last year’s Annual Conference in Bucharest ILGA-Europe established a thorough and detailed work programme, aimed at maximising the benefits for Europe’s lesbian, gay, bisexual and transgendered communities of the EU’s anti-discrimination programme and policies. Here are some of the more significant items:

Maximising the benefits of the Community Action Programme to combat discrimination

Under this Programme (see also article on p. 11), the European Union will spend some € 100 million over six years to combat discrimination on the grounds of race, religion, age, disability and sexual orientation. The Commission needs support and advice from our community in implementing the aspects of this massive programme which relate to our rights. Without these, there is a real possibility that sexual orientation discrimination will not feature adequately in the specific projects which are financed.

Ensuring proper implementation of the Framework Directive

This Directive, adopted last year by the European Union,¹ obliges all member states to introduce laws banning employment discrimination based on sexual orientation over the next three years. The 13 countries applying for membership of the Union will also be obliged to introduce similar legislation.



Part of the ILGA-Europe board: Tatjana Greif (SLO), Nico Beger (D), Jackie Lewis (GB), Kurt Krickler (A), Isabelle Cruette (F), Pierre Noël (B); “missing” members: Adrian Coman (RO), Alessio de Giorgi (I), Nigel Warner (GB)

Because it affects up to 28 countries, the Employment Directive is probably the most important single legislative advance in the history of our movement world-wide. ILGA-Europe will be providing advice to its member organisations in member states and in the applicant

The work programme is aimed at maximising the benefits for Europe’s lesbians, gays and transgenders

countries on ensuring that the Directive is fully implemented at the national level.

Working for the introduction of measures to prevent discrimination in such areas as the supply of goods and services, health and education

ILGA-Europe wishes to see the Framework Directive supplemented by a further directive, which would ban discrimination in areas other than employment.

Removing discrimination in the rules for the free movement of workers

The EU’s powers in this area are particularly important when it comes to the recognition for immigration purposes of same-sex couples. ILGA-Europe is preparing

research, and will be lobbying actively for the inclusion of same-sex couples under the EU’s rules in this area.

Recognition of lesbian and gay refugees in the definition of asylum

The EU is currently working towards a common approach to asylum and refugees. ILGA-Europe will be seeking to persuade the EU that individuals persecuted on the grounds of their sexual orientation or gender identity be included in the common definition of refugee status.

Using the EU enlargement process to fight discrimination in the accession countries

The EU requires that countries wishing to join the Union observe certain human rights standards. The EU’s policy of opposing sexual orientation discrimination provides a strong lever for pressurising governments in accession countries to abolish discriminatory laws and practices. ILGA-Europe is researching the extent of discrimination, and will lobby the Commission and the European Parliament to take a strong stand on this issue (see also page 6).

Using the EU’s development agreements to fight discrimination in countries outside the Union

The EU has development agreements with many countries in Africa, Latin America, Asia, Eastern Europe and the Middle East. These usually have a clause requiring observance of certain human rights standards. ILGA-Europe will research discrimination in these countries, and lobby the Commission to take a stand on sexual orientation discrimination in its negotiations with these countries.

¹ Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, adopted 27 November 2000, OJ L 303/16 of 2 December 2000.

ILGA-Europe's work programme:

Focus on EU enlargement

The next few years will see a historic transformation of the European Union, with more and more countries from Central, Eastern, and Southern Europe joining the Union. Some 13 countries have applied to join. A first wave, consisting of Cyprus, the Czech Republic, Estonia, Hungary, Malta, Slovenia and Poland, is set to join the Union in the next three or four years, while a second wave, consisting of Bulgaria, Latvia, Lithuania, Romania, Slovakia, and Turkey could join in five or ten years time.

The accession process provides Europe's LGBT community with a potentially powerful mechanism

The process by which applicants are prepared for membership of the European Union presents exciting opportunities for fighting sexual orientation discrimination in these countries. In particular, candidates are required

- to implement existing EU laws (which include protection from sexual orientation discrimination in the field of employment, under the terms of the recently adopted Framework Directive)

- to respect the principles of "liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law".¹ "Respect for human rights and fun-

pared by the European Parliament, and, for the Commission, by the EU Enlargement Directorate.

Ultimately, the candidate countries will have to convince the European Parliament, each of the national parliaments of the member states, and the Council of Ministers, that they have met these conditions. Responding to an initiative from ILGA-Europe, the European Parliament has already passed a resolution in September 1998, stating that it would not give its consent to the accession of any country that

"through its legislation or policies violates the human rights of lesbians and gay men".² This position was confirmed by the current Parliament elected in June 1999.³

This process of assessing progress towards meeting the membership conditions, and the fact that agreement to membership is required by so many parties, provide Europe's LGBT community with a potentially powerful mechanism for bringing about change in the accession countries, particularly with regard to those which still have discriminatory criminal laws: Bulgaria, Cyprus, Estonia, Hungary, Romania, or

Social Platform adopts statement

On 27 April 2001, the Steering Group of the Platform of European Social NGOs adopted the Platform's State-

ment on Enlargement. The full text is available in English and French at www.socialplatform.org -

the enlargement section is a sub-heading of the "campaigns" menu.

damental freedoms" is not defined, but can be taken, as a minimum, to mean compliance with the European Convention on Human Rights and its jurisprudence.

The extent to which candidate countries meet these conditions is measured each year in reports pre-

pared by the European Parliament, and, for the Commission, by the EU Enlargement Directorate. Other areas of state-imposed discrimination, such as employment discrimination in the armed forces (Turkey).

However, in order to convince the various decision-makers to listen to our arguments, we have to persuade them that sexual orientation dis-

Parliamentary Question to the Belgian Foreign Minister

On 3 May 2001, Zoé Genot, member of the Belgian Parliament for the Green Party (ECOLOGALEV), posed an oral question in Parliament to Foreign Minister Louis Michel, soon president of the European Council when Belgium will take over the EU Presidency on 1 July. Pointing out that the laws of six of the accession countries provide for discriminatory provisions against lesbians and gay men violating their human rights, she wanted to know whether Michel already had the opportunity to look at this problematic situation and whether it is intended to address it in the negotiation process. Genot, who had received background information from ILGA-Europe, also emphasised that it will be more diffi-

cult to remedy this unacceptable situation once these countries would be members of the Union.

Michel's reply was rather disappointing. He avoided answering this question and referred only to the "employment directive" (see articles on p. 5 and p. 9) which was part of the *acquis communautaire* and therefore would have to be implemented before accession by all candidate countries. Belgium would monitor this implementation.

Commissioner Verheugen more explicit

When asked a similar question by Adrian Coman, executive director of the Romanian gay and lesbian organisation ACCEPT and member of

the ILGA-Europe board, in a meeting with representatives of the Romanian civil society and the business sector in Timișoara on 27 April, Enlargement commissioner Günter Verheugen clearly stated that the issue of sexual orientation discrimination was on the agenda of the negotiations with the Romanian Government. He expressed his firm hope that the Romanian Parliament would finally repeal Article 200 of the penal code discriminating against lesbians and gays in various ways. He repeated, thus, a similar statement given on 12 March on behalf of the Commission in reply to a written question (E-4142/00) by Dutch MEP Lousewies van der Laan (European Liberal, Democrat and Reform Party, ELDR).

crimination is serious enough to deserve attention in the massively complex process of expanding the European Union. To this end, ILGA-Europe and its member organisations in the accession countries have been working on two projects:

The first involves a book surveying the situation of the LGBT community in each of the accession countries. This book, which was financed by the *Open Society Institute*, was published in March 2001 under the title "Equality for Lesbians and Gay Men: A Relevant Issue in the EU Accession Process" (see also p. 2).

The second, also financed by the

Open Society Institute, involves carrying out detailed research into the extent of discrimination in four accession countries, Hungary, Poland, Romania and Slovenia.⁴ To date almost no such detailed research has been carried out in the accession countries. But such research is essential if sexual orientation discrimination is to be taken seriously in the accession process.

This latter project is being worked on at the moment, to an extremely tight timetable. Our objective is to have the reports on the four countries completed in June 2001, in time to be considered by the EU Enlargement Directorate, as it prepares its annual reports on the accession countries, and by the European Parliament, where there is to be a hearing on this issue on 28 June (see page 18).

¹ Article 49 TEU

² Urgency Resolution on equal rights for gays and lesbians in the European Community; adopted 17 September 1998, par. J, B4-0824 & 0852/98, PE 272.005/79.

³ Par. 76, European Parliament resolution on respect for human rights in the European Union (1998-1999), EP Doc. A5-0050/

2000, OJ C 377/344, 29.12.2000; see also: European Parliament resolution on the Annual Report on International Human Rights and European Union Human Rights Policy, 1999, EP Doc. A5-0060/2000, OJ C 377/344, 29.12.2000, par. 28.

⁴ For an example of such incidents of discrimination see page 16.

Joint Project with UNITED and Mobility International completed

Stepping Stones and Roadblocks



Participants of the ILGA-Europe seminar in Vienna, June 2000

Stepping Stones and Roadblocks is the title of a joint project of *UNITED for Intercultural Action*, which was the lead organisation, *Mobility International* and ILGA-Europe that was recently completed. UNITED is a European network against nationalism, fascism, and in support of migrants and refugees, MI is a federation of organisations working for equal opportunities for people with disabilities.

The project received funding (€ 154,000) from the European Commission under the call for proposals VP/99/016, "preparatory measures aimed at combating and preventing discrimination in accordance with Article 13 of the Treaty". It started in December 1999 and was completed in March 2001. Although co-operation between the three movements was not entirely new, it was the first time that these three European-wide networks worked together on such scale.

The co-operation brought together activists from three different backgrounds to combine and share their experience on a very practical level. The project included three seminars, each led by one of the networks, and took place in the first half of 2000. ILGA-Europe's one – "Combating sexual orientation discrimination" – was held in Vienna from 21 to 25 June 2000.

An 8-page report of each of the seminars and a final project report have been produced in English, French and German (see page 19) and can

be ordered in printed form from the ILGA-Europe office or downloaded from the web-site of UNITED (www.united.non-profit.nl). There is also link from ILGA-Europe's web-site. A more extensive report on the Vienna seminar has also been produced. This one, however, is only available in electronic format and in English ([at: www.ilga-europe.org](mailto:at:www.ilga-europe.org)).

The project also allowed intensive discussion about similarities and differences between the three movements, on multiple discrimination as well as on discrimination

within each of the movements. It offered opportunities to take a closer look at the diversity within the three movements including the differences of age, religion and belief, ethnicity, sexuality, gender, disability and other factors.

Some of the key areas highlighted in the project were equality of justice, employment, housing, health, education, and families.

The project was carried out during a period of exciting developments in the European Union related to fundamental rights, social policy and enlargement, including the adoption of two Article 13 directives, the

ILGA-Europe feels that the co-operation with Mobility and UNITED has been an exciting experience

action programme against discrimination and the Charter of Fundamental Rights of the EU.

A detailed list of proposals and recommendations to improve our working methods has been formulated and included in the final report.

ILGA-Europe feels that the co-operation with Mobility and UNITED has been an exciting experience, and we would definitely encourage our member organisations to seek similar co-operation with other networks and movements at the national and local level. Multiple discrimination is certainly an issue that needs to be addressed, as is xenophobia and racism or discrimination against people with disabilities within the gay and lesbian community. Working together with other networks will also address and help fight homophobia that certainly also exists among people with disabilities or groups of different ethnic background.

Working together can also mean that common goals can be achieved more easily. Homophobia and xenophobia, racism and sexism are siblings – we need to fight them all together.

KURT KRICKLER

ILGA-Europe partner in anti-discrimination project

ILGA-Europe will participate as expert in the SOLIDAR project *Non-discriminatory access to services provided by the voluntary sector: Promoting best practice*. SOLIDAR is an independent alliance of social welfare, life-long learning, development and humanitarian aid NGOs, the project is concerned with assessing the anti-discrimination practice of four of its members: *Arbeiterwohlfahrt-Bundesverband* (Germany), *Volkshilfe Österreich* (Austria), *Lega Provinciale Cooperative Bolzano* (Italy), and the *Ligue française de l'enseignement et de l'éducation permanente* (France). Together with ENAR, the European Network Against Racism, Eurolink Age, and UNISON, the public sector union from Great Britain,

ILGA-Europe provides expert knowledge on the discrimination grounds covered in Article 13 EC. The project receives European Commission funding under the call for proposals VP/2000/013, "preparatory measures aimed at combating and preventing discrimination in accordance with Article 13 of the Treaty".

A first steering group meeting in Brussels in January 2001 developed the concrete proceedings of this project. Each of the SOLIDAR members prepares a seminar for its employees at which the experts will offer workshops and advice for the organisations' aims in anti-discrimination. It was decided that the focus would rest on assessing a few examples of the publi-

cations and flyers through which they present themselves and to further look at their employment practices. Since the time frames are short, these two areas were chosen to make the input concrete and provide a good starting point into a very crucial area of work and services. ILGA-Europe will focus on sexual orientation discrimination and on transgender issues with the aim to break certainties about what "normal" people are and whether certain information and questions (e. g. on application forms) are accessible or necessary.

ILGA-Europe particularly emphasises an assessment of employment practices of each organisation as a pre-condition

of successful anti-discrimination in the access to services. SOLIDAR will facilitate a guide of best practice as a result of the four seminars, which will be published in several languages. Information on ILGA-Europe's input into this project can be obtained from the ILGA-Europe representatives in this project, Jackie Lewis and Nico J. Beger, via the ILGA-Europe office or from the SOLIDAR web-site www.solidar.org

Jackie Lewis attended the first seminar held in Bolzano, Italy, on 7 May, the next seminar, organised by *Volkshilfe*, is scheduled to take place in Vienna on 25 June.

NICO J. BEGER

recent activities

Meeting with Swedish EU Presidency

On 22 March 2001, ILGA-Europe co-chairs Jackie Lewis and Kurt Krickler met in Stockholm with ambassador Catherine von Heidenstam of the Swedish ministry for foreign affairs' division for international law and human rights to discuss relevant matters and concerns including the implementation of Article 13, enlargement, and human rights violations against lesbians and gay men in the member states, in particular in Austria. The co-chairs also stressed that human rights clauses in agreements between the Union and third countries must also take into consideration the situation of LGBT people in these countries. ILGA-Europe also regretted that the annual EU human

rights reports prepared by the Council in November each year since 1999, do not adequately address human rights violations against lesbians and gay men in member states and requested an improvement in this respect in the 2001 report. The meeting lasted one and a half hour and gave the opportunity for a thorough briefing on the various issues.

Meetings between ILGA-Europe and representatives of the EU Presidency have become a tradition that started in 1998 with the Austrian presidency. Since then meetings in Bonn, Helsinki, Lisbon, and Paris took place with representatives of the various presidencies.

Annual EP human rights reports

As in previous years, ILGA-Europe contacted the European Parliament rapporteurs drafting the annual reports and resolutions on the respect for human rights in the European Union and in the world and gave input on the situation of lesbians and gays. ILGA-Europe again requested that this situation be addressed adequately in the

reports and resolutions, as was done in the past years. The rapporteur on respect for human rights in the EU in 2000 is French MEP Thierry Cornillet (European People's Party), while the rapporteur on human rights in the world is Finnish MEP Matti Wuori (Greens). The reports and resolutions will be up for vote in the plenary in July 2001.

Hearing in the European Parliament on Fundamental Rights

On 21 March 2001 the European Parliament held a hearing on "the situation of Fundamental Rights in the European Union and the establishment of the European area of freedom, security and justice". The hearing was organised by the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and is an annual event to which members of the national parliaments in the member states and accession countries are invited.

The first part of the hearing dealt with the situation of human rights in the European Union. With the recently adopted Charter of Funda-

mental Rights as a reference, the Parliament bases its analysis of the human rights situation in the EU on the rights set out in the Charter. The Charter contains several articles of relevance for lesbians and gay men and is an important, though legally non-binding instrument that prohibits discrimination, inter alia, on the grounds of sexual orientation.

The second part of the hearing focused on certain aspects of the creation of a "European area of freedom, security and justice" which the EU governments have committed themselves to establish by 1 May 2004. EU legislation on justice and

home affairs (JHA) deals with these complex issues of security, rights and freedom, which are at the core of the European citizenship. They touch on some sensitive issues such as asylum and immigration, which it has become increasingly important to deal with on a European level (for more information see: <http://www.europa.eu.int/comm/>

[dg10/publications/brochures/move/douane/justice/bibli_en.html](http://www.europa.eu.int/comm/dg10/publications/brochures/move/douane/justice/bibli_en.html).

ILGA-Europe was represented at the hearing by information officer Mette Vadstrup and distributed a 15-page written contribution (a copy can be obtained from the ILGA-Europe office or be downloaded at www.ilga-europe.org).

Social Platform founded as an association

The Platform of European Social NGOs, which was established in 1995 as a loose network of European federations working in various social fields, has now become an association under Belgian law. ILGA-Europe has been a member of the Platform since March 1998. This membership has turned out to be of great importance for its work in Brussels. ILGA-Europe has been an active member of the Platform since, participating on a regular basis in Platform meetings and conferences, in particular in its working groups on social policy/anti-discrimination and more recently on enlargement. The Platform also holds bi-annual meetings with both the European Commission and the European Trade Union Association (ETUC), in which again ILGA-Europe participates regularly. The most recent such meetings took place on 27 February and on 9

March respectively. As a member of the Platform, ILGA-Europe is also often invited to attend conferences organised by the Commission such as a recent one on "Social and Labour Market Policies: Investing in Quality", held in Brussels on 22 and 23 February.

ILGA-Europe consequently became a founding member of the new Social Platform association when it held its founding general assembly in Stockholm on 21 March. On this occasion, the Platform also arranged a one-day NGO conference, "Forward Europe", on 22 March in which social affairs commissioner Anna Diamantopoulou and Swedish social affairs minister Ingela Thalén participated. The Platform of European Social NGOs has now 37 members. For more information see its web-site at: www.socialplatform.org.

ILGA-Europe signs AIDS appeal

On 5 March 2001 over forty of the world's largest pharmaceutical companies took the South African Government to court to fight a law that was passed by the South African parliament. It allows life-saving medicines to be imported from countries where they are cheaper. The companies claimed that the law infringes intellectual property rights. In February ILGA-Europe signed up to an international appeal in support of the South African Government. The powerful international campaign turned out successfully as the companies withdrew their action and agreed to a settlement with the SA Government out of court.

"Towards an EU Asylum Policy?"

On 21 February 2001 the Stagiaire Committee of the European Commission held a conference in Brussels to inform about the latest developments in EU asylum policy. The Tampere European Council of October 1999 had agreed on the guidelines for the creation of a "Common European Asylum System" based on the application of the Geneva Refugee Convention and other international human rights standards. Mette Vadstrup and Kurt Krickler participated in this event, which shed light on the future prospects for a common EU asylum policy.

Looking back over the last 20 years

Breakthrough in Europe

Hardly anyone seems to have noticed! But it's for real. In the last four years lesbian, gay and bisexual rights have made giant strides at the European level.

1997 was the breakthrough year. Before then, nearly 20 years of campaigning had yielded only one – albeit immensely important – victory at the European Court of Human Rights, and a handful of symbolic declarations by the Parliamentary Assembly of the Council of Europe and the European Parliament. Europe's two great institutions, the European Union and the Council of Europe, kept us outside the door: we were the one social group in respect of which many European governments openly and unapologetically ignored their obligation to recognise that “all human beings are born free and equal in dignity and rights”.

So what's been happening? To understand the magnitude of the breakthrough, we have to look back over the last 20 years.

At the Council of Europe, 1981 was a historic year. The Parliamentary Assembly made a declaration opposing discrimination against homosexuals¹ – the first by any international representative body. And there was the first victory at the European Court of Human Rights.² The latter was particularly important. For the previous 30 years, so far as rulings under the European Convention were concerned, it had been just fine for governments to criminalise and lock up homosexuals who engaged in sex. Then, in 1981, Jeff Dudgeon, one of the founders of ILGA, persuaded the Court to change this position, when he challenged the

UK government's complete ban on sex between men in Northern Ireland. Jeff's victory was of immense importance for all the other coun-

After nearly 20 years of campaigning 1997 finally became the important breakthrough year

tries in Europe which still banned same-sex sex. But it was a limited victory: the Court did not go beyond finding that a total ban was a violation of the Convention – lesser forms of discrimination were still permissible. And, despite



Jeff Dudgeon, co-founder of ILGA, persuaded the European Court of Human Rights to change its position on gay rights issues in 1981

numerous test cases challenging discrimination in such areas as the age of consent, privacy, the armed forces, succession rights in public housing, there was to be no further progress for 16 long years. Moreover, the Council of Europe's denial of equal rights for lesbians, gays and bisexuals was not just limited to the Court: in 1990, ILGA was refused consultative status. There could have been no clearer indication that Europe's main governmental human rights organisation did not count lesbian, gay and bisexual rights as full human rights.

The breakthrough at the Council of Europe came in 1997, when the European Commission on Human Rights concluded that the UK's dis-

criminatory age of consent law³ violated the Convention. This has been followed by three judgements of the Court, in which a ban on lesbians and gays serving in the armed forces,⁴ discrimination in custody rights,⁵ and discriminatory

privacy laws,⁶ were all ruled to be in violation of the Convention. The first two of these three cases were particularly important, extending

It was difficult for some to imagine that Article 13 would be more than just a gesture

the Court's judgements against sexual orientation discrimination to the areas of employment and parenting, and placing sexual orientation discrimination on the same level as racial and religious discrimination. Particularly remarkable was the Court's main argument in the custody case. It noted

that the gay father's denial of access to his daughter was based on his sexual orientation, and ruled that this was “a distinction which cannot be tolerated under the Convention”. With those few words, the Court made it clear – without any reservations – that to discriminate on the basis of sexual orientation was a violation of fundamental rights. It had taken 50 years of challenges by individual lesbian, gay and bisexual people against oppressive governments to achieve this historic breakthrough.

Recent developments at the European Union have been just as striking. The 15 years or so up to 1997 saw declarations in support of lesbian and gay rights by the European Parliament in 1984⁷ and 1994,⁸ and an attempt in 1989 by the European Parliament to include discrimination on the grounds of “sexual preference” in the European Community Social Charter. Also, following a meeting between ILGA and the then Commissioner for Social Affairs in 1990, Ms Vasso Papandreou, the Commission began funding a number of projects in support of lesbians, gays and bisexuals. All these developments were essentially symbolic. Concrete action to fight discrimination was blocked by the member states.

Then, in 1997, came the Treaty of Amsterdam, and Article 13, in which the member states empowered the European Union to combat discrimination on a number of grounds, including sexual orientation. At the time many activists were sceptical that this would have much effect. After such a long history of refusal by the member states to take action, it was difficult to imagine that Article 13 was more than a gesture, particularly as it required the unanimous support of the member states before any actions could be taken. How wrong this was to prove! In a little over three years Article 13 has led to three developments of huge

¹ Recommendation 924 (1981) “On discrimination against homosexuals”.

² *Dudgeon v. United Kingdom* (1981), Series A, No. 45.

³ European Commission of Human Rights report on Application No.25186/94, *Euan Sutherland v. United Kingdom* (1 July 1997).

⁴ *Lustig-Prean & Beckett v. United Kingdom, Smith & Grady v. United Kingdom* (27 Sept. 1999).

⁵ *Salgueiro Da Silva Mouta v. Portugal*, Application no 33290/96 (21 Dec. 1999).

⁶ *A.D.T v. United Kingdom*, Application No. 35765/97 (31/7/00).

⁷ Resolution on sexual discrimination at the workplace of 13 March 1984, OJ C 104/46 of 16 April 1984.

⁸ Resolution on equal rights for homosexuals and lesbians in the EC of 8 February 1994, EP Doc. A3-0028/94.

⁹ Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, adopted 27 November 2000, OJ L 303/16 of 2 December 2000.

¹⁰ Council Decision of 27 November 2000 establishing a Community action programme to combat discrimination (2001 to 2006), OJ L 303/23 of 2 December 2000.

importance for lesbian, gay and bisexual rights both in Europe and around the world:

■ the Employment Directive:⁹ arguably, the most important single piece of implementing legislation in the history of our movement, providing employment protection not just in the 15 member states, but eventually, possibly, in all of the 13 accession countries as well

■ the Discrimination Action Programme:¹⁰ involving expenditure by the European Union of some € 100

million over six years to fight discrimination, including sexual orientation discrimination

■ the inclusion of sexual orientation in the anti-discrimination clause of the European Union Charter of Fundamental Rights – this was made more or less inevitable by Article 13. The Charter of Fundamental Rights is the first international human rights charter ever to include the words “sexual orientation”.

So where do we go from here? These breakthroughs at the European

Union and the Council of Europe will present many opportunities for LGBT activists, working together across Europe at national and international levels, to push back the boundaries of discrimination, to the benefit of literally tens of millions of people. We can look forward to steady progress, rather than to extraordinary developments such as those of the last four years. But we must also expect setbacks: it is almost certainly no coincidence that the developments of the last four years coincide with a period when left of centre governments were pre-

dominant in Europe. With the probable election of a right-wing government in Italy in May, and the growing self-confidence of the right-wing Austrian government, progress at the European level could well be more difficult. As regards court cases, the European Court of Justice is generally considered conservative on social issues, while the European Court of Human Rights, with its judges from 43 different countries, may come up with some inconsistencies and disappointments.

NW

Progress for gays and lesbians in the EU

Quite Nice

The European Council, which took place 7-10 December 2000, concluded the Intergovernmental Conference (IGC) and adopted the Treaty of Nice. The results of this Council summit meeting and the new Treaty have great significance for gays and lesbians.

The Charter of Fundamental Rights The Charter was solemnly signed in Nice but not incorporated into the Treaties and, therefore, is not legally binding. The Court of Justice in Luxembourg, however, cannot ignore the Charter and indeed has already referred to it in recent decisions (see for example p. 13). In its Article 21, the Charter provides for a general prohibition of all discrimination based, inter alia, on sexual orientation. Article 21, first paragraph reads:

Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

However, Article 51 restricts the scope of application of the Charter, legally binding or not, to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States

only when they are implementing Union law. And paragraph 2 states explicitly: This Charter does not establish any new power or task for the Community or the Union, or modify powers and tasks defined by the Treaties.

This means, for example, that family law and criminal law, which are the most important sources of inequalities and discrimination on the basis of sexual orientation and which still reside with the member states, are not covered by the Char-

ter. This non-recognition constitutes a huge obstacle to the free movement of EU (EEA) citizens who are registered in their home country with a non-EU

The Charter was solemnly signed in Nice but not incorporated into the Treaties and is not binding

(EEA) citizen. The right to free movement is not only within EU competence and governed by community law, but also one of the most important pillars the EU is founded upon.

only been in force a couple of days (since publication in the Official Journal on 2 December 2000) when Article 13 was amended through the treaty revision in Nice.



The EU Charter of Fundamental Rights was signed in Nice

ter. However, the Charter could be invoked in challenging the non-recognition of same-sex partnerships registered in some EU member states and of same-sex marriages under Dutch law by those member states that do not have

Article 13 TEC amended

The first legal measure based on Article 13 and dealing with sexual orientation, (Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation) had

A second paragraph was inserted to allow the adoption of support actions to fight discrimination by a qualified majority in the Council and under the co-decision procedure with the European Parliament. However, legal measures continue to need to be adopted unanimously by all member states. The new paragraph in Article 13 TEC reads as follows (preliminary text):

(2) By way of derogation from paragraph 1, when the Council adopts Community incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in this Article, it shall act in accordance with the procedure referred to in Article 251.

However, this new provision might never be used because the current Community action programme (see p. 11) will last until 2006. The next IGC leading up to a treaty revision is planned to start in 2004. Hopefully,

the unanimity provision in Article 13 will then be changed as to provide for qualified majority vote in the Council and co-decision with the EP even for the adoption of legal measures.

Fundamental Rights Article amended

Article 7 TEU was also amended in Nice to define more precisely the procedure by which the Member States can act upon violations of the common European values and principles laid down in Article 6 TEU, i. e. *inter alia* the respect of human rights, by a member state. The amended article provides now for a four-fifths majority instead of unanimity for determining whether there is a risk of a serious breach by a member state of these principles. The initiative for such a procedure

Relevant web-sites:

Charter: <http://europarl.eu.int/df/default.asp?lang=en>
Treaty of Nice: <http://ue.eu.int/en/summ.htm>
Conclusions of the Presidency, European Council, Nice, 7-10 December 2000: <http://ue.eu.int/en/info/eurocouncil/index.htm>

can also be taken by the European Parliament which will be able to act on the basis of a two-thirds majority of the votes cast, representing a majority of its members. The amended article provides for the member states to call on independent persons to submit a report on the situation in a member state suspected of violating these principles, thus implementing officially the procedure used in the case of Austria after the right-wing Freedom Party (FPÖ) had entered the government in February 2000. By these amendments, the use of this article is only

made slightly easier. However, it might be worth trying to use this article to force member states such as Austria to repeal criminal law provisions that are a clear violation of human rights such as discriminatory age of consent laws.

European Social Agenda

The Nice European Council also endorsed the European Social Agenda 2001-2005 which had been adopted by the Social Affairs Ministers Council of 27-28 November after negotiating conflicting proposals

presented by the European Commission and the French Presidency. The full text of the Agenda is annexed (Annex I) to the Conclusions of the Presidency of the European Council.

This new social policy agenda refers again to Article 13 and formulates, under the heading "III. Fighting Poverty and All Forms of Exclusion and Discrimination in order to Promote Social Integration", the following aim:

f) Ensure effective implementation of Community legislation on combating all types of discrimination on grounds of gender, race or ethnic origin, religion or beliefs, disability, age or sexual orientation. Develop exchanges of experience and of good practice to strengthen these policies.

KK

EU Action Programme to combat discrimination

First call for proposals published

In November 2000 the European Union adopted a "Community Action Programme to combat discrimination (2001-2006)". This provides funding possibilities for projects tackling discrimination on the following grounds mentioned in Article 13 of the EC Treaty: race, ethnic origin, religion or belief, disability, age and sexual orientation.

The European Commission has launched a call for proposals for preparatory work to establish transnational actions for the exchange of information and good practice (VP/2001/12). The objective is to develop the capacity of organisations to combat discrimination effectively by exchanging information and best practice.

A transnational exchange project should involve transfer of information, good practice and comparison of effectiveness, and methods and tools related to the topic of the project. It must address discrimination either on two or more of the grounds mentioned in Article 13 or focus on the specific characteristics of one of the grounds. Alternatively,

it can address multiple discrimination, which is seen as harder to prove and often appears different in nature to discrimination on a single ground.

The current call for proposals is the beginning of a three-phased strategy, with a deadline for applications of May 25, 2001. The phases are as follows:

The objective is to develop the capacity of organisations to combat discrimination effectively

Phase 1, which is scheduled to begin on 1 October 2001 and to last six months, is the preparatory phase. In this phase successful applicants will have to develop their project (working with their core partner(s)) and find other partners, so that the project in the end involves four to five partners from three EU countries. These partners can be regional, national or European associations, unions or federations, universities, local authorities or research centres. Together, the partners should define the specific problem they want to address and then formulate a work programme, a so-called Transnational

Co-operation Agreement, which sets out the activities planned for phase 2.

Phase 2 is the period of the transnational action itself, in which the partners pursue the activities set out in the work programme. This phase will last for 2 years maximum and should aim at producing a concrete outcome for the Commission to use

in future initiatives under Article 13 and the Action Programme.

Phase 3 is a six-month period during which the projects that presented the greatest added value at the European level will be funded to market and promote the outcome of the work.

The Commission intends to have approximately 75 projects in phase 1, from which it will then select the 30 most suitable ones for phase 2. The funding will cover 85% of the total eligible project cost, which is set at € 50.000 per project for phase 1 and € 175.000 per project per year for phase 2. The project partners have to guarantee co-financing for the remaining 15%.

The transnational action projects will last over a three-year period. It is important to secure coverage of all the grounds listed in Article 13, including sexual orientation, in this extensive Commission programme.

The Commission is intending to gather all project partners selected for phase 1 in a conference in October 2001. This will be a good oppor-

Relevant web-sites:

For the full wording of the Community action programme see: http://europa.eu.int/comm/employment_social/fundamri/prog/info_en.htm
Web-site with calls for proposals and tenders: http://europa.eu.int/comm/employment_social/fundamri/prog/calls_en.htm
Calendar for the transnational projects: http://europa.eu.int/comm/employment_social/fundamri/prog/calendar_en.htm

tunity to get an overview of the various projects and partners and, in case sexual orientation is underrepresented in the selected projects, to encourage the projects to consider

seeking gay and lesbian organisations as additional partners.

Networks or associations that would like to participate in a

transnational project are welcome to contact the ILGA-Europe office, which will provide more detailed information on the Commission's call for proposals. ILGA-Europe

can also be of assistance with providing information on projects and partners.

MV

European Parliament and Council express concern

EU condemns homophobia in Namibia

On 5 April 2001, the European Parliament reacted on recent attacks of Namibian President Sam Nujoma and Home Affairs Minister Jerry Ekandjo against gays and lesbians. These threats included orders by President Nujoma to the Namibian police to arrest and imprison gays and lesbians. For the full text of the resolution, see the box below.

On 2 May 2001, the Council issued a press release on the "Declaration by the Presidency on behalf of the European Union on human rights in Namibia" which reads as follows:

The European Union states its concern about threats and verbal attacks against minorities in Namibia. Official statements against minorities, inter alia against homosexuals, as well as declarations of xenophobic nature, are unacceptable and indicate worrying signs of increasing intolerance. The European Union also expresses its concern about the Government's ban on advertising in the independent media.

These statements and actions con-

trast with the politics of reconciliation, tolerance, harmony and unity in diversity adopted by the Government of Namibia after independence and which won the country rightful acclaim, both domestically and internationally.

The European Union encourages the Government of Namibia to maintain its respect of human rights, to uphold the rule of law, and to pursue its policies to create the right conditions for the realisation of the country's full potential. The European Union considers that offensive statements against minorities in the country damage confidence in Namibia's future and undermine the Government's laudable efforts to attract foreign investment, develop the tourist industry and improve the living standards of the Namibian people.

The Central and Eastern European countries associated with the European Union, the associated countries Cyprus, Malta and Turkey, and the EFTA countries, members of the European Economic Area align themselves with this declaration.

EP priorities for UN Human Rights Commission

On 18 January 2001, the European Parliament adopted a resolution (B5-0040, 0041, 0042 and 0046/2001) on the priorities of the Council and its recommen-

dations for the upcoming session of the UN Human Rights Commission in Geneva (20 March-28 April). In paragraph 6 of this resolution, the EP "calls for immediate

measures to be taken to protect homosexual persons from the degrading and inhuman treatment to which they are still subjected in certain parts of the world".

Commission questioned on Austria

Swedish Liberal MEP Cecilia Malmström has prepared an oral question to the Commission requesting clarification about what measures the Commission intends to take to stop the human rights violations against gays in Austria. The country continues to apply a discriminatory age of consent for gay relations (18 years) than for lesbian and heterosexual relations (14) which is a clear breach of the European Human Rights

Convention. On five occasions, the EP has already urged Austria to repeal this law provision (section 209 of the penal code), and on two occasions to release from prison all those persons jailed on the basis of this article. Austria has ignored the EP resolutions as it ignored similar demands by the UN Human Rights Committee and the Parliamentary Assembly of the Council of Europe.

Malmström also wants to know how the Commission would eliminate discrimination faced by same-sex couples legally registered in one member state who move to a member state not recognising same-sex partnerships, this discrimination being an obstacle to fully enjoy the right to free movement within the Union. The oral reply to these questions by a member of the Commission is scheduled for the EP's June session in Strasbourg.

EP resolution on the rights of homosexuals in Namibia (B5-0264, 0274, 0282 and 0300/2001)

The European Parliament, – having regard to its numerous resolutions condemning the violation of human rights, which include the right of non-discrimination based on sexual orientation,

A. noting the orders issued on Monday, 19 March during a speech for students of the University of Namibia by President Sam Nujoma to the Namibian police forces

to arrest, deport and imprison and to purge Namibian society of homosexuals and lesbians,

B. noting that a year ago the Minister of Home Affairs of Namibia, Mr Jerry Ekandjo, uttered comparable threats towards gays and lesbians,

C. noting that such appeals seem to be part of a strategy followed by other political leaders in the region as well,

D. whereas the Namibian Constitution prohibits discrimination, but makes no explicit reference to sexual orientation,

1. Strongly condemns and expresses its deep indignation at the recent outburst of homophobia within the ruling party of Namibia;

2. Considers the vilification and persecution of persons for their sexuality a violation

of fundamental human rights;

3. Calls on the President and Government of the Republic of Namibia to fully protect the rights of all its people and to uphold the position expressed by the Prime Minister, Hage Geinob, that the human rights of all Namibians are protected under the Constitution;

4. Calls upon the Council and Commission likewise to condemn this act of the

Namibian authorities, to take appropriate steps to convince the Namibian Government to refrain from further homophobic acts, and to raise this case in meetings with Namibia at all levels;

Instructs its President to forward this resolution to the EU Presidency, the Council, the Commission, the Government of Namibia, the President of Namibia, Mr Nujoma, and the High Commissioner for Human Rights of the United Nations.

European Court of Justice: Problematic opinion

On 22 February 2001, Advocate-General Jean Mischo (Luxembourg) proposed in his opinion that the European Court of Justice (ECJ) should reject the appeal put forward by Sven Englund, a Swedish translator who was employed by the Council, against the decision of the Court of First Instance (CFI) of January 28, 1999.

The case (officially *D. and Kingdom of Sweden v. Council of Ministers*) involves the legal understanding of the notion "registered partnership". The Advocate-General, like the CFI, confined his analysis to the traditional interpretation of the notions "marriage" and "spouse". He concluded that the Council's decision to refuse household allowances provided for married officials by the EU Staff Regulation to a registered partner was neither contrary to Community law nor an infringement of the principle of the uniqueness and immutability of one's personal civil status. Mischo rejected the appeal on all grounds, basing his reasoning on Community law rather than the civil status of the applicant. The fact that same-sex couples have a



The European Court of Justice in Luxembourg will soon deliver its judgement in the Englund case

Fundamental Rights, and specifically to Article 9, which states that "the right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights". Mischo concluded from this that Article 9 neither prohibits nor prescribes same-sex marriages.

ILGA-Europe expressed its disagreement with the Advocate-General's conclusion in a press release

in Community jurisprudence. Regrettably, it was used to support arguments which are contrary to principles enshrined in the Charter, those of equality and the right to non-discrimination.

In its press release ILGA-Europe called for the ECJ, which will deliver the final decision, to reverse the decision of the CFI. Englund is supported in his appeal by Sweden, Denmark and the Netherlands.

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The Advocate-General confined to the traditional interpretation of the notions "marriage" and "spouse"

choice between "cohabitation" and "registered partnership" in Sweden, and the fact that the latter entails similar rights and obligations to those of a marriage, were not found relevant. Since D. was not married, the Council's decision to consider him as unmarried was in conformity with Community law. The Advocate General referred only once to the European Charter of

on 27 February 2001 (for the full text see www.ilga-europe.org), considering it to be unacceptable since it disregards Article 21 of the EU Charter. This prohibits discrimination based on sexual orientation in the application of community legislation.

This is one of the first times that the EU Charter has been invoked

More information:

The judgement of the Court of First Instance (Case # T-264/97), in French, and the opinion of Advocate-General Mischo (C-122/99 P and C-125/99 P), in French, Italian, Portuguese, Spanish and Swedish, can be found at the web-site of the ECJ at

<http://www.curia.eu.int/index.htm>. For a detailed analysis of the CFI decision see: Gioia Scappucci: "Court of First Instance Refuses to Recognize Swedish 'Registered Partnership' Rights and Duties" in *European Public Law*, volume 6, issue 3, p. 355.

HS und HMS
- zwei Schwestern, ein Ziel -

Die Homosexuelle Selbsthilfe e. V. (HS) wurde 1980 mit dem Ziel gegründet, das Selbstbewusstsein, die Emanzipation und die Handlungsspielräume von Schwulen und Lesben in der Gesellschaft zu stärken. Im Jahr 1991 wurde mit gleichem Ziel von Prof. Dr. Andreas Meyer-Hanno die Männchen-Mehrzweck-Stiftung (HMS) als zweites, gemeinnütziges Standbein gegründet. Die HS unterstützt Projekte, die nicht gemeinnützig sein müssen. Über die Vergabe von Förderungen beschließt die Mitgliederversammlung. Die Stiftung HMS fördert ausschließlich gemeinnützige Projekte. Über die Vergabe entscheidet der Vorstand. Er ist dem Stiftungsbeirat verantwortlich, dem auch drei HS-Vorstände angehören. Die HS füllt ihren Fond aus den Mitgliederbeiträgen und aus Spenden (steuerlich nicht absetzbar). Das Geld der HMS stammt aus den Zinsen des Stiftungskapitals und aus Spenden (steuerlich absetzbar).

Nähere Informationen erhalten Sie über:

Männchen-Mehrzweck-Stiftung
Homosexuelle Selbsthilfe e.V.
Postfach 12 85 22
10595 Berlin
eMail: hs@gay-web.de
Internet: <http://stadt.ga-web.de/hs>

Legal Studies on Sexual Orientation and Gender Identity

EU web archive on legal situation

The first project of a new legal centre, *The Center for Research and Comparative Legal Studies on Sexual Orientation and Gender Identity*, known for short as CERSGOSIG, was launched at an inaugural conference in Turin on 9th and 10th March.

The main objects of the project are the creation of a legal archive and data bank, to be available on the World Wide Web. Initially the

archive and data bank will cover the legal situation on sexual orientation and gender identity in the 15 member states of the European Union. The centre has partners in most of the member states, these being lawyers who are experts in the fields concerned, and who will help to assemble the data.

The centre is the brainchild of Stefano Fabeni, who studied law at the University of Turin, and is run

from *Informagay*, a support organisation for the lesbian, gay, bisexual and transgendered communities in Turin. Its first project has financial

support from the European Commission and the Province of Turin and also has the support of Turin University. ➤

Gay and Lesbian Educational Equity project

The GLEE project is a network of education initiatives to combat homophobia and heterosexism. The project is based on an interactive network of teacher training, curriculum development and research initiatives and is funded by the European Commission as part of the Socrates Comenius programme for school education.

GLEE provides an international leadership training course for primary and secondary school teachers. The main objectives of the course is for the participants to

develop an action plan for establishing education initiatives within their own school communities in order to raise awareness of the extent and destructive effects of homophobia and heterosexism on all members of the school community and work towards combating all forms of discrimination. In the course the participants will learn to use the internet based network GLEE-NET, which provides a resource centre for use after the course as well as being the base for ongoing communication between the participants.

The next GLEE Project leadership training course "Creating safe and affirming schools for lesbian, gay, bisexual, and transgendered (LGBT) students and staff" for primary and secondary school teachers (for the age group 3-13) will take place in Oulu, Finland, 20-27 July 2002.

For more information, see <http://glee.oulu.fi> or contact Timothy Bedford, GLEE Project EU Co-ordinator, University of Oulu, P.O. Box 2000, FIN-90401 Oulu, Fax +358 8 558 494 59 or email: t.bedford@oulu.fi.



Forschungsinstitut für rechtsvergleichende Studien über sexuelle Orientierung und Geschlechtsidentität

Human Rights Advocates Training Program

The application for the 2002 session of the annual Human Rights Advocates Training Program at Columbia University in New York is now available. ILGA-Europe is encouraging especially lesbian and gay activists in Eastern and Southeastern Europe to apply to participate in this programme.

Each year, the Center for the Study of Human Rights hosts a four-month intensive training programme for human rights activists. The Human Rights Advocates Training Program seeks to equip emerging human rights leaders with the tools and information necessary to resolve human rights

issues in their own communities, and with the resources needed to link their issues to a broader struggle. To accomplish this, the Advocates Program utilises a combination of theory and practice, complementing academic training in the principles and theories of human rights with practical workshops on issues such as human rights reporting and fundraising. Advocates also participate in regular visits to international human rights institutions based in New York City and Washington, DC.

Based on the premise that human rights are inter-related and universal, the

Advocates Program brings together activists from around the world working on a wide range of human rights issues. In addition to supporting emerging leaders from countries with significant abuses of civil and political rights, the Center supports new areas of struggle for rights protection, such as indigenous rights, Roma rights, and gay and lesbian rights, to expose programme participants to a broad vision of human rights.

The programme is designed for lawyers, journalists, teachers and other human rights activists working for non-governmental human rights organisations in

developing countries. Participants are selected on the basis of their previous work experience and commitment to the human rights field, as well as the appropriateness of a semester-long training at Columbia. Preference is given to candidates from countries where human rights work is most difficult, and where the existing human rights networks are least developed. In addition, priority is given to applicants who have had limited opportunities to study or travel abroad.

Advocates must currently be working for a human rights organisation, and must commit to returning to that organisation upon completion of the pro-

gramme. Fluency in English is required. Up to fifteen applicants are accepted to the programme, which takes place from January to May each year. Deadline for application is 1 August 2001.

For further information or to download copies of the application, please refer to the following web-site: <http://www.columbia.edu/cu/humanrights/adv.html>

Human Rights Advocates Training Program, Center for the Study of Human Rights, Columbia University, MC 365, 420 West 118th Street, Room 1108, New York, NY 10027 USA, Fax: (212) 316-4578; hradvocates@columbia.edu

The inaugural conference was opened by Ms Maria Pia Brunato, Councillor for Social Affairs of the Province of Turin. It took place in the magnificent surroundings of Turin's *National Museum of the Risorgimento*.

During the day and a half of the conference, participants heard papers

on numerous subjects, including the criminal law in Europe, the state of sodomy laws in the USA, first perspectives on Italy's new change of name laws for transgendered people, the immigration rights of transgendered couples in the European Union, European Union law on sexual orientation discrimination in employment, and the experience of

the Dutch Equal Treatment Commission in dealing with cases of sexual orientation domination. The conference also heard from Sweden's ombudsman for sexual orientation, Hans Ytterberg, and from ILGA-Europe board member Nigel Warner.

There will be a follow-up conference in Turin in September 2001.

The centre is still looking for project partners in Greece, Luxembourg, and Portugal.

The conference papers are to be published at the CERSGOSIG web-site: www.cersgosig.informagay.it

NW

news clips

Same-sex marriage in the Netherlands

It was indeed a historic moment when the world's first same-sex weddings took place in Amsterdam City Hall on 1 April 2001, officiated by the city's mayor Job Cohen. In 2000, the Dutch Parliament, as the first in the world, had adopted a law opening up civil marriage for same-sex couples.

For further legal details, see two fact sheets of the Dutch Ministry of Justice on marriage and adoption at: http://www.minjust.nl:8080/a_BELEID/fact/fact.htm. Dutch university lecturer and legal expert Kees Waaldijk has put English translations of the marriage and adoption laws on the following web-site: <http://ruljis.leidenuniv.nl/user/cwaaldij/www/>.

For answers to 12 frequently asked questions see <http://www.gaykrant.com/index.html>. This site of the biweekly magazine *Gay Krant* also gives a summary of the events of the last 16 years leading up to the opening up of marriage.

Portugal recognises same-sex couples

On 15 March 2001, the Portuguese Parliament voted two bills recognising same-sex couples. One law (Decreto no. 56/VIII) will extend to them the same rights enjoyed, since 1999, by opposite-sex couples who are not married but live together in de-facto unions (*uniões de facto*). The other law (Decreto no. 55/VIII) grants some of these rights to couples living together in joint economy (*em economia comum*). They again can be both opposite-sex and same-sex couples, and they can just be friends or even relatives. *Economia comum* is certainly an alternative for same-



Truly historic: The world's first same-sex wedding at Amsterdam's City Hall

sex couples who wish to avoid a public coming out which would be the consequence of opting for an *união de facto*. Both laws provide for a two-year period of living together before any right deriving from these provisions can be claimed.

The full text of the two laws is available in Portuguese at the web-site of ILGA-Europe member *Opus Gay* at www.opusgayassociation.com/decurioesfacto.htm and [-/dececoncomum.htm](http://www.dececoncomum.htm).

A comprehensive background report about the two laws was published in *Euro-Letter* # 88 of May 2001 (<http://www.steff.suite.dk/eurolet.htm>).

Portugal is the first Southern European country to introduce legislation recognising same-sex couples. And this increases of course the number of EU and EEA countries with some sort of legal recognition of same-sex couples. The pioneer country in this respect was Denmark that introduced "registered partnership" legislation in 1989. Norway followed in 1993, Sweden in 1995, Greenland and Iceland in 1996, and the Netherlands in 1998. The Nordic provisions are only for same-sex couples, the Dutch also for opposite-sex couples. All laws give almost the same rights as marriage, with a few exceptions. In 1999, France introduced the *Pacte civil de solidarité (PaCS)* for both heterosexual and homosexual couples, which, however, is not as far reaching in

For a detailed overview of same-sex partnership legislature in Europe, see the following web-site: www.steff.suite.dk/partner.htm.

In July 2001 will be published: Robert Wintemute/M. Andenæs (eds.): *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law*.

Hart Publishing, Oxford.

For potential consequences in the EU context, see Kees Waaldijk's chapter *Towards equality in the freedom of movement of persons* in ILGA-Europa: *After Amsterdam: Sexual Orientation and the European Union*. Brussels, 1999 (see p. 19).

its similarity with marriage as the Nordic and Dutch registered partnership legislation. In 2000, Belgium introduced *cohabitation légale* for same-sex couples, which again is some levels below the PaCS in terms of legal rights involved and basically of only symbolic character.

Liechtenstein law reform in force

In December 2000, the Parliament of Liechtenstein adopted the completely reformed 10th chapter of its criminal code dealing with sexual offences. With 23 out of 25 votes the *Landtag* repealed all four anti-homosexual provisions that were introduced into the penal code when Liechtenstein abolished the total ban on female and male homosexuality in 1988. These four provisions provided for a ban on positive information about homosexuality (Art. 220), a ban on gay and lesbian associations (Art. 221), a ban on male homosexual prostitution (Art. 209) and a higher age of consent for male homosexual acts (18 years) than for lesbian and heterosexual relations (14 years; Art. 208). These articles were directly taken from the Austrian penal code of 1975 as Liechtenstein has traditionally been

consent which the then Government bill did not provide for. The *Landtag* rejected that bill in October 1999 and asked the Government for a new proposal providing for an equal age of consent. On several occasions ILGA-Europe had also lobbied Liechtenstein diplomats concerning the law reform at meetings of the Organization for Security and Co-operation in Europe (OSCE) both in Warsaw and Vienna.

With regard to the new age of consent provisions which now apply for all sexual orientations equally, Liechtenstein opted for the German model: The general age of consent is fixed at 14. However, sexual relations of a person over the age of 18 with a 14 or 15 year old person remain illegal if the older person takes unfair advantage of a situation of distress of the younger person or renders a remuneration.

KK

Police harassment in Slovene gay and lesbian bars

On 14 January 2001, soon after midnight, police arrived at the Ljubljana lesbian bar *Monokel* and

music was too loud. At that time there were only four guests present, sitting and talking quietly.

On 23 February, around 11.30 p.m., six policemen entered *Monokel*, and insisted on inspecting the identity card of a bartender. They refused to identify themselves, despite the fact that the guests asked them which police station they were from. After that the police entered *Tiffany* and threatened to close it down.

There were similar cases of harassment last year. On one occasion a group of twelve policemen entered the *Tiffany* club without warning. They were members of a special unit and were equipped with bullet-proof jackets, helmets and rifles. On another occasion last year police ordered all customers at *Monokel* to leave the place immediately, with the result that people could not even take their belongings with them. They also harassed the guests with strong flash lights, and questioned them as to what was going on, although they knew perfectly well that this was a lesbian/gay club.

Such police action is unlawful – the police are not authorised to carry out actions of this kind without a clear suspicion of a criminal offence.

Monokel and *Tiffany* are the only LGBT meeting places, not just in the capital city, but in the whole of Slovenia. Both clubs are operating within the framework of the lesbian organisation *ŠKUC-LL* and the gay group *ŠKUC-Magnus*. They are not commercial bars, but rather clubs for the members of these two groups. They are both situated in squatted ex-Yugoslav military barracks.

These events are clear cases of harassment and intimidation of LGBT people, violating their legal right to free assembly and association. There was absolutely no justification for the police actions.

Since these incidents have been occurring repeatedly in both clubs for two years now, (and were frequent in August and September 2000, the period of conservative government before the elections), it was decided to react officially. *ŠKUC-LL* reported the cases of police harassment to *Amnesty International's* headquarters, to the Slovene Ombudsman and Helsinki Monitor Office and the Slovene section of *Amnesty International*. A complaint was also submitted to the director general of the police. All of them, except the Helsinki Monitor, replied, but none took any action. The official position of the Helsinki Monitor is that LGBT rights are not part of human rights.

TATJANA GREIF



Progressive law reform in Vaduz

widely using the Austrian criminal code. In addition, the new penal code includes same-sex domestic partners in the definition of “next of kin” or “significant others” for the purpose of the penal code. Since no popular referendum against the law reform was initiated, it came into force in February 2001.

Already in September 1999, ILGA-Europe had written letters to all members of the *Landtag* and to the Prime Minister of Liechtenstein demanding a complete reform, including an equal age of

at *Tiffany*, the gay bar next door to it. Four police officers stood just in front of the entrance (in the hallway, inside the building) to both clubs and kept observation on the visitors. No reason was given for their presence.

On 16 February, around 2 a.m., three policemen entered *Monokel* and requested the bartender to show her identity card. The policemen did not identify themselves and they did not give any reason for their presence. However, they threatened to take her to the police station because the

forthcoming events

ILGA-Europe's 2001 Annual Conference, Rotterdam

The 23rd ILGA European Conference will take place in Rotterdam from 24 to 28 October, hosted by the Dutch national lesbian and gay organisation, *COC*. Please reserve these dates in your diary. Prepara-

tions of these developments, and the work now needed to maximise their benefits for Europe's LGBT communities. Other workshops will provide an opportunity for sharing the results of European



tions are well advanced for a most exciting and stimulating event, supported by a full social programme.

The conference is receiving strong support from Rotterdam City Council, which will host a reception for conference participants in the town hall on 24th October.

One highlight of the conference programme will be an all-day session on 26th October on the legal recognition of same-sex partnerships to mark the historic opening of the institution of civil marriage to same-sex couples in the Netherlands in April 2001. It will feature leading speakers in the field.

The conference will be ILGA-Europe's first since the adoption by the European Union of historic measures to fight sexual orientation discrimination, in particular, the Framework Directive on employment, the Community Action Programme against discrimination, and the Charter of Fundamental Rights. A series of workshops will examine the impli-

level anti-discrimination projects financed by the European Union.

On Wednesday 24th October the *Schorer Stichting*, a Dutch foundation, will hold a pre-conference training seminar for newer organisations in the field of LGBT activism, aimed at improving their effectiveness in surviving in a mostly hostile political climate. Topics will include providing services to LGBT people, finding ways of financing the organisation, attracting and keeping volunteers etc.

Another Dutch foundation, *HIVOS*, is to provide € 10,000 to fund scholarships for participants from Eastern Europe.

Registration forms and scholarship application forms are currently being finalised, and will be published at the conference web-site by the end of May, as will a provisional conference programme.

The conference web-site is at: www.ilgaeurope2001.nl.

ILGA Global Gay Summit, Oakland 2001

During the last week of August 2001, activists from LGBT organisations around the world will gather in Oakland, California, in an historic Global Summit to exchange information, build skills, network and strategise to find ways to end global discrimination against people with same-gender sexual orientation and cross-gender identities. ILGA voted last year in Rome to make their 2001 global conference a first in history – a global LGBT summit!

Expanding on its 22nd world conference of member organisations and interested persons, ILGA is seeking at the Oakland summit the additional participation of global LGBT organisations, as well as hoping to raise the consciousness of domestic ones. Under the ILGA banner, organisations and individuals will have the chance to network and strategise on co-operative global projects and activities. Stressing the importance of supporting the queer movement in developing countries, the ILGA summit will provide an opportunity for skills building, fund raising and the all-important networking.

The programme will contain the following:

- an all-day pre-conference – one for women and one for men
- an all-day religion pre-conference
- an all-day pre-conference on

- racism and globalisation – its impact on the LGBT community
- a track on lesbian health
- a track on inter-organisational co-operation of LGBT organisations on global issues – past, present and future
- dialogues and plans of actions among the developing countries' representatives
- additional workshops on AIDS, ageing/ageism, analysis of classism and globalisation, transgender issues, etc.

The summit is being hosted by Oakland's EastBayPride to coincide with their annual Gay Pride Week, which is always in the last week of August. The evenings will be filled with exciting and colourful ethnic and cultural events culminating in a Mardi Gras on Sunday, September 2.

For registration and scholarship information, go the Summit web-site at: www.ilgaoakland2001.org, or contact the organisers at:

EastBayPride
P. O. Box
70406
Oakland,
CA 94612

USA

Phone: +(510) 663

3980

Fax: +(510) 663 3990

E-mail: ilgaoakland2001@aol.com

For more information about ILGA-World, see: www.ilga.org.



Europride 2001, Vienna

This year's European LGBT festival *Europride* will be taking place in the capital of Austria. It will start in the first weekend of June with a traditional Viennese ball and the hoisting of a 60 x 6 metre rainbow flag on the Danube Tower. And this will not be the only visible and unavoidable sign preventing the inhabitants from ignoring Europride. Vienna's 600 trams will be running all June with rainbow flags on their roofs.

After a whole month's intense programme, Europride will culminate on 30 June in the Rainbow Parade along Ringstrasse, with its historical buildings certainly one of the world's most exciting and unique routes and scenes for such a parade. It will end with an outdoor celebration at the imperial Heldenplatz in the very heart of Vienna, featuring Austrian and international stars, including the Weather Girls and Iceland's pop icon and Eurovision Song Contest entry Páll Óskar. After this, the party will move to the nearby Museumsquartier, a recently refur-

bished historical baroque site now hosting one of the eight largest museum, art and culture complexes in the world, which will be official-



ly inaugurated the same weekend with a three-day open-door event. After celebrating a baroque party all night, Europride will close on Sunday morning, 1 July.

The many activities and events during the Europride month will include an LGBT film festival, the traditional Vienna LGBT arts festival *Wien ist andersrum*, an exhibition on the nazi persecution of lesbians and gays in Vienna 1938-45, meetings of LGBT groups within the Liberal parties and the Social-Democratic parties in

Europe, sports, theatre, and literature events, dance tournaments, a fetish weekend, etc.

ILGA-Europe will organise a one-day colloquium on European matters on Sunday, 24 June, in co-

operation with its Austrian member HOSI Wien, the City of Vienna's Anti-Discrimination Unit for Same-sex Life-styles and the local Europride organiser, CSD Wien. Members of the European Parliament, of national parliaments, representatives of the European Commission and the lesbian and gay movement, and experts will discuss European topics in three panel discussions. The event will be held in the Vienna City Hall. Europride has obtained the honorary patronage both of the Mayor of Vienna and the Representation

of the European Commission in Austria.

Europride will take place at a very significant moment, i. e. at a time when Austria is ruled by two parties, FPÖ and ÖVP, that have tried to block all attempts at progress for gays and lesbians in Parliament for the last two decades. Europride, therefore, will not only be an important sign of pride and visibility for Austria's lesbians, gays and transgendered people but also become part of the resistance movement against the FPÖVP government. Europride with its expected half a million participants will give a clear signal to this government and emphasise the demands concerning law reform and non-discrimination.

For the detailed Europride programme in Vienna, consult: www.europride.at; a list with the dates of all Pride events worldwide and more information on the organisation behind Europride, EPOA, the European Pride Organisers Association, are available at: www.interpride.org/whoweareepoa01.htm.

EP hearing "EU Enlargement: A Gay Perspective"

The Intergroup on Gay and Lesbian Rights, an informal body of the European Parliament, will organise a public hearing on lesbian and gay rights in the EU accession countries in the European Parliament in Brussels on Thursday, 28 June 2001, 10 a.m.-6 p.m.

The Intergroup includes MEPs from a number of parties and is led by the Dutch MEP Joke Swiebel, and the British MEP, Michael Cashman. Both MEPs have links to the LGBT movement in their own country, Joke Swiebel being a former board member of the Dutch national organisation *COC*, and Michael Cashman being a founder of the *Stonewall Group* in the United Kingdom.

In many of the accession countries the legal and social situation



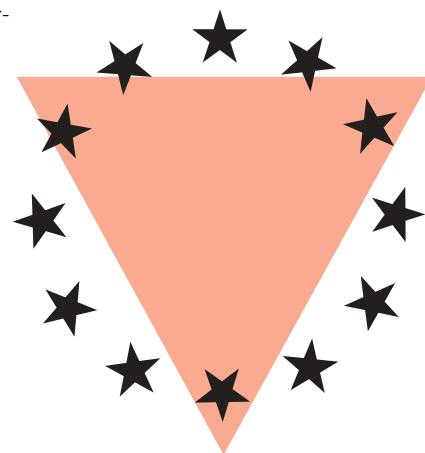
The Intergroup is led by Joke Swiebel and Michael Cashman

of homosexual men and women is still the subject of concern. The European Parliament plays an important role in the final approval of the accession treaties and in the process leading up to accession. The Intergroup wants to ensure that gay and lesbian rights are not ignored by the key persons in this process, both in the EP and the other EU institutions. Rapporteurs on EU accession countries, representatives of candidate countries, both govern-

mental as well as non-governmental, and EU officials are therefore the main target groups of this hearing.

It will raise awareness about the repeal or revision of existing penal code provisions that still discriminate against lesbian and gay people and the implementation of the new instruments based on Article 13 TEC.

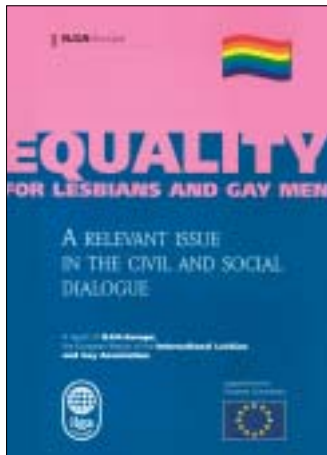
The hearing will include speeches by members of the European Parliament, representatives of the accession countries and a round table discussion in order to measure the extent to which the accession countries meet the Copenhagen criteria and the *acquis communautaire* in this area.



The public and media will be able to attend the meeting.

More information can be obtained writing to this email address: hearingintergroup@plan-et.nl.

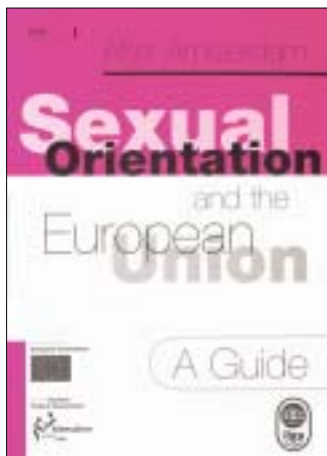
Publications of ILGA-Europe



In 1998, ILGA-Europe published its report *Equality for Lesbians and Gay Men – A Relevant Issue in the Civil and Social Dialogue* as part of a project to promote co-operation between the lesbian and gay movement and non-governmental organisations active in other social fields. This report maps the legal and social situation of lesbians and gay men in all 15 EU member states, formulates a series of recommendations to improve this situation,

directed both to other NGOs, the social partners, the member states and the European Union. The report also addresses issues such as youth, age, children and family, employment, poverty and economy, housing, disability, racism, migration and asylum in a lesbian and gay context.

The production of the report in English, French, German and Spanish was supported by the European Commission. The Ukrainian ILGA member *Nash svit* produced a Russian translation in 2000. All five versions are out of print but can still be downloaded from ILGA-Europe's web-site.



In 1999, ILGA-Europe published its guide *After Amsterdam – Sexual Orientation and the European Union*. This guide focuses on the implications of the Amsterdam Treaty in relation to sexual orientation discrimination. This treaty marks a significant milestone for lesbians and gay men in the European Union. The changes introduced by it include a new clause, Article 13 TEC, which covers discrimination on the grounds of sexual orientation. It provides the Union with the mandate and the legal competence to adopt legislation and policies to combat sexual orientation discrimination.

The guide was published again with the support of the European Commission. The French, German and Spanish versions, however, are out of print. The English version is still available from the ILGA-Europe office. All four versions can be downloaded from ILGA-Europe's web-site.

In 2000, ILGA member *Háttér Baráti Társaság a Melegekért* translated the guide into Hungarian and published it together with other documents relevant in the Hungarian context. For the Hungarian version contact Háttér, Pf. 50, H-1554 Budapest; hatter@hatter.hu; www.hatter.hu.



From December 1999 to March 2001, three networks, UNITED for Intercultural Action, Mobility International and ILGA-Europe, carried out a joint partnership project funded by the European Commission under its programme "preparatory measures aimed at combating and preventing discrimination in accordance with Article 13 TEC".

This project – *Stepping Stones and Roadblocks* (see also p. 7) – brought together activists from three different backgrounds. Cornerstone of the project were three seminars, each organised and led by one of the networks. The reports of these seminars and the final project report are now available in three languages in printed and electronic form. Order your copies from the ILGA-Europe office or download them from the web-site.





**Join in with the movement in Vienna!
From 1st to 30th June at Europride 2001.**

Vienna: the city of rainbow colours. The European diversity of lesbians, gays, bisexuals and transgender persons awaits you on the occasion of "Europride", a whole series of colourful events where you can experience the fantastic variety of the LesBiGay Community, the unique diversity of origin, nations and Europride activities: ranging from the Opening Gala in the magnificent atmosphere of the Parkhotel Schönbrunn to the traditional Rainbow Parade on the Ringstraße and the sparkling final event: the "party baroque".

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