

THE EU LISBON AGENDA: WILL THE BALANCE BE MAINTAINED?

> **FREEDOM, SECURITY AND JUSTICE**

The future of Tampere

> **EU SOCIAL POLICY**

Toward an integrated approach

> **LEADERS AGREE ON CONSTITUTION**

What is in it for us?



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THE EUROPEAN REGION
OF THE INTERNATIONAL
LESBIAN AND GAY
ASSOCIATION

EDITORIAL

Welcome to the autumn edition of the ILGA-Europe newsletter. This summer saw some exciting developments for ILGA-Europe: we were able to hire both a new executive director – Patricia Prendiville from Ireland (see p. 3) and hot off the press we can also announce Juris Lavrikovs from Latvia as our new Communications and Information Officer. Both will start in their new positions in the course of October. Last but not least we are fortunate to enjoy the support of our new stagiaire, Kim Smouter, from the Nederland, who will be with us until January. This year's annual conference in Budapest promises to be an exciting event: it is a chance to have your say in shaping the strategic direction and organisational structure of ILGA-Europe as well as participating in a wide range of different workshops and plenary sessions (see p. 3).

NEWS FROM THE EU INSTITUTIONS

This summer saw a whole series of exciting developments at EU level. After tough negotiations, EU leaders finally agreed on a draft European constitution this June. Despite some shortcomings, the constitution offers exciting new opportunities – if it is ratified, that is. One of the key novelties is the horizontal clause that obliges the EU to mainstream equality throughout all areas of EU competence. To find out more, see p. 6. This year is an important moment of reflection at EU level about the future of a whole series of policy instruments. In June the Commission published a communication on the assessment of the Tampere programme and future orientations in the EU's policy on freedom, security and justice (p. 6) and in September the DG Justice and Home Affairs is expected to present a more detailed consultation document on the structure of the future human rights agency. This autumn will also see important discussions about the future of the EU's social policy agenda: proposals are now on the table on how to re-structure the European Structural Funds as well as the Community Action Programme to combat discrimination. Read more on p. 10. The new European Parliament, elected in June, is now beginning to get down to business. The Parliament has traditionally been an important ally for civil society organisations. Whilst it is too early to give any definite answers on what to expect from the new MEPs, there are clear indications that the Parliament as a whole has become more conservative and market-oriented. Find out more on p. 12. When Barroso, president of the new Commission, published the list of new Commissioners on 12 August, ILGA-Europe approached its members to find out more about the new candidates. The results were not altogether reassuring, especially with regard to the Italian candidate Buttiglione, responsible for the dossiers of Justice, Freedom and Security (p. 11).

NEWS FROM THE MEMBER STATES

Implementation of the framework directive is still far from accomplished: the latest fiasco happened in Latvia where MPs successfully tried to delete sexual orientation from the anti-discrimination bill. The Commission, in turn, is beginning to take action: on 19 July it took six member states to the European Court of Justice for non-compliance. Last but not least, find out about European LGBT organisations taking an active stand against hate lyrics in popular Jamaican music, hear about latest developments in Spain and the battles for same-sex partnership registration in the Czech Republic (p. 18).

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ILGA-EUROPE WELCOMES NEW EXECUTIVE DIRECTOR

Patricia Prendiville from Ireland has been appointed as ILGA-Europe's Executive Director. She will start in the job on 4 October. Patricia has a life long commitment to equality and social inclusion, which she has acted on in both voluntary and paid work and academic study. She was involved for a long number of years in the *Right to Choose* Campaign in Ireland, and was also a board member of the Dublin based organisation *Lesbians Organising Together* which hosted two EU funded New Opportunities for Women programmes.

After three years working in self-development programmes for young people and disadvantaged women, she became a consultant providing organisational development, training and research services

to NGOs and equality organisations. Five years later, in 1994, she co-founded and developed a company specialising in providing community development support and training. Her responsibilities included organisational and team management and development, representation on national policy arenas associated with equality issues, and development and delivery of training and organisational consultancy services to NGOs.

Patricia has degrees in Psychology, Women's Studies, and the Organisational Development of Community Development Organisations. She has authored a resource book for working with young women, a handbook for developing facilitation skills, and co-authored a lesbian information and resource pack. Patricia was part of a research

team that reported on *Poverty, Lesbians and Gay Men in Ireland* and also researched and reported on *The Experience of Lesbian Organising*. She was a member of the Advisory Committee to the Irish Equality Authority on *Implementing Equality for Lesbians, Gays and Bisexuals*, and of the Working Group to the Irish National Economic and Social Forum's *Implementation of Equality for Lesbians and Gay Men*. She has also been a consultant to the Women's Human Rights Alliance in Ireland. Responding to her appointment, Patricia said: "Given the importance of policy from the EU and European institutions for equality and social inclusion in all countries, I am delighted to be taking up the post of Director of ILGA-Europe. I am also very much looking forward to working with



the team in the ILGA-Europe office, and with the board and membership. I am also very keen on continuing the co-operation with other NGOs working on the equality agenda in the Social Platform. As we say in Irish 'ní neart go cur le chéile' (there's no strength until we all work together)."

» NIGEL WARNER
ILGA-Europe Board

ILGA-EUROPE'S ANNUAL CONFERENCE

COMING OUT TO THE EU

Preparations for the annual conference of the European Region of ILGA are going well. This year's conference will be a milestone in the LGBT movement for several reasons. ILGA-Europe's strategic plan will be formulated along with a new organisational structure to reflect the diversity of ILGA-Europe's membership. Apart from the important decisions awaiting representatives of full member organisations, here are some of the reasons why it is worth registering.

Göncz Kinga (family name first, as always, in Hungary), *Minister of Equal Opportunities*, will be a special guest speaker at the opening plenary. She will be followed by a representative of the Dutch EU

Presidency, underlining the support of the EU for the fight against discrimination. There will be two pre-conference meetings: one focussing on Eastern European



LGBT organisations, another on identifying key lobbying action at EU level. At the main conference, a wide range of workshops aims at covering the main issues of interests. These include working with political parties, HIV/AIDS prevention work, school tolerance projects as well as workshops

on fundraising, lobbying the United Nations, dealing with homophobic violence and organising lesbian and bisexual women's movements in East Europe. We are also preparing a colourful social programme for the evenings. To start with, our volunteers will be happy to show you the sights of the inner city on the Wednesday evening. We will have a women's disco hosted by the famous *DJ Barba*, as well as a dinner on the Danube.

Please note that the deadline for registration is 1 October 2004. For the first time this year, it is possible to register online at the

ILGA-Europe website (details below). We will be providing translation between Hungarian and English for some of the sessions and are able to offer sign language interpretation if needed. The conference takes place at the European Youth Centre, which is splendidly equipped with all the facilities we need. Please, see the back cover of this newsletter for a glimpse of the building. Once you see this view in real life, you can't be very far from the exciting event – we hope to see you all in Budapest!

» THE ORGANISING TEAM
HÁTTÉR

FOR MORE INFORMATION, SEE:
www.ilga-europe.org/conference/index.html

YOU DO NOT NEED 36 HOURS A DAY TO VOLUNTEER...

ILGA-EUROPE NEEDS YOU!

I must say that I am quite proud when, as occurred recently, some of the "parents" of ILGA-Europe, those activists who have put such an important effort into our organisation in its early days to get it started and going, come and point out how pleasantly surprised they are of what they see today. They maintain that they were thinking that we needed to build a professional organisation to progress LGBT rights, but that they would never have thought that it could reach such a level. And it is true that ILGA-Europe has changed very much in a very short time, we have said this over and over again; from zero to seven staff, from € 8,000 to € 800,000 in

three years, well, that's a change for sure...

So, no wonder if many people are surprised and if many people do not find their way into this "new" ILGA-Europe easily. At the Glasgow Conference in 2003 for instance, several people commented that they found it hard to understand how ILGA-Europe worked now. They would love to volunteer some of their time, but had no idea where they could fit in. ILGA-Europe is the instrument of the communities it serves. But to be really effective, everybody, from grass-root activists to Board members, must feel that they belong to ILGA-Europe, and that ILGA-Europe

belongs to them. And this is quite hard if you do not understand how it works! For these reasons it has become more and more of a priority to explain ILGA-Europe's structure and procedures in simple and clear words, thus making them more accessible to members as well as to the general public. At the Budapest Conference this October, two new "instruments" will be available:

- a **proposed vision, mission and values statement**, to explain, in half a page, why ILGA-Europe exists, what it does and why;
- a **brief guide to the Board**, to help members get more familiar with the Board's role and its work, and to empower potential

candidates to put themselves forward, having a better picture of what the board is about.

We hope that these documents will help to make things clearer and avoid some frustration. There is nothing more frustrating for anybody (be it staff, Board members, or other volunteers) to be willing to support ILGA-Europe with work, time and energy, but not to know where to fit in. So, why don't you consider now taking a step forward, volunteering some time or standing for the Board? ILGA-Europe needs you.

RICCARDO GOTTARDI
ILGA-Europe Co-chair

STRENGTHENING ILGA-EUROPE

TIME TO DEVELOP A STRATEGIC PLAN

A major focus of our Budapest conference will be discussion on the development of a strategic plan for ILGA-Europe for 2005-8. Developing a strategic plan is an integral part of the work we are undertaking aimed at enabling ILGA-Europe to improve its effectiveness, ultimately resulting in better, more efficient achievement of our goals.

What is strategic planning?

Strategic planning is the process of identifying an organisation's goals and working out how to achieve them. The process takes account of the factors that can be seen as likely to affect the organisation and, most importantly, looks at the resources needed to achieve the goals. One of the purposes is to establish realistic goals and objectives in a defined time frame within the organisation's capacity for implementation. The process helps to ensure that resources are focussed on the key

priorities, provides a base from which progress can be measured and establishes a mechanism for informed change when needed. Developing a strategic plan for ILGA-Europe therefore involves determining where our organisation is going, how we are going to get there and how we will know if we got there or not. This will build on the work we have already been doing to improve the way in which we define our objectives and how we plan activities to achieve those objectives.

What has happened so far?

For our grant application to the European Commission for 2004-5, we prepared a document setting out long-term objectives and three-year strategic goals relevant to our EU work. We categorised these under six key areas: human rights, employment, social inclusion, family rights, capacity building for our membership, and capacity building for ILGA-Europe itself.

As part of this work, we drafted a "Statement of our Vision, Mission and Values", for which we are seeking the endorsement of conference.

Subsequently, we used the structure of this document as the starting point for developing a first draft of an overall strategic plan. Alongside this, we began to develop and introduce a performance management framework for ILGA-Europe.

Performance management

Performance management is a method of enabling organisations to implement their plans more effectively, and to learn from what they have delivered. It places emphasis on managing, supporting and developing staff. However, because the performance of the Board also impacts both on the overall performance of the organisation and of staff, development of the Board and Board performance appraisal are also elements. An integral part of performance man-

agement is the need to monitor performance, identify what works well, what is in need of improvement, and put in place measures to address this. Performance management is not just about being able to show success – it is also about learning when things do not go as planned. This requires clear, consistent systems and procedures to support ongoing dialogue within the organisation and provide the feedback mechanisms needed to deliver improved performance.

The Logical Framework

A performance management framework provides the overall structure for these systems and procedures, enabling an understanding of the whole picture, and ensuring overall coherence. Because of the need to make the link between overall objectives and business plans, and individual performance, the planning system constitutes a key element of the

overall framework. The essential feature of the performance management framework is that it links them all together, ensuring a totally consistent approach from the development of strategic objectives, through the preparation of plans, to the achievement of results by individuals. Our emphasis is on developing an approach tailored to help the organisation and its staff to perform well, making use of existing systems and procedures

wherever possible, while developing new ones to fill gaps in the overall structure.

Meanwhile, we are being required by the Commission to use an approach to performance management known as the Logical Framework Matrix (also known as a log-frame) for our current work programme. We are therefore aiming at developing a performance management framework that both

works as such and enables us to meet the Commission's requirements.

Where do we go from here?

In a series of workshops at the conference we will look at our strategic objectives and our strategies for achieving those objectives in six key areas: human rights, employment, social inclusion, family rights, capacity building for our membership, and capacity building for ILGA-Europe itself. This will enable members to contribute to the discussion about how the strategic plan should be shaped.

In this context, the Board will be presenting the proposed Work Programme for 2004-6 in a new format, structured under draft

Strategic Objectives for the same six key areas. The *Strategic Objectives* are the things that we plan to achieve in the next three years as steps towards achieving our mission. For each strategic objective, there is an outline of the *main strategies or processes* to be carried out over the three years to result in the achievement of the strategic objective. For the main strategies or processes, there is then an indication of the *key activities* for the period to April 2006. Following the conference, the process of developing the strategic plan will continue, and will form the basis for preparing work programmes for future years.

» JACKIE LEWIS
ILGA-Europe Co-chair

"VISION, MISSION AND VALUES STATEMENT"

VISION: The difference ILGA-Europe wants to see in the world

MISSION: What ILGA-Europe contributes to furthering our vision

VALUES: The values that underpin our organisation and the way it works

EU LEADERS AGREE ON DRAFT CONSTITUTION

A NEW OPPORTUNITY?

In June 2004, the member states finally agreed the text of a future Constitution for the EU. The Constitution aims to provide the Union with a set of ground rules to govern the functioning of its institutions. It sets out the areas where the EU enjoys the power to make law and policy and includes a catalogue of fundamental human rights. The future Constitution will only come into force once all 25 EU member states have completed its ratification. In some states, this will require approval by the national parliament, but in several states, it will be subject to a referendum. If the Constitution passes all these hurdles in its path, it should enter into force around 2007. There are four main aspects of relevance to LGBT people: the Union's values and objectives; fundamental rights; the Union's competences; and finally, mainstreaming duties.

Values and Objectives

The Constitution opens with a definition of the Union's values and objectives (Articles I-2 and I-3). Importantly, equality and non-discrimination are included within both categories. The definition of the Union's "values" has both a symbolic and a substantive function. Symbolically, it highlights the principles that must permeate and inform all of the Union's actions. Substantively, evidence of respect for the values of the Union is a requirement for states that wish to join the Union. Moreover, an existing state that fails to respect the values of the Union can be

subject to penalties imposed by the European Council, notably the suspension of rights attached to membership of the Union.

Fundamental Rights

Part II of the Constitution provides a list of fundamental rights guaranteed within the scope of EU law. This is almost identical to the EU Charter of Fundamental Rights agreed in 2000. Article II-21(1) forbids "any discrimination based on any ground such as ... sexual orientation". Unlike the non-binding Charter, the list of rights found within the Constitution will be legally enforceable. Consequently,

there must be no discrimination on the ground of sexual orientation in the actions of the EU institutions or on the part of the member states when they are implementing EU law. Discrimination on grounds of "sex" is also explicitly forbidden and this is likely to be interpreted as covering discrimination based on gender identity.

The Union's competences

Article 13 EC currently provides a power for the Union to combat discrimination on the ground of sexual orientation, and this was used to adopt the Framework Directive and the EU Action Programme on discrimination. This provision is included in the new Constitution, but unfortunately new legislation will still require unanimous agreement amongst the member states. This is likely to be a considerable political obstacle in a Union with 25 or more member states. However, the role for the Parliament in discrimination legislation is enhanced. Whilst it is currently only consulted on legislative proposals, under the Constitution it will have to give its consent. Therefore, future anti-discrimination legislation will

need the joint approval of the Council of Ministers and the Parliament. Although this could add to the difficulty in reaching agreement, the Parliament has traditionally been a greater champion of the rights of LGBT persons than the Council.

One new development in the powers of the Union is the more explicit recognition of the role for the EU in family law. Article II-170 (3) allows the Council to adopt legislation on "aspects of family law with cross-border implications". Whilst such measures will also require unanimous agreement, the Constitutional right to non-discrimination will forbid sexual orientation discrimination within any new family legislation.

Mainstreaming Duties

Although the Union has made an important contribution to combating sexual orientation discrimination through the Framework Directive, the rights and interests of LGBT people are not always fully taken into account in other areas of EU law and policy. Regular readers of the ILGA-Europe Newsletter will be familiar with the problems that

same-sex and unmarried couples face in exercising their free movement rights. ILGA-Europe has been arguing for LGBT issues to be taken into account in all areas of EU policy-making, an approach often referred to as "mainstreaming". Perhaps the greatest novelty within the Constitution is the new duty on the Union to mainstream equality. Article III-3 states:

"In defining and implementing the policies and activities ... the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."

The substantive impact of this provision will clearly depend on the establishment of concrete machinery through which the promotion of equality can be ensured

and monitored. A link can be made here with Article I-46 (2), which obliges the Union's institutions to maintain "an open, transparent and regular dialogue with civil society". If mainstreaming is to be successful and effective, the

EU institutions will need to ensure the participation of LGBT people and organisations in order to understand better their priorities and concerns.

» MARK BELL

FULL TEXT OF THE CONSTITUTION AVAILABLE AT:
<http://ue.eu.int/igcpdf/en/04/cg00/cg00087.en04.pdf>

EQUALITY MAINSTREAMING

THE POTENTIAL FOR LGBT PEOPLE

Mainstreaming is one of those political terms that came into fashion internationally in the 1990s. The United Nations, the Council of Europe and the European Commission have all started to introduce gender mainstreaming mechanisms – some more, some less successfully. At EU level, the term is now used in a broader sense and includes other groups that experience discrimination, such as people with disabilities, ethnic minorities and LGBT people (see also above).

What does this term mean in fact for LGBT people?

Equality mainstreaming promises to open the door to a greater consideration of LGBT issues by political decision-makers. The underlying principle is that the impact of all EU decisions on LGBT people is systematically assessed. It is very different from anti-discrimination legislation in that it operates at the

time when the policy is developed or the legislation drafted (preventive) rather than after discrimination has occurred (curative) like in a legal judgment. The idea is to "get it right" immediately and avoid discrimination of LGBT people.

What are the conditions for this to work?

In order to ensure an open, transparent and meaningful process, there is one key pre-requisite: the consultation of representative organisations that are able to give input on the needs of LGBT people and on what actions are necessary to meet them. Another important factor is the existence of data and research on issues such as access of LGBT people to employment, education, health care, goods and services. That way, it will be possible to highlight those policy areas that need particular attention and determine

more precisely what policy response is needed by LGBT people.

Are those conditions present at EU level?

At EU level, some tools exist already that are used in the context of mainstreaming. Apart from the provisions defined in the proposed future Constitution, the European Commission has already issued guidelines on impact assessment, consultation and dialogue with civil society. These are important first steps. Yet, if the EU wants to take mainstreaming seriously and do justice to the new constitutional articles, then a clear mechanism needs to be put in place.

Why is it relevant now?

- The Constitution contains a clause on equality mainstreaming.
- It is very timely to talk about this in relation to the EU Commission Green Paper on equality and non-discrimination.

→ It is a way of getting LGBT issues mainstreamed through the whole EU political agenda without waiting for further legislation.

Where do the difficulties lie?

One thing is absolutely necessary in this process and terribly hard to get: political will. This is probably the most difficult element in this process but ILGA-Europe and other anti-discrimination NGOs are hoping to get actively involved. One opportunity to create political momentum is the Dutch Presidency Conference on Equality, taking place in November 2004.

If you are interested in this issue and would like to discuss it, there will be an opportunity for those who are attending ILGA-Europe's conference in Budapest.

» CHRISTINE LOUDES

EUROPEAN COMMISSION CONSULTATION ON THE FUTURE OF TAMPERE

EU'S POLICY ON FREEDOM, SECURITY AND JUSTICE

On 2 June 2004, the European Commission published a Communication on the assessment of the Tampere programme and future orientations. This consultation paper can best be described as

a mixed bag. It looks at diverse and (sometimes) opposed issues ranging from the protection of fundamental rights and union citizenship to the fight against terrorism, it looks at enhanced

co-operation between the police as well as the fight against drugs. It also offers an analysis of the EU's policy and legislation on asylum and migration adopted in the last five years.

Tampere has been criticised by numerous NGOs defending asylum seekers and migrants as falling below the standards set up by international human rights law (see also *Newsletter* # 4 (2), p.6).

Amnesty International declared that from a human rights' point of view the overall picture after the Tampere programme is not a positive one. The key concerns raised – the limitations of the EU's human rights agenda as dictated by the notion of fortress Europe and anti-terrorism legislation – are shared by ILGA-Europe. In the response to the consultation, however, ILGA-Europe focussed on possible measures in the area of freedom, security and justice to advance the rights of LGBT people. ILGA-Europe highlighted four main issues relating to: (a) appropriate EU institutions, (b) freedom of movement, (c) asylum and migration and finally (d) criminal law.

Firstly, ILGA-Europe expresses its interest to be involved in the debate on the creation of the Human Rights Agency at EU level. It also stressed

the need for this agency to monitor human rights affecting LGBT people, to be well resourced, given full powers and be seen as independent.

Secondly, the paper stresses that freedom of movement should become a reality for LGBT families. It highlights the shortcomings in the recent directive *on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States*, which explicitly includes registered same-sex partnerships in the definition of family members. Yet, despite this concession, the directive does not go far enough and fails to deal adequately with this issue. ILGA-Europe calls upon the institutions to implement the principle of mutual recognition in relation to civil status, adoption, partnerships and marriage. This would allow for EU citizens, their

partners (irrespective of their origin) and families to reside and move freely within the EU, enjoying the same rights in the country of destination as they had in the country they are moving from. In practice this would mean that, for example, a US-German couple married in the Netherlands could go and live in Austria and be recognised as a married couple there.

Thirdly, ILGA-Europe calls on the Commission to ensure the implementation by member states of the new directive on the definition of refugees, which recognises sexual orientation as a social group.¹ Finally, in the context of harmonising criminal law across the EU, ILGA-Europe urges the European Commission to consider introducing a directive on crime motivated by homo-lesbo-bi-trans-phobia along similar lines as the EU framework

defined on crimes motivated by racism and xenophobia.

Of course, much will depend on the directions given by the new European Commissioner for the re-named "Directorate-General for Justice, Freedom and Security", Rocco Buttiglione from Italy. However, recent comments on asylum seekers and migrants do not seem to indicate that human rights will be the first priority of this Commissioner (see also p. 12). The accent might well be put once again on the "security" element of this directorate's work. To avoid disappointing results these issues will need to be pushed by the European Parliament and the EU Presidency. We will work to ensure that this will happen!



¹ Directive on the minimum standard for the qualification and status of third country nationals and stateless persons as refugees or as person who otherwise need international protection.

DUTCH PRESIDENCY TO THE EU

ILGA-EUROPE'S PRIORITIES

Since 1 July 2004 and until the end of 2004, the Netherlands holds the EU Presidency. ILGA-Europe welcomes the Presidency of a country, which has been at the forefront of the protection of human rights for LGBT people. The Netherlands has been the first state in the world to recognise same-sex marriage, an issue, which is a hot topic in several EU member states. The stated priorities of the Dutch Presidency are enlargement with particular attention to the candidacy of Turkey, economic development and increasing the role of the EU in the world. The Netherlands also plans to start a debate with the Union's citizens and governments on how to advance European integration

and co-operation and on common European values. In its memorandum to the Dutch Presidency, ILGA-Europe draws the attention of the Presidency to the areas affecting lesbian, gay, bisexual and transgender (LGBT) people that could be advanced through concrete actions. Issues raised include the future enlargement of the European Union to Bulgaria, Romania and Turkey; the ratification and implementation of the Constitution; the human rights agenda within the EU and in third countries; the development of the anti-discrimination and equality agenda through legislation and equality mainstreaming; the transposition of the directive on the definition of refugees; the social side of the "Lisbon Agenda", and the inclusion

of LGBT concerns in the "European Neighbourhood Policy". The memorandum gives details of ILGA-Europe concerns and aims in these areas.

So far, the key areas ILGA-Europe's work has focused on include the equality agenda, with a written submission in the context of the Commission's consultation on its Green Paper (see p. 8). The Dutch Presidency is holding a conference on the EU's anti-discrimination policy to take place in The Hague in November 2004. Furthermore, ILGA-Europe has raised concerns about the treatment of LGBT people in certain third countries prior to official meetings between the Presidency and government officials. Finally, in relation

to enlargement, we urge the Presidency to ensure the respect of the "acquis communautaire", human rights and democracy in the enlargement process concerning Bulgaria, Romania and Turkey. Information sent by national LGBT organisations in these countries has been forwarded to the Presidency prior to the December meeting on enlargement.

If you would like to bring issues to the attention of the Dutch Presidency, please contact the office for advise.

The Dutch Presidency's website is www.eu2004.nl.



TOWARDS AN INTEGRATED APPROACH

This autumn is an important opportunity to shape the future of the EU's social policy agenda. The proposed constitution presents some real opportunities in terms of increasing the importance of fundamental rights and of strengthening the mechanisms of equality mainstreaming at a European level (see also p. 6). Yet, at the same time, many social NGOs are concerned that in a time

of economic uncertainty, there is a danger that the EU's social policy is reduced to economic objectives alone.

The Commission has fostered this debate by publishing a series of important documents. A proposal for the reform of the Structural Funds was presented on 14 July, which also outlines the new European Social Funds. On the same day,

the Commission also presented PROGRESS, the proposed new action programme in the field of social policy, replacing inter alia the Community Action Programme to Combat Discrimination. Finally, the European Commission issued a Green Paper on the future of equality and non-discrimination in an enlarged EU. What all these proposals have in common is the aim of streamlining the EU's policies

in an "integrated approach to employment and social solidarity". The danger of this approach is that it could easily translate into a reduction of existing initiatives and budget lines at the expense of failing to formulate specific policy responses. Particularly from an LGBT perspective, there could be a real risk that sexual orientation and gender identity discrimination fall under the table.

ILGA-Europe's reaction to the Green Paper

In the response to the Green Paper, ILGA-Europe raises these concerns and urges the EU to continue its fight against discrimination with renewed vigour, making use of all available instruments: following a rights-based approach; cooperating with international bodies; defining a coherent body of EU legislation with equal levels of protections across all grounds; assisting an effective monitoring process of national implementation; complementing legislation with positive measures such as awareness-raising; networking and capacity-building and finally putting into place a systematic equality mainstreaming mechanism at EU level. The first aspect emphasised concerns the values and principles underpinning the EU's approach to anti-discrimination. We urge the EU to follow a rights-based approach to equality and to promote its values beyond the borders of the EU. This includes ratifying Protocol 12, incorporating and monitoring non-discrimination principles in third country agreements and co-sponsoring a UN Resolution on human rights, sexual orientation and gender identity.

The Green Paper raises the question of what the relationship should be between the EU's policy on gender and its efforts to tackle discrimination on other Article 13 grounds. ILGA-Europe calls on the EU to incorporate the European Court of Justice decision that discrimination against transgender persons on grounds of their gender identity is a form of sex discrimination into all future policies and legislative initiatives in the field of gender equality.¹

In terms of EU legislation on non-discrimination, we formulate three key demands: full transposition and implementation of existing legislation; revision of the Employment Equality Directive (especially in terms of provision of workplace benefits for same-sex partners) and finally formulation of legislation that offers protection to LGBT people beyond the area of employment (looking at access to goods and services, especially health care and housing, as well as education and youth). We also comment on the need of adequate practical measure to complement legislation. In particular we call for a continuation of the Action Programme to Combat Discrimination and for a strengthened equality dimension in the reformed European Social Funds. We emphasise the importance of core-funding for EU umbrella organisations and ask the Commission to come forth with a European Action Plan on how to tackle discrimination of LGBT persons. Key activities that need funding include: capacity-building and training, networking, data collection and research as well as awareness-raising. Finally, we stress the need to mainstream equality considerations in EU policy-making – from formulation to implementation and evaluation. Whilst the Commission has already taken first steps in terms of gender mainstreaming, there is no clear framework yet for the integration of equality considerations across all fields of EU competence for the other Article 13 grounds. We argue that the proposed EU constitution is a unique possibility to start moving towards a more structured and proactive promotion of equality.

ILGA-Europe asked some of the other key European NGOs to share their main concerns and demands on the Green Paper with us. Here are some extracts of their responses (for full details, please see their websites):



REACTIONS OF THE EUROPEAN OLDER PEOPLE PLATFORM – AGE

AGE calls on the European Commission to take a broad range of action to address age discrimination and improve the image of older people and ageing in society. Discrimination against older people, or anyone on the grounds of age, must become culturally unacceptable. Key comments include:

- AGE welcomes the emphasis of the European Commission to work with civil society and other stakeholders and welcomes the stress on the need for an integrated and coherent approach.
- AGE is, however, quite disappointed to note that the practical problems with effectively implementing the Employment Directive for the grounds of age are not addressed in the Green Paper.
- AGE also regrets that – despite the acknowledged need for a coherent approach – the European Commission limits its ambitions to the transposition of the Employment Directive and exploring the possibilities of legislation on new grounds. AGE strongly recommends action on possible further legislation for Article 13 EC Treaty.

»BH

¹ Case C-13/94 P v S and Cornwall County Council (1996) ECR I-2143. It was held that the dismissal of an individual following gender reassignment was unlawful discrimination on the grounds of her sex.

ACTION PROPOSALS BY THE EUROPEAN DISABILITY FORUM



EDF is concerned that the fight against discrimination is no longer one of the political priorities of the EU and urges the EU to revitalise the anti-discrimination strategy through the momentum of the Green Paper.

- Ensure transposition and implementation of EU legislation, including facilitated exchange of information about sanctions and remedies; the creation of independent EU-funded body to promote test cases
- Adopt comprehensive legislation to fight discrimination of people with disabilities in all areas of EU policy
- New non-discrimination action programme should: guarantee adequate funding, support transnational projects; involve NGOs in future awareness-raising campaigns, continue core-funding for EDF and other European disability NGOs, start collection of statistics
- Explore the potential of the new EU constitution, especially in terms of fundamental rights and equality mainstreaming (Art III-8)
- Increase awareness of discrimination as a human rights issue, especially in the context of the International Convention on the Rights of Persons with Disabilities



SOLIDAR – AN ALLIANCE OF SOCIAL AND ECONOMIC JUSTICE NGOS

Concerning the debate about future EU equality and anti-discrimination policies and the community action programme beyond 2006 initiated by the Commission's Green Paper, Solidar calls upon the European Commission to

- Acknowledge the role of NGO social service providers (as both a part of civil society and employers) in the fight for equality and against discrimination
- Ensure the full transposition of the Employment Equality Directive on all levels of politics.
- Allocate adequate resources and establish institutional mechanisms at national level and partnership with civil society organisations in order to make equality and non-discrimination a reality in Europe.
- Strengthen partnership – ensuring sufficient funding for transnational activities.
- Push for further anti-discrimination legislation in the EU on all political levels, especially the directive on equal treatment between women and men in the provision of goods and services, and legislative action against discrimination of disabled people outside the workplace.



THE EUROPEAN NETWORK AGAINST RACISM ON THE GREEN PAPER

Implementing a coherent EU anti-discrimination policy is a long-term project that needs permanent corrective mechanisms. ENAR makes the following recommendations:

- Raise the legal standard and overcome unacceptable hierarchy of prejudice: to respond fully to experiences of multiple identities, the same level of protection should be offered against all forms of discrimination
- Mainstream equality: bring together currently fragmented equality mainstreaming approaches and develop a coherent and comprehensive equality mainstreaming strategy
- Design specific action to combat discrimination against the Roma and to promote their integration
- Safe-guard against excessive "merging" of complex problems caused by different forms of discrimination in the context of the new Action Programme;
- Continue EQUAL initiative in context of reform of European Social Funds
- Support NGOs in raising awareness about new rights and obligations and in providing assistance to victims



THE EUROPEAN WOMEN'S LOBBY CRITICISES IMBALANCE OF GREEN PAPER

The EWL believes that the EU equality and anti-discrimination policies are key to achieving a social Europe but is concerned about the lack of attention the Green Paper pays to the importance of equality between women and men. The EWL recommends to:

- Start a consultation process to explore best ways to ensure coherence and reinforce links between mechanisms in support of equality between women and men, and EU instruments in the anti-discrimination field
- Preserve and develop different equality agendas instead of merging them: (a) specific analysis and actions are needed to respond adequately to the different dynamics of exclusion and marginalisation; (b) EU approach to gender equality goes beyond fighting discrimination and aims to achieve a 'transformative' form of equality between women and men;
- Actions for equality between women and men and gender sensitive actions should be an integral part of the different strands of the EU non-discrimination action
- Preserve and develop EU legislation and institutional mechanisms for equality between women and men: especially (a) new legislation outside the area of employment and (b) legal framework to eradicate violence against women

THE REFORM OF THE STRUCTURAL FUNDS

The Commission adopted on 14 July a proposal of five new regulations for renewed Structural Funds and instruments. Over the period 2007-2013, these instruments represent about one third of the EU budget or a total of EUR 336.1 billion. The majority of this amount will be spent in less-developed Member States and regions. Structural Funds and instruments aim to promote growth-enhancing conditions for the Union's economy and will focus on three new future objectives: 1) convergence, 2) competitiveness and 3) co-operation. The regulations' package comprises of a general regulation laying down a common set of rules for all instruments, and specific regulations for the European Regional Development

Fund (ERDF), the European Social Fund and the Cohesion Fund. The new European Social Fund (ESF) for 2007-2013 will link funding with policies to boost employment and strengthen economic and social cohesion in the European Employment Strategy (EES). It will cover 2 of the 3 objectives for cohesion funding in the new financial framework: convergence and competitiveness. Under the new plans, the former ESF programme EQUAL will be resolved. ILGA-Europe is concerned that this will considerably diminish the non-discrimination dimension in the Structural Funds and the ESF in particular. While intended to mainstream the priorities of EQUAL, it could in practice

mean that even less attention is paid to specific interests of LGBT people. On 14 July the Commission also adopted a proposal for a new "integrated programme for 'Employment and Social Solidarity", called PROGRESS that will cover five areas: employment; social protection and inclusion; working conditions; anti-discrimination and diversity; and gender equality.

It follows the same 'integrated approach' and intends to use the revision for the next financial perspectives (2007-2013) to simplify and rationalise the current situation. It will finance studies, awareness-raising campaigns, exchanges of information and good practice, monitoring and

evaluation exercises and networking initiatives. It will underpin the "Open Method of Coordination" for policy exchanges between Member States in employment and social protection. The Commission has proposed that it be given a budget of just over 600 million, over 7 years.

PROGRESS – if adopted – will be replacing the anti-discrimination action programme and is of major importance to ILGA-Europe and its members. The proposal refers to a consultation process with key stakeholders. ILGA-Europe will make sure to be involved in order to strengthen the LGBT dimension within the programme.

>>BH

FOR THE PROPOSAL FOR A REGULATION ON THE EUROPEAN SOCIAL FUND, SEE:

http://europa.eu.int/comm/employment_social/news/2004/jul/com_2004_493_en.pdf

MAINSTREAMING NON-DISCRIMINATION IN AN ENLARGED EU

As part of the programme of the Dutch EU Presidency, the Dutch Ministry of Health, Welfare and Sports, together with the COC Netherlands, is organising a European pre-conference on sexual orientation policy and mainstreaming non-discrimination in an enlarged European Union. It will take place on 19-20 November 2004.

The objective of the conference is to take a closer look at the experiences gained by several European projects focussing on sexual orientation discrimination. The conference hopes to learn from the projects and networks and explore possibilities of how such networks and experiences can become a structural element in European diversity and non-discrimination

policies of stakeholders. The goal of the conference is to make a start with the reorganisation, improvement, development and evaluation of policy processes, so that the perspective of equality in Europe – based on sexual orientation – is incorporated in all policies at all levels and at all stages, by stakeholders normally involved in policy-making ("mainstreaming").

Parallel to this pre-conference, a Gender Mainstreaming Conference will also take place. These two conferences are to be seen in conjunction with the broad EU conference about the future of the EU's anti-discrimination policy.

>>BH

LEADING AN ENLARGED EU

On 12 August José Manuel Barroso, president of the new Commission, published the list of new Commissioners and their dossiers. All commissioners-designate must appear before the European Parliament for hearings at the beginning of October. The Parliament then has to approve the Commission as a whole at the end of October before it can take up its work on 1 November.

The new line-up contains some surprises with two of the most influential portfolios in the Commission going to the Netherlands' Neelie Kroes (competition) and Ireland's Charlie McCreevy (internal market), while France's Jacques Barrot only received the relatively small portfolio of transport. Peter Mandelson from the UK will be responsible for the important trade portfolio, new member state Latvia (Ingrida Udre) received taxation and Hungary's László Kovács will be in charge of energy. As expected, the German Günter Verheugen, will be vice-president of the Commission and has been given a new industry portfolio. He will also be in charge of the co-ordination of the Commission's role on competition. Mr Verheugen is not alone as vice-president; he is joined by Italy's Rocco Buttiglione (justice and home affairs), France's Mr Barrot, Estonia's Siim Kallas (administrative affairs) and Sweden's Margot Wallström.

Perhaps the three most important Commissioners for the policy dossiers that ILGA-Europe follows are those responsible for (1) Justice, Freedom and Security, (2) Employment, Social Affairs and Equal Opportunities and (3) Enlargement.

Enlargement OLLI REHN

Finland



Mr Rehn will be responsible for the candidate countries (Roumania, Bulgaria, Croatia, Turkey) and the Western Balkans.

ILGA-Europe has carefully monitored the accession of the first ten enlargement countries, aiming to ensure that each candidate country fulfils the Copenhagen criteria. The same will be relevant for the next rounds of enlargement, particularly with a view to the situation of gay, lesbian, bisexual and transgender people.

Mr Rehn, a political economist has served in the European Parliament as vice-chair of the Liberal Group (1995-6), he worked as a policy advisor to the Finnish prime minister, a university professor and a head of cabinet in the European Commission.

Employment, Social Affairs and Equal Opportunities

VLADIMÍR ŠPIDLA

Czech Republic



Mr Špidla will be responsible for the EU's employment and social affairs policy. For ILGA-Europe this is particularly important as it includes the EU's action on equality and non-discrimination as well as the European Social Funds. Discussions will be ongoing this autumn on the future of the EU's social policy including discussions on the proposed new action programme to inter alia combat discrimination (2007-2013) and the new European Social Funds (see also p. 10).

Mr Špidla became involved in politics in 1990. As a Social Democrat he was elected member of Parliament in the Czech Republic, focussing on Social policy and Health Care. In 1998 he became Minister for Labour and Social Affairs and in 2002 he was elected prime minister. He abdicated at the end of June 2004, when he was nominated commission candidate. Mr Špidla has always supported the rights of LGBT people and was actively involved in drafting a proposed registered partnership bill (voted down in parliament in January 2004 – see also p. 18). He is considered to be a very serious and honest man that can be expected to support LGBT rights at European level.

(source: Květoslav Havlík, *Gay Inicijativa*)

Justice, Freedom and Security

PROF. ROCCO BUTTIGLIONE

Italy

Prof. Buttiglione's responsibility will include many policy areas that are of direct relevance and importance to ILGA-Europe. These include the EU's policy agenda on asylum and immigration, EU citizenship and the guarantee of fundamental rights, including the right to non-discrimination and the right to move and reside freely within the EU.

Prof Buttiglione will also oversee the EU's policy on judicial cooperation in civil matters including



parental responsibility and divorce; external relations with third countries and international organisations and criminal justice (including racism and xenophobia). Prof. Rocco Buttiglione has served from 1999 to 2004 as an MEP and Italian MP. He was nominated Minister of European Affairs in Berlusconi's government and is president of the UDC (Union of Christian Democrats), the centre-right Catholic party in the government coalition. In his political career he has been a strict follower of the official Catholic doctrine on issues such as those relating to sexual orientation, abortion, cloning, women's rights, asylum and immigration and others.

»BH

FOR A FULL LIST OF THE NEW COMMISSIONERS AND INFORMATION ON THEIR BACKGROUND AND THEIR PORTFOLIO, PLEASE SEE:

http://europa.eu.int/comm/commissioners/newcomm_en.htm

ANOTHER USEFUL SOURCE OF INFORMATION ON THE NEW EUROPEAN COMMISSION IS THE FOLLOWING NEWS WEBSITE:

www.euractiv.com

COMMISSIONER BUTTIGLIONE : A CONTROVERSIAL CHOICE

Prof Rocco Buttiglione, Italy's incoming Commissioner for Justice, Freedom and Security is a well-known figure amongst Italian human rights organisations – specifically those working on asylum and immigration or the rights of LGBT people. In an interview with Reuters on 22 August this year, Buttiglione expressed his support for a controversial proposal to build transit camps for potential immigrants to Europe: "Immigration is a time bomb for the EU and members must work far more closely with each other if the bloc is to control the flood of refugees."

As a member of the European Parliament (1999-2004), Buttiglione submitted an amendment to the Convention that wrote the European Charter of Fundamental Rights to the effect of removing "sexual orientation" from the grounds of non-discrimination of the article on non-discrimination of the Charter, as reported in CHARTE 4360/00, page 32, amendment 444. Throughout his political Buttiglione has been clear about his perception of homosexuality:

- "The right to express everybody's ideas must be protected, but at the same time provocations must be prevented against the feelings not only of the Catholics but also of all those who believe in a sexuality oriented toward love" (Ansa, 26 May 2000, commenting on World Gay Pride)
- "World Pride was a provocation. You have to feel compassionate towards homosexuals, but compassion has to be coupled with condemnation of homosexuality as a sin" (Giornale di Brescia, 10 July 2000)
- "Everybody is free to call me a bigot and an intolerant, but I, with the very same freedom, can define homosexual behaviour as technically an index of moral disorder" (Ansa, 5 March 2001, commenting on the Milan Pride march)
- "The only family is that in which a woman sacrifices a part of her professional career for the children." (18 April 2001, election campaign meeting of Cascina, PI)

Though such positions may be perfectly legitimate from a personal point of view, they become extremely worrying when put forward by a high government official, mandated to act in the best interest of the whole population. Given his record, it is legitimate to wonder how he could swear to protect the treaties of the Union when he maintains in his work moral reserves on the very values enshrined in those treaties. (Source: Arcigay, Italy)

SIGNIFICANT CHANGES DESPITE SIMILAR PARTY GROUP LINE-UP

THE NEW EUROPEAN PARLIAMENT

The new European Parliament that was elected in June this year brings together 732 elected representatives from the EU's 25 member states. The European Parliament has traditionally been an important ally for civil society organisations.



What can we expect from the new Parliament in terms of LGBT issues? Whilst it is too early to give definite responses, there are clear indications that it has become more conservative and market-oriented (see P. 13). Despite similarities in the party group line-up, there are significant changes on three levels: (a) inside the party groups; (b) in terms of coalition partners and (c) in the

balance of power between the parties in the Parliament and the political forces in the Commission and Council.¹

Inside the party groups

The European People's party and European Democrats (EPP-ED) continues to be the largest group with 268 seats. Though a diverse group, the number of conservative and euro-sceptic members compared to the previous legislature has risen. Within the Party of European Socialists (PES) – with a total of 200 seats – the internal balance of power has also changed: the French and Spanish Socialist have replaced the German and British as the two largest delegations. Both are more left wing than the average member of the PES. The alliance of Liberals and Democrats for Europe (ALDE) now holds

88 seats and plays a pivotal role in shaping decisions by forming coalitions with either of the two big parties. Finally, there are four smaller groups: the Greens (G/EFA) 42 seats, the Radical left (EUL/NGL) 41 seats, the nationalists (UEN) 27 seats and the Anti-Europeans (IND/DEM) 37 seats. The final of those four, the IND/DEM, is considerably more right-wing and religious than its predecessor. Amongst its members are the UK independence party the Italian Northern League and the League of Polish Families.

Coalition Politics

Perhaps the most interesting observations are those concerning the coalition politics in the new Parliament. The grand coalition between the EPP-ED and the PES is unlikely to hold together in legislative battles. If this coalition

breaks down, the ALDE may be pivotal. Based on the judgments of the BKSJ, there is likely to be a 'liberal' majority (comprising PES, ALDE, G/EFA and EUL/NGL) on policies related to equality and non-discrimination as well as asylum, civil liberties and internal security. In the context of social policy and workers' rights, however, the BKSJ argues that a 'pro-business' coalition between the EPP-ED, UEN and ALDE groups is likely to get a majority.

The picture, in short is mixed: despite an atmosphere of heightened conservatism and increased support for market liberalisation over social policy measures, there are strong voices in favour of human rights considerations.

»BH

¹ For details, see report by BKSJ, "The New European Parliament: more Change than at first appears", August 2004, www.bksj.com

SLOVAK MEP LEADS WOMEN'S COMMITTEE

The election of conservative MEP Anna Záborská from Slovakia as chair of the Committee for Women's Rights and Gender Equality on 26 July 2004 was a controversial choice. Reason for the controversy was Záborská's public view on the position of women and the rights of gay, lesbian and bisexual people. MEP Mary Honeyball: "Her views on abortion and homosexuality in particular could put her in direct conflict with what the committee is trying to achieve. It is a very provocative choice by the EPP which put us in a difficult position." German Socialist Lissy Groner, agreed: "I opposed her candidacy because her attitude is against the spirit of the committee." (European Voice)

Who is Anna Záborská? A doctor by profession, she entered politics joining the Christian Democratic Movement (*KDH – Kresťansko-demokratické hnutie*) in 1990. In 1998 she was elected into the Slovak Parliament for the first time. Re-elected in 2002, she became vice-chair of its Health Care Committee. Ms Záborská was not involved in the Slovak Parliament Sub-Committee on Women's Issues. In civil society she is seen as a supporter of Christian organisations.

Considering her personal and party background, her sudden commitment to women's issues comes as something of a surprise. After all, the KDH is a very conservative political party, widely known for its discriminatory attitudes against the rights of women and LGBT people.

On the rights of women

The most contested issue in Slovakia with regard to women's rights has been the question of legal access to abortion. The KDH has been very critical of this and has sought to bring about a constitutional ban on abortion. In 2001 Anna Záborská was one of the KDH members to propose such a ban in the Slovak Parliament. When the proposal was not successful, the KDH appealed to the Constitutional Court in order to ban abortion. Slovakia still awaits the results of the appeal: the threat that women in Slovakia will no longer have access to abortion in a safe environment continues to be a real possibility. Ms Záborská has since modified her position. In a recent press statement she holds: "It is not true that I am against women who have had an abortion... It's

a difficult decision taken in extreme situations. I don't want to judge these women; I want to help them."¹ It will be interesting to see how this commitment is reflected at European level.

Anna Záborská, the KDH and LGBT people

In the early days of her political career, Ms Záborská's attitude towards gay and lesbian people was manifestly hostile. Only four years ago, she still viewed AIDS as God's punishment for homosexuality.² Since the European elections, her public position has become more moderate, and on numerous occasions she has stated that she has nothing against homosexuals. Yet, when one looks at the political record, the actions of both Záborská and her party

speak more than words. Prior to joining the EU, Slovakia was obliged to implement the Community acquis on non-discrimination in the field of employment. Right from the start, the Christian Democratic Movement strongly opposed all initiatives to incorporate anti-discrimination legislation to Slovakia's legal system. The key contested area was the clause on sexual orientation discrimination, which the KDH vehemently challenged. The conflict lasted over three years. Only shortly before Slovakia's official entry to the EU, five minutes to twelve, so to say, was the KDH's obstruction overcome.

Throughout the political debates Ms Záborská illustrated a very selective understanding of the principle of non-discrimination: on the one hand, she considered Slovakia's legislative protection against discrimination to be comprehensive and adequate; on the other she identified certain employment fields – notably teaching – where she felt such protection against discrimination was not appropriate. As Záborská was quoted to say: "I don't want to discriminate against anyone, but with these people there is the potential that their views on life in basic family matters, on male and female relations, could influence children."³

It is the exhibitionist nature of homosexuals that cause Ms Záborská grief. Thinking of those people dancing naked in pride parades in Berlin or Rome, she wonders whether they should be allowed to teach children. At the same time, though, Záborská states that "I think any discrimination against human beings is unacceptable – any discrimination at all."⁴ She goes on to explain

that the main problem lies in gays and lesbians being open about their sexual orientation in front of their pupils. So, as long as teachers are willing to keep quiet about their homosexuality, they can continue to practice their profession.

Slovakia in the EU

Ms Záborská was an active supporter of the Slovak Declaration of Sovereignty of EU Member States in Cultural-Ethical Questions – a document drafted by the Slovak Parliament following a proposal of the KDH. This declaration includes clauses on the protection of life and human dignity from conception until death; the protection of the family and the institution of marriage as the basic element of society as well as related decisions in health-care and education. The KDH also opposes the draft EU Constitution, mainly because of the inclusion of the Charter of Fundamental Rights and the omission of the clause on Christian heritage in the introduction of the final draft. Ms Záborská expressed her disappointment about the denial of these essential European roots. Finally, her idea of what Slovakia might bring to Europe includes traditional values, respect for the family, an educated work force, natural resources, good food and last but not least beautiful women.⁵ No comment!

»PAULA JÓJÁRT

¹ http://www.twnonline.org/040812_international_news.htm.

² <http://www.noveslovo.sk/clanok.asp?id=11796&cislo=32%20-%2033/2004>.

³ The Slovak Spectator, 31.03.2003.

⁴ EUPolitix, 29.07.2004.

⁵ Formát, 26.04.2004

COMMISSION TAKES ACTION TO ENFORCE ANTI-DISCRIMINATION LAW

The European Commission announced on 19 July that it is taking legal action against six member states that have failed to transpose the two anti-discrimination directives (43 and 78/2000). The Commission will refer Austria, Germany, Finland, Greece, and Luxembourg to the European Court of Justice for non-compliance.

Infringement proceedings have also been launched against the

same five member states and Belgium for having failed to transpose fully the Employment Framework Directive. The Commission's decision means that the member states in question have two months to reply to the "Reasoned Opinion" from the Commission. Following that, they could then face the next step of referral to the European Court of Justice. For those member states, which have already

adopted legislation transposing the directives, the Commission is now in the process of examining the national laws in question to ensure they conform in full with the provisions of EU law.

ILGA-Europe welcomes this important step in reinforcing the new rights granted by the directives. The European Commission will now focus its energies on analysing the status of transposition in all other

member states. ILGA-Europe will be preparing an update on national implementation from an LGBT perspective this autumn. If you wish to raise any issues concerning the implementation of the framework directive, please contact birgit@ilga-europe.org.

»BH

FOR FURTHER INFORMATION, SEE:

http://europa.eu.int/comm/employment_social/news/2004/jul/ip_04_947_en.pdf

MPs DELETE SEXUAL ORIENTATION FROM ANTI-DISCRIMINATION BILL

In March 2004, the Latvian Minister for Special Assignment for Society Integration Affairs proposed an anti-discrimination bill to implement the requirements of the EU race and employment equality directives (43 and 78/2000). The bill contained a proposal to ban sexual orientation discrimination. However, after it had been submitted to parliament, its Human Rights and Public Affairs Committee amended the bill deleting the ban on sexual orientation discrimination. The bill has its second reading this autumn.

The Committee is notorious for its anti-gay stance: since 1995 it has rejected numerous proposals from

Latvian lesbian and gay organisations, the Latvian National Human Rights Office and the Welfare Minister to ban sexual orientation discrimination, and in 1999 the Committee rejected the Registered Partnership Bill.

This recent action directly contradicts Latvia's obligation under EU law as Latvia has joined the EU on 1 May 2004. Latvian lesbian, gay and bisexual employees are under real threat from discrimination: European and national polls reveal that the Latvian population is one of the most homophobic in the EU, and the 2002 report "Sexual Orientation Discrimination in Lithuania, Latvia and Estonia" demonstrated that in Latvia:

- 2.6% individuals who completed the questionnaire had lost their job because of their sexuality;
- 9.3% had encountered attempts to sack them because of their sexuality;
- 6.7% reported having been dismissed from a job because of their sexuality;
- 17% had encountered harassment at the workplace;
- 58% felt their sexuality had to be kept hidden in any job.

An explanation from members of the Committee has been requested, and efforts have been made to get the ban on sexual orientation discrimination back into the bill. Never-

theless the chance that such a ban will be reinstated or supported is "near to nil" according to Boris Cilevičs, one of the Committee's members. Mr Cilevičs, who represents the left-wing People's Harmony Party, supports an explicit ban on sexual orientation discrimination but does not believe the Committee will comply. He has suggested that a complaint against Latvia to the European Court of Justice might be the most effective way to achieve implementation of directive 2000/78/EC.

»JURIS LAVRIKOVŠ

FOR FURTHER INFORMATION, SEE:
www.discrimination.gay.lv

COMMITTED TO NON-DISCRIMINATION

The Organisation for Security and Cooperation in Europe (OSCE) recently re-affirmed and strengthened its "commitment to increase its efforts for the promotion of tolerance and non-discrimination in all fields."¹ The Office for Democratic Institutions and Human Rights (ODIHR) has been designated to act as the collection point for information from participating states, international institutions and NGOs. The ODIHR will report its findings to the Permanent Council and to the Human Dimension Implementation Meeting (HDIM). The findings will also be made public and be taken into account in deciding on priorities for the work of the OSCE in the area of intolerance. Participating states also agreed to collect and maintain reliable information and statistics about hate crimes motivated by racism, xenophobia and related discrimination and intolerance and report the information to the ODIHR and the general public.

Unfortunately, sexual orientation or gender identity are not part of the listed grounds.² However, the mandate has been interpreted to include all forms of discrimination including that based on sexual orientation or gender identity. ILGA-Europe will take advantage of this to raise the issue of sexual orientation and gender identity discrimination within the context of OSCE commitments and make sure that the discussions include discrimination on these grounds. We will do this by cooperating with the ODIHR and making appropriate interventions at OSCE meetings; asking our members to lobby the OSCE section of the foreign office and their OSCE delegations in Vienna; encourage members to send representatives to OSCE meetings and to include LGBT representatives in their official delegations increase the level of interaction with the local OSCE Mission and National NGOs on this topic.

As a part of this renewed focus on tolerance and non-discrimination the OSCE is sponsoring a conference in Brussels on 13-14 September on Tolerance and the fight against racism, xenophobia and discrimination.³ ILGA-Europe has registered to participate and will actively intervene. This is the third conference the OSCE has organized on this topic in the last year.⁴ The results of these conferences and the report of the ODIHR will be further discussed at the Human Dimension Implementation Meeting (HDIM) to take place in Warsaw from October 4-15. The HDIM is the OSCE's largest human rights conference of the year. The topic of tolerance and non-discrimination will be discussed on Tuesday October 12, specifically the issues of hate crimes legislation and how government officials and law enforcement respond to hate crimes. ILGA-Europe will hold a side meeting on October 12 from 13:00-15:00 at the HDIM to discuss this subject in the con-

text of LGBT citizens of OSCE participating states. The office will be sending out more information on this meeting and how members can participate. ODIHR will also be setting up a website to share the information they collect and to disseminate information on best practices for preventing and responding to discrimination. We are in discussions with them about cooperation on this project.

This renewed mandate to promote tolerance and non-discrimination presents ILGA-Europe with an opportunity to get LGBT issues on the OSCE agenda and to make sure that OSCE does not forget that all of its participating states have LGBT citizens who are entitled to the same rights and protections as all citizens.

» DON BISSON

¹ See Maastricht Ministerial Council Decision on Tolerance and Non-Discrimination, MC.DEC/4/03.

² Reaffirming its commitment to promote tolerance and combat discrimination... as well as discrimination based inter alia, on race, color, sex, language, religion or belief, political or other opinion, national or social origin, property, birth or other status. MC.DEC/4/03.

³ The agenda can be found at <http://www.osce.org/events/conferences/tolerance2004/>

⁴ There were previous conferences on anti-semitism and racism, xenophobia and discrimination in Paris, Berlin and Vienna. All conference documents can be found at www.OSCE.org

EU TRANSNATIONAL PROJECTS

"DIFFERENT IN MORE WAYS THAN ONE"

The manual "Different in More Ways Than One: Providing Guidance for Teenagers on Their Way to Identity, Sexuality and Respect" was produced by a European project-team called "TRIANGLE", consisting of representatives from eight institutions in five different countries: Austria, France, Germany, Italy and the Netherlands.¹ The team set out to develop a manual for educators and counsellors on how to deal with lesbian, bisexual and gay issues in multicultural contexts.

Different in More Ways Than One.
www.diversity-in-europe.org

TRIANGLE was financed by the Community Action Programme to combat discrimination as well as by the lead organisation, the Family Affairs Ministry of North-Rhine-Westphalia, Germany. The manual is in itself a good example of true European collaboration. It is a good example on how to tackle discrimination in everyday practice.

Heterosexism and homophobia can be problematic for young people; this is true both for those identifying as lesbian, bisexual or gay and for their heterosexual peers. In counselling and education it is extremely important to provide a safe and supportive atmosphere in which young people can explore their emotions and make their own decisions on the way they choose

to live. The manual aims to give advice to teachers, educators and counsellors on how to best assist young people.

» STEFAN TIMMERMANN'S
Project Co-ordinator

The TRIANGLE manual is available in Dutch, English, French, German and Italian under www.diversity-in-europe.org

¹ TRIANGLE stands for "Transfer of Information to Combat Discrimination Against Gays and Lesbians in Europe".

EU TRANSNATIONAL PROJECTS

"ACCESS TO JUSTICE"

Not everyone has access to justice. We have got the Employment Directive but if people do not know their rights, and if they do not know how to take action when necessary, the directive – and national legislation based on the directive – will only be words on paper. "Access to Justice" – funded under the Community Action Programme to combat discrimination – wants to promote legislation to be used in practical cases when discrimination is a fact. The project's scope is discrimination on grounds of disability, age or sexual orientation. *RFSL*, the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights, will be managing the project that lasts until 1 December 2006. "Access to Justice" will work to empower and help capacity

building for key actors (NGOs, trade unions, equality bodies and others), so that individuals can get the support they need to take cases forward.



The project is intended to develop model sessions to train key actors. A multilingual training manual will be created. Information will also be available on our website. The project is actively working in four coun-

tries: Great Britain, Romania, Spain and Sweden. It is a collaboration of organisations with a commitment to tackle discrimination on grounds of age, disability and/or sexual orientation. An international steering committee is responsible for the activities and results of the project. There are six partners in the steering committee: *Help the Aged*, a UK-based charity that works to combat age discrimination and improve the quality of older people's lives; *ACCEPT*, a Romanian organisation working to benefit gay, lesbian, bisexual and transgender people; *CEOMA*, the Spanish Confederation

of Elderly People's Organisations; *RFSL*, the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights; *HomO*, the Swedish Ombudsman Against Discrimination on Grounds of Sexual Orientation; and *LO*, the Swedish Trade Union Confederation. In addition to the transnational steering committee, there are national networks in each of the four countries. In the networks, several organisations are contributing their expertise in different areas.

» ANETTE SJÖDIN
Project Manager

If you want to know more about the project and the partners, visit our web page at www.rfsl.se/access or contact Anette Sjödin, project manager, at access@rfsl.se.

STRATEGIES ON LITIGATION IN EU COUNTRIES

SOLID — INTRODUCTION TO A NEW EU PROJECT

Most people reading this will be aware of the two EU anti-discrimination directives. Most people will also be keenly aware that laws on their own do little to address the problems experienced by groups facing discrimination. It is only when these laws are put into practice, when they are properly implemented and when people are able to use them, that they have an effect. Many EU member states are dragging their heels on transposing the directives (see also p. X).

It was this in mind that NICEM, the European Network against Racism and our partners – European

Roma Rights Centre, the Public Interest Law Institute, National Bureau against Racial Discrimination, Documentation and Advisory Centre on Racial Discrimination and Interights – began to develop SOLID.

The project aims at achieving effective implementation of the two directives via capacity building and partnership with ethnic and racial minority groups across the EU. The training sessions hope to help NGO representatives across the EU 25 develop national strategies on litigation and support. In the long run we hope to develop a cadre

of trained experts who can identify test cases and work in partnership with others such as equality bodies, trade unions and NGOs, to support victims of discrimination.

We also aim to strengthen the links between NGOs and lawyers and to overcome the myth of the remoteness and inaccessibility of law. That way, gaps in transposition can be filled, the resulting laws will be implemented effectively, and we will begin to see real change in the experiences of communities that face discrimination. While the project is focussed mainly on racial discrimination,

we all know that people have more than one identity, and we are keen to link with projects working on the directives in relation to other grounds of discrimination.

Over the last half-year, we set up the project and drafted a final proposal. The next stage will be even more intense and exciting, as we move to recruit participants for the training, and begin to deliver the programme.

» TANSY HUTCHINSON
Northern Ireland Council
for Ethnic Minorities

FIRST SUCCESSFUL SEXUAL ORIENTATION CASES IN IRELAND

Two gay men have recently been awarded € 1000 and € 10,000 under Ireland's equality legislation. The cases are the first in which discrimination on the basis of sexual orientation was proved since the two laws were passed in 1998 and 2000. A third case against the Irish Department of Family and Social Affairs, the government ministry with responsibility for social welfare payments and benefits, was settled earlier this year before it went to a full hearing at the Equality Tribunal. During negotiations the Department accepted that it had discriminated against a gay couple and agreed to pay them € 1500 each in compensation.

In one of these cases, a gay man – Martin O'Regan – was asked to leave a bar before legal closing time. Mr O'Regan was also refused service at the bar throughout the time he was there, although others in his company, who were not gay, were served. The Equality Officer concluded that Mr O'Regan's evidence was more reliable and ordered that he be paid € 1000 for the "humil-

iation and suffering experienced".¹ The Equality Officer also ordered the bar to ensure that Mr O'Regan be made welcome on an equal basis to heterosexual customers in the future and that the bar inform its staff of their obligations under the Equal Status Act.

The second case taken under the Equal Status Act 2000 was against the Department of Social and Family Affairs and it concerned the provision of travel passes. People aged over 66 are entitled to a free public transport travel pass. A similar pass is issued to their spouse or unmarried partner. The Department had refused such a partner's pass to the same-sex partner, although an unmarried partner not of the same sex would have been issued with one. The Equality Authority represented the gay couple in the case and negotiated a settlement with the Department. The Department agreed to issue the "partner" version of the pass and to pay each of them € 1500. Yet, six months after the settlement in September 2003,

the Minister for Social and Family Affairs introduced legislation to effectively overturn the provision in the law that the same-sex couple were able to use. The Department did not revoke the pass issued to the couple that had taken the case.

The third case, in which a gay man – Gabriele Piazza – was awarded € 10,000, was taken under the Employment Equality Act 1998 and concerned harassment on the ground of sexual orientation experienced by an employee of a Dublin hotel.² The first incident concerned an email sent by the hotel's restaurant manager to the human resources manager: it referred to Mr Piazza as "just a bloody woman". On another occasion a kitchen steward called Mr Piazza a "bastard, gay bastard" or a "queer bastard".³ In a third incident, one of Mr Piazza's male colleagues said to another male colleague: "you want to fuck Gabriele". Although the hotel contested the evidence on this last incident, the Equality Officer found that Mr Piazza's evidence was more reliable. All three

incidents were considered as evidence of harassment on the basis of sexual orientation and the hotel was found to be liable for Mr Piazza's harassment because it failed to respond adequately to his complaints.⁴ Although the hotel held an investigation, Mr Piazza was never informed about any findings and no apology was issued. The hotel failed to make it clear that it regarded similar behaviour as serious and unlawful misconduct and it did not take any apparent steps to avoid similar incidents in the future.

One aspect of particular note in the two cases at the Equality tribunal is that neither of the complainants had legal representation. The Equality Tribunal points out in its annual report for 2003 that it seeks to provide a relatively simple, low-cost and accessible forum for resolving claims of discrimination. During 2003, 42% of all complainants in equal status decisions and 70% in employment equality decisions did not use legal representation.

»PROINSIAS Ó CEALLAIGH

¹ Martin O' Regan v The Bridge Hotel, Waterford. Equality Tribunal decision no. DEC-S2004/037, 20 April 20 2004. Available at www.equalitytribunal.ie.

² Among the provisions on the Act is a prohibition on harassment on the basis of sexual orientation. It is described as any act or conduct that is unwelcome to the victim, which could reasonably be regarded in relation to the victim's sexual orientation as offensive, humiliating or intimidating. It can include spoken words, gestures or the production, display or circulation of written words, pictures or other material.

³ There was a disagreement in the evidence as to the exact words.

⁴ Gabriele Piazza v The Clarion Hotel. Equality Tribunal decision no. DEC-E2004/033. Available at www.equalitytribunal.ie.

YOUR SOURCE OF INFORMATION ON EUROPEAN LGBT ISSUES

www.ilga-europe.org

NEWS CLIPS

Czech Republic

Battle for same-sex registered partnership continues

After the Parliament refused the government draft bill for the legal recognitions of same-sex partnerships this February, we now have a new proposal on the table. A cross-party coalition of liberal members of the Czech Parliament put forward a proposal in June. All parties except for the Christian Democrats expressed their support. Yet, despite the Conservatives' opposition, the bill passed through first reading smoothly. It is currently being discussed in the parliamentary committees. To become effective, it still has to pass its second reading (which might take

place this September) and a third and final parliamentary reading at some later point in the future.

In parallel with the parliamentary efforts for a new bill, we also started a petition in support of same-sex partnership legislation in June. Already by end of July, more than 4000 people signed, many of them well-know Czech artists. We are optimistic and hope that after several failed attempts we will be successful this time.

» K VĚTOŠLAV HAVLÍK

United Kingdom

Update on the Civil Partnership Bill

The Civil Partnership Bill was introduced by the UK government in March 2004 proposing the introduction of a scheme to enable same-sex partners to register their partnership and obtain nearly all rights and responsibilities of marriage. The suggested scheme is for same-sex partners only. The Bill had a second reading in the House of Lords in April and had overall approval from most peers. However, during the report stage in June, the Conservative peer Baroness O'Cathain proposed amendments to the Bill to extend it to carers and family members. This was passed by the Lords and makes the Bill unworkable, undermining hundreds of years of family law. Organisations such as the Law Society and Carers UK say this Bill is the wrong vehicle for such changes. Stonewall has consistently stated that protection for family members and carers should be in a separate Bill. In response to Baroness

O'Cathain's anti-gay proposal and offensive remarks about gay people, Stonewall organised a "Boycott British Airways" campaign as Baroness O'Cathain is a board member of BA. BA has since announced that Baroness O'Cathain will step down "before the end of the year". The UK government has undertaken to remove the amendment when the Bill goes to the House of Commons on 16 September. The earliest the Bill could receive royal assent and become law would be late 2004. However, it will take another 12 months to implement the Civil Partnership Act and same-sex partners would then be able to register from late 2005.

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FOR MORE INFORMATION, SEE:
www.stonewall.org.uk

United Kingdom

Universities given guidance on gender law

Universities are being issued with guidance on how to treat transgender people on their staff following legislation that allows people to apply for new birth certificates after they change gender. To coincide with the passing of the gender recognition bill, which completed its parliamentary stages early June, the universities' *Equality Challenge Unit (ECU)* is publishing guidelines on the implications of the new law, and more generally on managing "gender identity in transition" in the workplace. The guidance, *Employing transgender people in higher education*, is the first of its kind in any sector. Written in collaboration with the transgender community, it provides an accurate reflection of the needs of a member of staff who is transgender. The law now requires employers to protect their rights. The book aims to equip

managers to understand the intricacies of transgender issues, even those that are hard to discuss. The guidance outlines the different stages of transitioning, from gender dysphoria (the condition of being ill at ease with one's gender) to full legal recognition of the new gender identity (granted by the new law).

The director of the ECU, Professor Joyce Hill, said: "These guidelines provide relevant and practical advice to ensure that all members of staff can work with dignity. Transgender people have traditionally had limited rights, and the negative perceptions of transgender issues have not helped achieve equality." The guidance will be sent free to all higher education institutions and will be downloadable from the ECU website www.ecu.ac.uk.

(Source: The Guardian, 10 June 2004
www.education.guardian.co.uk/higher/news/story/0,9830,1235783,00.html.)

Serbia

Queer bashing in Belgrade

Returning home after a gay party in elite Belgrade club *Lotus* on 11 July, four men were brutally attacked by a group of hooligans. The hooligans were hitting them with bats or clubs shouting: "You want a party, fags, well here's a party for you!"

Such attacks are relatively frequent in Serbia and hardly ever meet the attention of the police. There has been no official condemnation of such homophobic hate crimes. Instead, organisations such as the so-called *Fatherland Movement* *Obraz* are given free reign in

expressing their homophobic attitudes in a poster campaign which depicts gays and lesbians as sick individuals. The poster campaign is symptomatic for the oppressive atmosphere concerning minorities in Serbia.

FOR FURTHER INFORMATION, SEE:
www.womenngo.org.yu/labris
www.gay-serbia.com/gayten_lgbt
www.belgradepride.org
www.gay.org.yu
<http://lambda.balconn.com>
www.queeria.org.yu

Spain

Government taking first steps toward same-sex marriage

For the first time in the history of the Spanish LGBT movement, activists were welcomed by government ministers – from the Minister of Justice to the Vice-Prime Minister herself. FELGT representatives were able to discuss at great length initiatives concerning new legislation on gender identity as well as government policy related to transgender people. Marriage was another item on the agenda: in a historic message recorded for Spain's gay pride march in Madrid, the Vice Prime Minister of Spain pledged the government's firm commitment to open up marriage to same-sex couples by January 2005, including the full set of rights and obligations that apply to heterosexual couples now. First legislative proposals are expected to be introduced end of September. Not everyone in Spain is rejoicing about this news. Amongst the most outspoken opponents – not surprisingly – is the Catholic Church. Church leaders are calling upon Spain's politicians to oppose the legislative initiatives and defend



heterosexual marriage, the traditional family unit and the respect for life. The government responded by reminding church leaders that in a secular country such as Spain, the church should not get involved in government matters. What is encouraging in the context of the public debates is the clear support of the Spanish population: in a recent survey conducted by the Centre for Sociological Studies (CIS), 70% of Spaniards support same-sex marriage, 80% consider homosexuality as respectable as heterosexuality, and 90% stated that they could not care less whether their neighbours are homosexuals or not.

» SYLVIA JAÉN
FELGT

Europe

Taking action against hate lyrics

LGBT rights organisations across Europe are following the lead of gay rights group *OutRage!* in challenging Jamaican homophobic dancehall bands. They are targeting eight Jamaican reggae singers whose songs incite listeners to shoot, burn, stab and drown gay people: Beenie Man, Bounty Killer, Buju Banton, Capleton, Sizzla, TOK, Elephant Man and Vybz Kartel. These artists have a right to criticise homosexuality, explains Peter Tatchell of *OutRage!* but free speech does not include the right to commit

the criminal offence of incitement to murder. When the LSVD and *OutRage!* raised the issue with international sports-clothing giant Puma, a major sponsor of the Jamaican Olympic Team and Jamaican music concerts, they reacted promptly. On 16 August, Puma has warned reggae singers that the company has a "zero tolerance" policy on homophobia and prejudice. Puma threatens that if Buju Banton and other top Jamaican reggae stars include antigay content in their concerts,

Germany

Gay Pride goes "European"

Germany's gay pride parades this summer took up "Gay Solidarnosc", a solidarity campaign co-ordinated in Germany by *Spartacus* (a German gay publisher) and the LSVD. Both Berlin and Cologne pride dedicated substantial stage time to the campaign, which aims to raise funds for *Campaign against Homophobia (Kampania Przeciw Homofobii, KPH)*, the Polish organisers of Warsaw Gay Pride 2004 that was forbidden by the local mayor beginning of June and of the Cracow Pride Parade that was attacked in May (see *Newsletter # 2/04*, p. 15). Philipp Braun, ILGA-Europe Board member from the LSVD states: "The campaign has been a great success – many well-known politicians from major political parties as well as artists,



community organisations and gay publications support *Gay Solidarnosc*." LSVD has also contacted the members of the Bundestag delegation to the Polish Parliament, the Parliamentary Assembly of the Council of Europe and the Parliamentary Assembly of the OSCE – asking them to raise LGBT rights with their Polish counterparts. For more details email Philipp Braun: ilga@lsvd.de.

FOR FURTHER INFORMATION, SEE:

http://www.lsvd.de/news/gay_solidarnosc.html

FOR FURTHER INFORMATION, SEE:

www.outrage.org.uk/briefing.asp?ID=43
www.guardian.co.uk/comment/story/0,,1293953,00.html



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