



“Creating partnership”
23RD EUROPEAN CONFERENCE OF ILGA
(INTERNATIONAL LESBIAN AND GAY ASSOCIATION)
24-28 OCTOBER 2001, ROTTERDAM, THE NETHERLANDS

Conference report

The Conference received financial support from:

the City of Rotterdam, the Heinrich Böll Foundation, HIVOS (Humanist Institute for Development Co-operation), OSI (Open Society Institute), Mama Cash and COC Haaglanden.

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FINAL PROGRAMME

DAY	TIME	Title of Event	Room
Tuesday 23 October	14.00-20.00	Registration desk open to participants	COC
	16.00-17.00	Opening press conference	COC
	18.30-20.30	ILGA-Europe Bar	COC
	20.30-22.30	Common dinner (at your own expense), <i>meet at COC at 20.00 hrs</i>	In town
Wednesday 24 October PRE-CONFERENCE DAY	08.00-09.00	Breakfast	Hotel
	09.30-17.00	Pre-conference 1: Community Based Working (by Schorerstichting)	Plenary
	09.30-17.00	Pre-conference 2: Trade Unions Conference	Room B
	12.00-19.00	Registration desk open to participants	COC
	17.00-18.00	Women's caucus	COC
	18.00-18.30	Chairing Pool selection	COC
	19.00-20.00	Reception at Rotterdam Town Hall <i>Meet at COC at 18.30 hrs</i>	Town Hall
	20.30-23.00	Boat trip on River Maas, including dinner <i>(come to Leuvehaven, 20.30 sharp)</i>	Panne-koekenboot
Thursday 25 October CONFERENCE DAY 1	07.30-08.30	Breakfast	Hotel
	08.45-09.45	Welcome and information session for newcomers to ILGA	Room B (11th floor)
	10.00-11.15	OPENING PLENARY Opening speeches	Plenary room (11 th floor)
	11.15-11.45	Coffee break	Lobby
	11.45-13.00	OPENING PLENARY (continued):	Plenary room
	13.00-14.30	LUNCH	Cafeteria
	14.30-16.00	Workshop 1: Violence against lesbians (Constance Ohms)	Room C (5 th floor)
		Workshop 2: Be Equal, Be different (Nel van Dijk)	Room D (5 th floor)
		Workshop 3: The EU Employment Directive – implementation at national level (Nigel Warner and Mark Bell)	Room E (5 th floor)
	16.00-16.30	Tea break	Lobby
	16.30-18.00	Workshop 4: Diversity and equal opportunities policies and the workplace (Michael Stuber & Angela Mason)	Room C
		Workshop 5: ILGA-Europe 1: Development of ILGA-Europe: building capacity, fundraising, and the financial outlook (ILGA-Europe Board)	Room D

DAY	TIME	Title of Event	Room
		Workshop 6: Making best use of the EU anti-discrimination action programme (Mette Vadstrup)	Room E
	18.30-20.30	Dinner (<i>meet at COC at 18.15 hrs</i>)	Restaurant Engels
	20.30-23.00	Cultural evening with the movie The Celluloid Closet and a surprise performance	
	23.00-01.00	ILGA-Europe Bar	COC
Friday 26 October PARTNERSHIPDAY	08.00-09.00	Breakfast	Hotel
	09.30-11.00	OPENING PLENARY	Plenary room
	11.00-11.30	Coffee break	Lobby
	11.30-13.00	Session A, B and C (region by region) on the question of: What lessons can be learned?	Rooms C, D, E
	13.00-14.30	Lunch	Cafeteria
	14.30-15.00	PLENARY START for the afternoon	Plenary room
	15.00-16.15	Session D; European Union Action	Room C
		Session E: ILGA-Europe policy	Room D
		Session F: Role of Council of Europe	Room E
	16.15-16.45	Tea break	Lobby
	16.45-17.15	Closing Plenary	Plenary room
	17.15-17.30	Closing speech by the chairman	Plenary room
	17.30-19.00	Reception (<i>we leave from the Highschool & walk</i>)	Museum Boijmans
	19.30-22.00	Dinner (<i>we'll walk together from the Museum</i>)	Restaurant Chalet Suisse
	22.00-01.00	Free evening Rotterdam Night Life	Guided tour
22.00-01.00	Women's Party	COC	
22.00-01.00	ILGA-Europe Bar	COC	
Saturday 27 October CONFERENCE DAY 2	08.00-09.00	Breakfast	Hotel
	09.30-11.00	Workshop 7: Immigration and Asylum (Mark Bell)	Room C
		Workshop 8: Working for transgender rights (Nico J. Beger & Stephen Whittle)	Room D
		Workshop 9: COC working together with partners in Central and Eastern Europe (Dennis van der Veur & Adrian Coman)	Room E
	11.00-11.30	Coffee break	Lobby
	11.30-13.00	Workshop 10: EU Enlargement (EU Enlargement project team)	Room C
		Workshop 11: <i>Stepping Stones and Roadblocks</i> project (Jackie Lewis and Kurt Krickler)	Room D
		Workshop 12: Bisexuality (Heleen Rutgers and Frank Slootweg))	Room E
13.00-14.30	LUNCH	Cafeteria	

DAY	TIME	Title of Event	Room
	14.30-16.00	Workshop 13: <i>The EU and combating discrimination outside employment</i> (Mark Bell)	Room C
		Workshop 14: The legal combat of hate speech – the USA and the Netherlands (Astrid Mattijssen & Charlene Smith)	Room D
		Workshop 15: The Council of Europe (Nigel Warner & Rob Wintemute)	Room E
	16.00-16.30	Tea break	Lobby
	16.30-18.00	Workshop 16: Creating safe and affirming schools for LGBT student and staff (Tim Bedford)	Room C
		Workshop 17: Anti-discrimination legislation; the Irish experience (Marie Mulholland and Sile Larkin))	Room D
		Workshop 18: ILGA-Europe 2: the Work Programme 2001/02 and any other issues (ILGA-Europe Board)	Room E
	19.00-20.00	Women's caucus 2	COC
	19.00-20.00	EU Enlargement project team caucus	COC
	20.30-22.00	DINNER	Restaurant Tijdgeest
	22.00-01.00	FAREWELL PARTY	Tijdgeest
Sunday 28 October CLOSING DAY	08.00-09.00	Breakfast	Hotel
	09.30-11.00	FINAL PLENARY	Plenary
	11.00-11.30	Coffee break	Lobby
	11.30-13.00	FINAL PLENARY (continued)	Plenary
	12.45-13.00	Closing ceremony	Plenary
	13.00-14.00	FAREWELL LUNCH	Cafeteria

OPENING PLENARY

Part I and II

“Creating partnership”

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Minutes

Plenary/Session: Opening plenary, first part
Chairwoman/man: Isabelle CRUETTE and Peter ZIJLEMA
Date: Thursday, 25 October 2001, 10.00 – 11.15

Minute Taker: Steffen Jensen, LBL, Denmark

Agenda:

1. Welcome and introduction by the chair
2. Speeches
3. Greetings
4. Election of chairing pool
5. Voting card procedures
6. Announcement of election of election officers
7. Housekeeping announcements

Re 1: Welcome and introduction by the chair

The chair (PZ) introduced some practical matters concerning smoking, photographs, emergency, visit from a group of students, mailboxes etc. and presented the agenda for the session.

Re 2: Speeches

a) Jackie Lewis (co-chair of ILGA-Europe) welcomed the participants to the 23rd European conference on behalf of ILGA-Europe and thanked COC for the planning of the conference. Further she thanked the city of Rotterdam for its financial support to the conference, HIVOS, the Heinrich Böll Foundation and the Mama Cash Foundation the support to the scholarship programme. Finally JL noted the substantial support to the work of ILGA-Europe from the European Commission.

b) The Netherlands Human Rights Ambassador Renée Jones-Bos greeted the conference and gave a speech on human rights and especially the efforts of the Dutch Ministry of Foreign Affairs. She noted the importance of anti-discrimination policies

The Dutch government tries at all international fora and conferences to introduce and promote proposals on discrimination on the ground of sexual preference, but is often met by resistance from many parts. RJ-B gave several examples of general and concrete initiatives taken by the Dutch government.

c) Dutch MP Boris Dittrich greeted the conference and explained about the Dutch marriage act introduced recently and the impressive ceremony during the first wedding at the Amsterdam City Hall. Further he explained about the adoption law also recently enforced in the Netherlands. The introduction of marriage for homosexuals has meant that it is easier to combat discrimination based on sexual orientation.

Further on BD stressed the importance of being open especially for publicly known G/L people as a kind of role model.

d) ILGA-World secretary-general Kürsad Karamanoglu praised the Dutch international solidarity on G/L/B/T issues. He noted the Europe is more than the EU countries – and that the world is more than Europe. Like the Netherlands have taken world wide responsibility ILGA-Europe must not forget its world wide responsibility as one of ILGA's regions.

e) Karin Hagelstein welcomed the conference on behalf of COC. Even though The Netherlands has come far as far as legal issues are concerned, the tolerance in the Netherlands is still thin.

KH focussed on COC's projects abroad, e.g. with Romania, Bulgaria and Moldova and offered COC's experience to other groups. "Let's create partnership", she ended her speech.

f) Finally Coen van Gestel welcomed the conference on behalf of Stichting ILGA-Europe 2001 – the body arranging the conference. He also thanked the sponsors, and wished the participants a fruitful conference.

Re 3: Greetings

Alexander Modinos from Cyprus and Pierre Noël had sent greetings to the conference.

Re 4: Election of chairing pool

Coen van Gestel and Isabelle Cruette have been appointed by the ILGA-Europe board as members of the chairing pool.

At the selection meeting Wednesday afternoon Michel Soudan, Cathal Kelly, Alla Lukashenko and Anna Daucíková were nominated, and the plenary endorsed this and elected those to the chairing pool.

Re 5: Voting card procedure

Voting cards will be issued to representatives of full members by the secretariat.

Re 6: Announcement of election of election officers

Carola Towle and Ernst Strohmeyer were presented as candidates for the posts of election officers.

Re 7: Housekeeping Announcements

Peter Zijlema presented some practical matters.

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Minutes

Plenary/Session: Opening plenary, second part
Chairwoman/man: Alla LUKASHENKO and Cathal KELLY
Date: Thursday, 25 October 2001, 11.45 – 13.00

Minute Taker: Cathal Kelly

1 Presentation of the Activity report for 2000/2001

NOTED: Jackie LEWIS and Kurt KRICKLER, co-chairpersons of the board of ILGA-Europe, presented the main highlights from the Annual Report, which had been circulated to delegates and published on the ILGA-Europe web site.

2a Audited accounts for 2000

NOTED: Nigel WARNER, Treasurer, presented the audited accounts for 2000. On behalf of the Board and ILGA-Europe, he thanked Steffen JENSEN, who had overseen the preparation of these accounts for the auditor. The full accounts had previously been circulated to members. AGREED: It was agreed without any opposition to adopt the accounts.

2b Current financial situation

NOTED: Nigel WARNER gave a brief presentation on the current financial situation of ILGA-Europe, outlining the main developments in recent months. A copy of the report had been circulated to members before the meeting. Detailed discussion of aspects of the current financial situation was referred to Workshop 5.

3 Draft Budget for 2002

NOTED: Nigel WARNER highlighted the main features of the proposed draft budget for 2002. The draft budget had been circulated to members before the conference and posted on the conference web site. Detailed discussion of the contents of the draft budget was referred to Workshop 5.

4 Appointment of Auditor

NOTED: Nigel WARNER reported that the board had implemented the decision of the Bucharest Conference to appoint an auditor. He outlined the research the Board had done in selecting the auditor and the reasons for their choice.

NOTED: That the proposal to appoint Ms Ingrid VAN BEGIN had been circulated to members in the final agenda (item 6 of that agenda). The decision on this proposal will be taken at the final plenary session.

5 Election officers

NOTED: That Carola TOWLE and Ernst STROHMEYER had agreed to act as election officers for the elections to the ILGA-Europe Board and to the ILGA-World Board. Delegates were asked if any other persons wished to be elected as election officers. No other nominations were received.

AGREED: Carola TOWLE and Ernst STROHMEYER were elected as election officers for the conference.

6 ILGA-Europe Board and ILGA-World Board elections

NOTED: In the election to the ILGA-Europe Board, the following nominations had been received by the Board by the deadline of 11 September and that these names had been circulated to members before the conference:

WOMEN	MEN
Nico BEGER	Adrian Relu COMAN
Anna DAUCIKOVA	Riccardo GOTTARDI
Tatjana GREIF	Kurt KRICKLER
Tiia LAMPELA	Miran ŠOLINC
Jackie LEWIS	Nigel WARNER

NOTED: That Anna DAUCÍKOVÁ had withdrawn her nomination.

NOTED: That there were now four valid nominations for the four women's seat on the board, and that these four candidates would be elected.

NOTED: There was now a vacancy for the reserve women's member of the Board. The election officers will circulate information about the closing time for nominations for this vacancy.

NOTED: That the person who comes fifth in the election for the men's seats on the board would become the reserve member.

NOTED: In the election to the ILGA-World Board, the following nominations had been received by the Board by the deadline of 11 September and that these names had been circulated to members before the conference:

WOMEN	MEN
Jackie LEWIS	Pierre NOËL
Marianna ŠÍPOŠOVÁ	Miran ŠOLINC

NOTED: That Marianna ŠÍPOŠOVÁ had withdrawn her nomination.

NOTED: That there was now one valid nomination for the one woman's seat on the board, and that this candidate would be elected.

NOTED: There was now a vacancy for the reserve women's member of the Board. The election officers will circulate information about the closing time for nominations for this vacancy.

NOTED: That the person who comes second in the election for the men's seat on the board would become the reserve member.

NOTED: That balloting for all elections is to take place on Sunday morning, during the plenary sessions. Only those delegates in possession of valid registration cards will be issued with ballot papers and all voting delegates must register with Olivier COLLET before the voting starts.

7 Venue for 2003 Conference

NOTED: Adrian COMAN announced that the board was inviting organisations interested in hosting the 2003 conference to contact Adrian. No proposals had been received before the conference so it is expected that the decision may be made at the 2002 Conference in Portugal. The organisation that does undertake to hold the conference would receive much greater assistance from the Board than has been the case in the past because ILGA-Europe now has staff and funding to enable it to give this greater level of support.

8 Conference Programme

NOTED: Nigel WARNER outlined the draft work programme for 2002 that had been prepared by the Board and circulated to members before the conference. One amendment had been received by the deadline of 11 September, from EGALITE.

NOTED: That workshops 3, 5, 7, 8, 10, 13, and 18 during the conference would deal with the work programme and other formal business and will be able to make recommendations to the

final plenary session on Sunday. Delegates wishing to comment on the work programme should attend the relevant workshop to do this.

NOTED: A wide range of other workshops will also be held and that a wide range of interesting and informative issues will be covered in these workshops.

9 Final matters

NOTED: Plenary session chair person Alla LUKASHENKO announced that Amnesty International has a petition at the conference for those who want to add their support to the campaign in European countries to get Protocol 12 to the European Convention on Human Rights and Fundamental Freedoms ratified.

The Plenary Session ended at 12h55.

CLOSING PLENARY

Part I and II

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Minutes

Plenary/Workshop Session: Closing Plenary – part one
Chairwoman/man: Anna Daucíková and Michel Soudan
Date: Sunday, 28 October 2001

Minute Taker: Paul Fisher (UK)

1. Election of Counters:

The following tellers were elected unopposed.

Louise Ashcroft (UK), Armand Hotimsky (France) Grada Schadee (Netherlands), Michal Pawlega (Poland)

2. Adoption of Board Report:

Conference accepted and adopted the annual Board Report 2000/01.

Conference expressed gratitude for the work carried out by board members over the past year.

3. Draft Budget:

Conference approved the draft budget.

4. Appointment of Auditor:

Conference approved the appointment of the independent auditor.

5. Work Programme:

Amendment to 1.2.1 of the work programme was carried unanimously.

Amendment to 6.2 of the work programme was carried unanimously.

Amendment to 8.1.1 of the work programme was carried unanimously.

Delegates were reminded by Jackie Lewis that the work programme is not ‘word perfect’ and the Board’s work is not limited just to the content of the programme.

6. Presentation of the candidates for election to the ILGA-Europe and ILGA-World Boards:

6a) Summary of election addresses for ILGA-Europe Board:

The female candidates to the ILGA Europe Board were elected unopposed.

Female Candidates

Tatjana Greif (Slovenia)

Has been an activist since early 1990 and works in education. In 1997 Tatjana became part of the Commission dealing with the same-sex partnership bill in her country.

Nico Beger (Germany):

Jackie Lewis spoke on behalf of the candidate. Nico has consistently completed a large amount of high quality work for ILGA. Jackie believes Nico is an essential part of the ILGA-Europe team.

Jackie Lewis (UK):

Jackie thanked the writers of the humorous conference newsletter and spoke of the vast amount of work she has been doing. She also thanked her fellow past board members for their support and work.

Tiia Lampela (Finland):

Tiia is a founding member of the Rainbow Family association in Finland and has been working on transgender and religious issues.

The conference endorsed its support for these candidates by applauding.

Male candidates

Adrian Coman (Romania):

Joined ILGA-Europe board in 1998 but will be immigrating to the USA in 2002. He wants the opportunity to complete and finalise work before leaving. He also intends remain an activist, possible with ILGA-World.

Riccardo Gottardi (Italy):

Attended first ILGA-Europe Conference in 1998 and was surprised at the size and complexity of ILGA-Europe's work. Stated that the European Union gives great opportunities to ILGA but we must be careful not to exclude the non-EU countries.

Kurt Krickler (Austria):

Kurt has been involved with ILGA since 1981 and is eager to continue his work this year. He also has time to devote to this work.

Miran Šolinc (Slovenia):

Miran is a social worker from Slovenia and wishes to play a more active role on our politics and in particular the development of partnership law.

Nigel Warner (UK):

Nigel stated there is a huge amount of work to do in many areas, but believes we must do today the things that will benefit the most numbers of lesbian, gay, bisexual and transgender people first. He also reminded the conference of the 90 % funding ILGA-Europe receives from the European Union.

6b) Summary of election addresses for ILGA-World Board:

Jackie Lewis (UK) was elected to the women's seat unopposed.

Male candidates

Pierre Noël (Belgium):

Pierre has been active in ILGA since 1986. For past two years he has been an ex-officio member of ILGA-Europe and a member of the IGLA-World board. Pierre believes his experience is an asset to ILGA and he also has good common sense.

Miran Šolinc (Slovenia):

Wishes to stand for both the Europe and World Boards of ILGA as he believes this will improve communication, speed of action and save money.

At this time there was a break during which an election, with ballot papers, took place for the male ILGA-Europe and ILGA-World Board seats.

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Plenary/Workshop Session: Closing Plenary – part two
Chairwoman/man: Anna Daucíková and Michel Soudan
Date: Sunday, 28 October 2001

Minute Taker: Anke Hintjens (Belgium)

1. Announcements of votes

Votes for ILGA-Europe conference venue in 2003:

26 in favour of Copenhagen
34 in favour of Glasgow.

Elections: 67 votes (one not valid)

Male seats ILGA-Europe board:

Adrian: 66
Riccardo: 55
Kurt: 66
Miran: 15
Nigel: 64

First female reserve: Ali Jarvis, Stonewall Scotland
Second: Anke Hintjens, FWH, Belgium

ILGA-World board (67 valid votes):

Miran: 10
Pierre: 57

Reserve: Grada Schadee, AOB Netherlands

**THEMEDAY – CREATING PARTNERSHIP
26 October 2001**

**PARTNERSHIP IN EUROPE:
AN OVERVIEW OF THE PRESENT SITUATION**

Robert Wintemute, School of Law, King's College, University of London
(robert.wintemute@kcl.ac.uk)

I. The present situation at the national level

Table A – CREATING PARTNERSHIP IN EUROPE

**Countries (or regions within countries) with at least one law
recognising same-sex partners in at least one area**

**[subsequent more important laws indicated in square brackets
but not included in totals]**

Year	Cumulative total	Total for year	Countries (or regions within countries)
1979	1	1	Netherlands
1980	1	0	
1981	1	0	
1982	1	0	
1983	1	0	
1984	1	0	
1985	1	0	
1986	2	1	Denmark
1987	3	1	Sweden
1988	3	0	
1989	3	0	[Denmark – registered partnerships]
1990	3	0	
1991	3	0	
1992	3	0	
1993	4	1	Norway (registered partnerships)
1994	6	2	Spain (national), [Sweden – registered partnerships]
1995	6	0	
1996	8	2	Hungary, Iceland (registered partnerships)
1997	8	0	[Netherlands - registered partnerships]
1998	11	3	Austria, Belgium, Spain (Catalonia)
1999	13	2	France, Spain (Aragón)
2000	15	2	Spain (Navarra), United Kingdom (Scotland)
2001 (Jan.- Sept.)	20	5	Finland, Germany, [Netherlands – civil marriage], Portugal, Spain (Valencia), Switzerland (Geneva)

Table B – CREATING EQUAL PARTNERSHIP IN EUROPE

Levels of legal recognition of different-sex and same-sex partnerships

Level of recognition	Different-sex partners only	Same-sex partners only (or mainly)	Different-sex and same-sex partners
(1) Civil marriage	- all countries except Netherlands		- Netherlands (proposal in Belgium)
(2) Registered partnership (package of rights/duties almost equal to civil marriage)		- Denmark - Finland - Germany (if <i>Bundesrat</i> approves second part of reform) - Iceland - Norway - Sweden	- Netherlands
(3) Registered cohabitation (package of rights/duties substantially inferior to civil marriage)		- Germany (first part of reform approved by <i>Bundestag</i>)	- Belgium - France - Spain (Aragón, Catalonia, Navarra, Valencia) - Switzerland (Geneva)
(4) Unregistered cohabitation (package of rights/duties substantially inferior to civil marriage) (no registration required, but minimum cohabitation period must be satisfied)	examples: - Austria (law on transfer of deceased partner's lease challenged before Eur. Ct. H.R. in <i>Karner v. Austria</i>) - UK (laws granting rights/duties to couples "living as husband and wife")	examples: - UK (immigration for partners legally unable to marry) (mainly same-sex)	examples: - France (<i>concubinage</i>) - Hungary - Netherlands - Portugal - Spain (Aragón) - Sweden

Table C – CREATING EQUAL PARENTING IN EUROPE

Countries (or regions within countries) whose legislation permits adoption of children by lesbian, gay and bisexual (and probably transgendered) individuals or same-sex couples

no adoption	individual adoption	second-parent adoption	domestic joint adoption	international joint adoption
<p>France¹ Sweden (because administrative courts have imposed a blanket ban on lesbian, gay and bisexual individuals)</p> <p>Croatia Cyprus Luxembourg (only married couples can adopt, i.e., unmarried heterosexual individuals and couples also excluded)</p>	<p>at least 33 of 43 Council of Europe member states²</p> <p>(recommended in Sweden by government-appointed committee)³</p>	<p>Denmark Iceland Netherlands</p> <p>(recommended in Sweden by government-appointed committee)</p> <p>(legislation in the Navarra region of Spain has been challenged before the <i>Tribunal Constitucional</i>)</p> <p>(proposed in Norway)⁴</p>	<p>Netherlands</p> <p>(recommended in Sweden by government-appointed committee)</p> <p>(legislation in the Navarra region of Spain has been challenged before the <i>Tribunal Constitucional</i>)</p>	<p>no country (or region within a country)</p> <p>(recommended in Sweden by government-appointed committee)</p> <p>(legislation in the Navarra region of Spain has been challenged before the <i>Tribunal Constitucional</i>)</p>

II. The common issues at the national level

A. Is our country ready for legislation on same-sex partnerships, i.e., must we first equalise our age of consent or pass anti-discrimination legislation (a law prohibiting discrimination based on sexual orientation in the areas of employment, education, housing, and the provision of goods and services)?

¹ Challenge to decision of France's highest administrative court heard by the European Court of Human Rights on 2 October 2001. See *Fretté v. France* (Application No. 36515/97), <http://hudoc.echr.coe.int/hudoc> (Access HUDOC, Title = Fretté, tick "Admissibility decisions" and "French").

² Insufficient information to determine whether Armenia, Azerbaijan, Georgia, Liechtenstein and Macedonia permit adoption by unmarried individuals. If they do, they do not appear to have a blanket ban on lesbian, gay and bisexual individuals, imposed by the legislature or the courts.

³ See *Barn i homosexuella familjer* (Children in Gay and Lesbian Families), SOU 2001:10, <http://www.regeringen.se/propositioner/sou/index.htm> (January 2001).

⁴ See <http://odin.dep.no/bfd/norsk/aktuelt/nyheter/004051-990242/index-dok000-b-n-a.html> (20 April 2001).

B. What should the package of rights and obligations include? Same as civil marriage, almost the same, or substantially inferior? Or should the existing rights and obligations of unmarried different-sex couples be the starting point? Must exclusion of second-parent adoption or joint adoption be accepted?

C. Should the law have a list of rights and obligations (enumeration method), or provide "all rights and obligations of married couples with the following exceptions" (subtraction method)?

D. Should there be (1) a procedure for registration of partnerships, thereby allowing same-sex partners to acquire an official legal status and legal rights and obligations immediately, or (2) a minimum period of cohabitation, to provide for cases where one or both same-sex partners choose not to register, or (3) two routes to recognition, either registration or a minimum period of cohabitation?

E. Should the new legal institution be restricted to same-sex couples, or should it be opened up to unmarried different-sex couples as well? (The closer the package is to civil marriage, the less likely it is that they will be included.)

F. What name should be attached to the legal institution made available to same-sex couples, i.e., civil marriage or something else? (The closer the package is to civil marriage, the harder it is to justify giving the institution a different name.)

III. The present situation at the European level ("hard law")

A. European Convention on Human Rights

1. Transsexual marriage or parenting

- *Sheffield & Horsham v. UK* (30 July 1998) (European Court of Human Rights judgment) (refusal to permit a transsexual woman to marry a non-transsexual man, because they are of the same birth sex, did not violate the Convention)

- no case yet where a transsexual person was seeking a right or benefit attached to marriage or to different-sex cohabitation, rather than the right to marry

- *X, Y & Z v. UK* (22 April 1997) (Court judgment) (refusal to recognise transsexual father as a legal parent did not violate the Convention)

2. Same-sex partnership or parenting

- no judgments of the Court yet; *Karner v. Austria* (transfer of lease of deceased partner) is pending before the Court (declared admissible on 11 September 2001)

- *Salgueiro v. Portugal* (22 December 1999) (Court judgment) (sexual orientation cannot be cited as a negative factor in decisions about the custody rights of a biological parent)

- *Fretté v. France* (oral argument before Court on 2 October 2001) (claim of sexual orientation discrimination with regard to access to adoption as an unmarried individual)

- the former European Commission of Human Rights issued seven negative decisions, but they are not binding on the Court

B. European Community law

1. Same-sex partners of staff of EC institutions

- Joined Cases C-122/99 P, C-125/99 P, *D. & Sweden v. Council* (31 May 2001) (European Court of Justice judgment) (Council not obliged to treat a Swedish registered partnership as equivalent to a marriage)

2. Same-sex or transsexual partners of employees of any employer in an EU member state

- Council Directive 2000/78/EC of 27 November 2000 (to be implemented by 2 December 2003) prohibits sexual orientation discrimination in employment with regard to "pay", which includes benefits, and therefore requires at least that unmarried same-sex partners (including a transsexual partner considered legally of the same sex as the employee) be treated in the same way as unmarried different-sex partners

- the Directive will override the ECJ's judgment in Case C-249/96, *Grant v. South-West Trains* (17 February 1998), that EC law (including EC sex discrimination law) permits employers to deny benefits to unmarried same-sex partners that they provide to unmarried different-sex partners

- the Directive's effect on employment benefits that are limited to married different-sex partners is uncertain (see Recital 22: "This Directive is without prejudice to national laws on marital status and the benefits dependent thereon.")

- in Case C-117/01, *KB v. National Health Service Pension Agency* (pending before the ECJ), a non-transsexual female employee seeks a survivor's pension for her transsexual male partner that is limited to married different-sex partners of employees

3. Free movement of same-sex partners

- right of an EC/EEA-national worker to take a non-EC/EEA-national partner to another EU member state is currently limited to a "spouse" under Council Regulation 1612/68/EEC, Art. 10, meaning a married partner (same-sex or different-sex?)

- three pending proposals for EC Directives on free movement would create a category of "unmarried partner living in a durable relationship with the applicant, if the legislation of the Member State concerned treats the situation of unmarried couples as corresponding to that of married couples":

Proposal for a Council Directive on the right to family reunification, COM (1999) 638, as amended by COM (2000) 624, Art. 5(1)(a)

Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents, COM (2001) 127, Art. 2(e)

Proposal for a European Parliament and Council 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, COM (2001) 257, Art. 2(2)

IV. Further reading

Robert Wintemute and Mads Andenæs (editors), *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law* (Oxford, Hart Publishing, <http://www.hartpub.co.uk>, published on 22 October 2001)

SESSION D: EUROPEAN UNION ACTION

Joke Swiebel, MEP (speaking notes)

Partnership day

Friday 23 October 2001

An EU directive on registered partnership is far away. Might be an illusion, at least in the coming decade.

We have to take into account:

- civil law is still in the competence of the member states; unlikely this will change soon;
- the subsidiarity principle is here to stay
- the political sensitivity of the matter: outlawing discrimination in social life is one thing, but a European gay partnership (let alone marriage) may be a bridge to far.

This is not to say there is nothing we can do. We can follow an indirect approach, or a series of indirect approaches, by which we could put the issue more firmly on the agenda for the future.

(1) Recognition by the EU of the registered partnerships regulations that exist in the member states, as we find it now in draft Commission texts on family reunification, on asylum procedures and on free movement of EU citizens or third country nationals.

These provisions imply that, if member states recognise non-marital partnerships among their citizens, they must extend that recognition to immigrants (as defined in these texts).

(2) Build on the plans to enhance mutual, recognition of judicial decisions (see Tampere, where this was proclaimed as the thing to do both in penal law and in civil law). This could have links with the gay partnership issue where questions like divorce and adoption are at stake, and in a recent piece of legislation against abduction of children (by a divorced partner). (Must be investigated further, I am not an expert in these issues.)

(3) Explore the road towards mutual recognition of non-marital partnerships between EU member states. Strangely as it may seem, whether this is feasible depends much on the outcome of the decision-making process that is going on these months in the JHA council on the fight against terrorism. The European arrest warrant will give the concept of "mutual recognition" an enormous boost, that could have a spill-over effect from co-operation in penal law to co-operation in civil law.

(4) Implementation of the framework directive of November 2000. Covers equal pay. Case law could be "provoked" on the question whether equal pay extends to fringe benefits for married and non-married partners and/or to pensions.

(5) The staff members of the European Institutions, esp. the Commission have their own regulations. The position of non-married partners of EC-employees (and of the married same sex partners of Dutch EC-employees) is a question in itself, that should be followed closely.

In short: Each of these approaches are technically complicated, and not sexy at all. Demanding gay marriage for all Europeans now sounds much sexier, but could be counterproductive.

In this context, my approach would be to stress the commonality with the plight of heterosexual non-married couples and to ask for equal treatment as a matter of simple justice.

All EU institutions have different roles; the art of lobbying entails coming up with the right demand at the right institution. Questions of agenda building definitely belong in the EP. Intergroup for Gay and Lesbian Rights will take up this issue as their next project. Looking forward to continuing co-operation with ILGA-Europe.

SESSION E: ILGA–EUROPE’S POLICY

This session will consider the issue of partnership in the context of ILGA-Europe’s policy and work programme. We will look at the issues that have been discussed during the day and the potential contribution by ILGA-Europe to the development of recognition of partnerships and families.

ILGA-Europe policy

The policies of ILGA-Europe, as decided by our conferences, were set out in the ‘Summary of general policy statements’ document approved at the last ILGA-Europe conference in Bucharest.

The following are the relevant extracts from that document.

“General policy towards the EU:

ILGA-Europe [will] work to influence the institutions of the European Union in order to gain full equality for lesbian, gay, bisexual and transgendered (lgbt) people in the European Union and in all member states.

The Board will continue to work for the implementation of the following recommendations towards:

The European Commission:

The Commission should

- [on the basis of Article 13] adopt proposals for legislative measures to prohibit discrimination based on all Article 13 grounds (unless already covered by existing EC legislation) in all areas of Community competence and ensure that [these proposals] cover the prohibition of discrimination between different-sex and same-sex partners
- adopt an approach to all initiatives which promotes the principle of equal treatment for all
- effectively address issues which obstruct and inhibit genuine freedom of movement within the Union - such as discriminatory criminal law provisions, non-status of same-sex couples, non-recognition by Member states of same-sex partnerships legally registered in another Member State, discriminatory restrictions relating to parenting, adoption and fostering, non-inclusive legal definitions of the family - and preparing the ground work for the inclusion of such issues, as necessary, in a future Intergovernmental Conference;
- encourage Member States to take appropriate measures at national level, including those proposed above.

National governments

The Member States should recognise the extensive forms of legal, social and economic discrimination that affect lgbt people and the need for appropriate measures to combat such discrimination and exclusion and to promote social justice and human rights for all human beings.

In consequence, Member States [should] take steps to provide for the recognition of same–sex relationships and for inclusive definitions of the family within laws and social policies relating to the family, parenting, the care of children, adoption and fostering, and immigration, including:

- the creation of possibilities for two persons of the same sex to obtain the same legal status, rights and responsibilities as people of opposite sex can obtain
- the introduction of provisions to allow adoption by same-sex couples, to protect the rights of children with lgbt parents and to enable the legal recognition of non-biological co-parents

General policy towards the CoE (extract)

ILGA-Europe will work [for] acceptance by all organs of the Council of Europe that the right of lesbian, gay, bisexual and transgendered people to equality is fundamental and in no sense different from or less than the right to equality of all other sectors of society”

What does this policy mean?

IE’s policy is to call for recognition of the diversity of family relationships within laws and policies. IE does not promote one form of family in preference to others, or one form of legal recognition in preference to others.

The “right to family life” - the right to found a family and for that family to be validated and recognised as a family in law and social policy - must not be dependent on the legal status of marriage or partnership.

We call for the opening up of marriage, and for lgbt people to have the choice of other forms of legal recognition of our partners, but we do not call for rights to be dependent on these.

The starting point is not, therefore, the issue of ‘marriage’ or of ‘registered partnership’, but the issue of the family.

Our arguments on the recognition of the diversity of families are directly linked to the rights of children [the UN Convention on the Rights of the Child and the Charter on Fundamental Rights]. Our policy is that laws and social policies must be based on the best interests of children.

An example: The Commission proposal on Freedom of movement for EU citizens

Our policy objective in relation to freedom of movement, for example, can be summarised as:

- a) the removal of barriers against lgbt people as individuals seeking to exercise their right to ‘move and reside freely’
- b) the removal of barriers against the FOM of lgbt families through the ending of ‘rights’ being restricted to certain kinds of families
- c) the prohibition of discrimination in the interpretation and implementation of rules and policies relating to this at EU and MS level.

Following from this, some of the key arguments are:

- It is a fundamental right of each EU citizen to ‘move and reside freely’ (preamble 2 & 3); the explanatory memorandum (EM) states at 1.3 that

“the basic concept is as follows: Union citizens should, *mutatis mutandis*, be able to move between Member States on similar terms as nationals of a Member State moving around or changing their place of residence or job in their own country”
- Such a right must “if it is to be exercised under objective conditions of freedom and dignity, be granted to their family members, irrespective of nationality” (preamble 6);

- For EU citizens with families to be able to ‘move and reside freely’ the EU has to adopt rules on the right of movement and residence of family members that reflect the diversity of families as they exist. As stated in the EM at 2.4,

“the right from the right to preserve family unity, which is intrinsically connected with the right to the protection of family life, a fundamental right forming part of the common constitutional traditions of the Member States, which are protected by Community law and incorporated in the Charter on Fundamental Rights of the European Union”
- The granting of rights of FOM only to those whose families fall within narrow definitions of the family and family members fundamentally breaches this right for the millions of EU citizens whose families fall outside that narrow definition;
- The current restriction of the right of movement and residence of family members to EU citizens/their families where the EU citizen is married breaches that fundamental right; replacing it with rules which would restrict such rights to EU citizens who are either married or in a registered partnership would still be a fundamental breach of this right (even if every MS opened up marriage to same sex partners and had registered partnership laws);
- The root of this discrimination is not that the varying level of recognition of registered partnerships or the right to marry leads to an impairment of the exercise of the right to FOM, but the other way round: it is the restriction of these rights to those who are married which leads to the impairment of those rights for all those who are not married.
- Neither same-sex nor opposite sex partners should have to get married in order to be able to exercise ‘fundamental rights’. Some opposite-sex partners are actually not able to marry. (The UK immigration rules on unmarried partners explicitly apply to opposite-sex partners ‘who are not able to marry’ as well as to same-sex partners).
- There are already a huge variety of forms of recognition of unmarried partners within the legal systems of the Member States which do not fall within the ‘married’/‘registered partners’ models. Our ‘Equality Report’ contains examples of these for several countries – including Austria, Belgium, Denmark, Finland, Sweden. Of course some, like Austria, are effectively related to opposite sex partners in ‘common-law’ marriages. However, for example, in Sweden, there is something called ‘domestic partners’, in Belgium, residency rights can be gained by unmarried partners, in Denmark, the non-Danish partner in a bi-national couple can gain immigration rights without the couple being in a registered partnership.
- The EU’s measures must include the mutual recognition by Member States of the variety of forms of legal recognition of family relationships that already exist in different member states, as well as the mutual recognition of judicial decisions in the event of divorce, etc.
- The Directive should explicitly refer to Member States acting in the best interests of children, in accordance with the UN Convention on the Rights of the Child and the Charter on Fundamental Rights.
- One of the stated aims of the ‘Area of Freedom, Justice etc’ process is to introduce consistency and equity across the EU. It is interesting that, separately, they are working on provisions for the ‘mutual recognition of judicial decisions and judgements’. In the May 2001 scoreboard section 3.2, it states that ‘the principle of mutual recognition should become the cornerstone of judicial co-operation in both civil and criminal matters within the EU’ and that the ‘mutual recognition programme’ includes various aspects of family matters, such as ‘matrimonial matters and parental responsibility’.

SESSION F: THE ROLE OF THE COUNCIL OF EUROPE INSTITUTIONS

by Robert Wintemute (robert.wintemute@kcl.ac.uk)

I. Existing case-law of the European Court and Commission of Human Rights⁵ on same-sex or transgendered partnership and parenting

A. Transsexual marriage or parenting

- *Sheffield & Horsham v. UK* (30 July 1998) (Court judgment), para. 66 ("the right to marry guaranteed by Article 12 refers to the traditional marriage between persons of opposite biological sex")

- no case yet where a transsexual person was seeking a right or benefit attached to marriage or to different-sex cohabitation, rather than the right to marry

- *X, Y & Z v. UK* (22 April 1997) (Court judgment), para. 52 ("transsexuality raises complex scientific, legal, moral and social issues, in respect of which there is no generally shared approach among the Contracting States, ... Article 8 cannot ... be taken to imply an obligation for the respondent State formally to recognise as the father of a child a person who is not the biological father")

B. Same-sex partnership or parenting

- no judgments of the Court yet; *Karner v. Austria*, Application No. 40016/98 (transfer of lease of deceased partner), is pending before the Court (declared admissible on 11 September 2001)

- *Salgueiro v. Portugal* (22 December 1999) (Court judgment) (sexual orientation cannot be cited as a negative factor in decisions about the custody rights of a biological parent)

- *Fretté v. France* (oral argument before Court on 2 October 2001) (claim of sexual orientation discrimination with regard to access to adoption as an unmarried individual)

- the former European Commission of Human Rights declared seven applications inadmissible, but its admissibility decisions are not binding on the Court:

X & Y v. UK (No. 9369/81) (3 May 1983), 32 Decisions and Reports of the European Commission of Human Rights (D.R.) 220, 5 European Human Rights Reports (E.H.R.R.) 601 (immigration claim by same-sex partner)

W.J. & D.P. v. UK (No. 12513/86) (11 Sept. 1986), 11 E.H.R.R. 49 (immigration)

C. & L.M. v. UK (No. 14753/89) (9 Oct. 1989) (immigration)

B. v. UK (No. 16106/90) (10 Feb. 1990), 64 D.R. 278 (immigration)

Kerkhoven v. Netherlands (No. 15666/89) (19 May 1992) (parental authority for lesbian mother's female partner)

S. v. UK (No. 11716/85) (14 May 1986), 47 D.R. 274 (housing – succession by surviving same-sex partner to tenancy of their home)

Röösli v. Germany (No. 28318/95) (15 May 1996), 85 D.R. 149 (housing)

⁵ All judgments and admissibility decisions of the European Court of Human Rights are available at <http://www.echr.coe.int/hudoc>, as are some reports and admissibility decisions of the former European Commission of Human Rights. Type the applicant's name after "Title", or type in the application number, and tick "Reports" or "Admissibility Decisions" at the top if you are looking for one of these rather than a judgment of the Court (it is safer to tick both English and French at the top; some decisions are published only in one language).

C. Unmarried different-sex partners

- *Saucedo Gómez v. Spain* (No. 37784/97) (26 Jan. 1999) (Court admissibility decision – inadmissible)

- *Quintana Zapata v. Spain* (No. 34615/97) (4 March 1998) (Commission admissibility decision – inadmissible)

II. What new cases on same-sex or transgendered partnership or parenting would have the greatest chance of success?

A. Partnership

1. Discrimination between unmarried/unregistered same-sex partners (including a transgendered person and their partner who are considered legally of the same sex) and unmarried/unregistered different-sex partners

- *Karner v. Austria* - tenancy succession

- United Kingdom - e.g., tenancy succession, fatal accident compensation

- immigration of a partner in some countries?

2. Discrimination between unmarried/unregistered same-sex partners and married different-sex partners (excluding adoption)

- United Kingdom - inheritance tax, public sector survivor's pensions

- immigration of a partner in some countries?

3. Discrimination between registered same-sex partners and married different-sex partners (excluding adoption)

- Joined Cases C-122/99 P, C-125/99 P, *D. & Sweden v. Council* (31 May 2001) (European Court of Justice)

4. Discrimination between married same-sex partners and married different-sex partners (excluding adoption)

5. Denial of access to civil marriage to same-sex partners

- the right of transsexual persons to marry a person of their birth sex will probably need to be established first, before the Court would consider marriage by two persons who are legally and factually of the same sex

B. Parenting

1. Second-parent adoption (or joint parental authority or custody)

- easier if opened up to unmarried different-sex couples

2. Joint adoption

- easier if opened up to unmarried different-sex couples

III. How to bring a partnership or parenting case?

- A. Assess the strength of the case on the facts and the law.
- the facts should be sympathetic, suggesting a clear injustice against an innocent individual who has done no harm to others
 - the applicant must be committed to see the case through to the end in Strasbourg; because of the time necessary to exhaust domestic remedies, and the Court's large and growing backlog of cases, this could take as long as 10 years!
 - **ILGA-Europe's advice should be sought regarding the strength of the case**; a "test case" on partnership or parenting could set a good or bad precedent for 43 Council of Europe member states; as a non-governmental organisation with expertise on sexual orientation discrimination, ILGA-Europe might be able to ask the Court for permission to submit written comments on the legal issue in the case (this is a "third-party intervention" under Article 36 of the Convention and Rule 61 of the Rules of Court)
- B. Make sure that the applicant is represented by a lawyer.
- an applicant who represents herself or himself could set a bad precedent; it's like trying to perform surgery on yourself!
- C. Make sure that the applicant exhausts domestic remedies, i.e., all remedies under your national constitution or legislation (Article 35(1) of the Convention).
- D. The applicant's lawyer must send a letter to the Court **within six months of the final domestic decision** (Article 35(1) of the Convention).
- follow the Court's instructions at <http://www.echr.coe.int/eng/general.htm>
 - see the Rules of Court at <http://www.echr.coe.int> ("Basic Texts") for additional details on procedures before the Court

IV. Further reading

Robert Wintemute, *Sexual Orientation and Human Rights: The United States Constitution, the European Convention, and the Canadian Charter* (Oxford University Press, 1995, hardback edition, 1997, paperback edition)

Robert Wintemute, "Strasbourg to the Rescue? Same-Sex Partners and Parents Under the European Convention" in Robert Wintemute and Mads Andenæs (editors), *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law* (Oxford, Hart Publishing, <http://www.hartpub.co.uk>, published on 22 October 2001)

“Creating partnership”
23RD EUROPEAN CONFERENCE OF ILGA
(INTERNATIONAL LESBIAN AND GAY ASSOCIATION)
OCTOBER 2001, ROTTERDAM, THE NETHERLANDS

Notes of the Partnership Day

Plenary Opening

The day was chaired by Astrid Mattijssen and Peter Zijlema. After welcoming all participants, Astrid explained the special nature of this day entirely devoted to one theme: Partnership.

She pointed out that:

- the day is primarily intended as a day for ILGA members, not as a conference of experts, politicians or scientists/lawyers;
- the day is meant to exchange information, experiences and views on the theme of partnership;
- the day was to have an attractive format: both plenary sessions and meetings in smaller groups.

The chair then set out aims of the day which were:

- provide information on the present partnership law(s) in the Netherlands, and the “making of” the opening up of civil marriage to same-sex couples (history);
- exchange information between ILGA members regarding the present situation and future of this topic in their respective countries;
- investigate how we can support each other in these national struggles for more equality for our partnerships;
- see if and how ILGA-Europe, the European Union and the Council of Europe can contribute to the development of partnership legislation in Europe.

Speeches

There were three speeches by:

- Henk Krol, editor-in chief of the *GAY Krant*, speaking on the making of the Dutch legislation;
- Robert Wintemute (School of Law, King’s College London), giving an overview of the present situation throughout Europe (see p. 15);
- Lousewies van der Laan (Dutch MEP for the European Liberal and Democratic Party), addressing the role of Europe in the development of partnership legislation.

Morning sessions: working in regional sub-groups

After the coffee break, participants worked in small groups divided according to European regions, addressing the following question: What lessons can be learned from the development of partnership in your country?

All contributions were put on post-its. Then, these statements were put together and grouped around four categories:

- legal aspects
- social aspects
- political aspects
- the role of LGBT organisations.

Afternoon

In the beginning of the afternoon plenary, Robert Wintemute presented the analysis of the work that had been done in the regional sessions before the lunch break. The main points are summarised on the next page.

How can European institutions help?

The afternoon then continued with three more sessions:

- *How can European action help?* This session was chaired by Astrid Mattijssen, special speaker for the session as MEP Joke Swiebel (see p. 20);
- *ILGA-Europe's policy towards partnership in Europe.* This session was chaired by Jackie Lewis. A special handout was distributed to all participants in the session (see p. 21);
- *The role of the Council of Europe institutions.* This session was jointly chaired by Robert Wintemute and Nigel Warner. A special handout was distributed (see p. 24).

Information market

After the tea break, all participants were invited to walk around in the plenary room where all the flip chart papers and post-its were put on the walls and read all the statements produced in the morning sessions.

Summary of the day

The day concluded with a short presentation of slides, summarising the main issues of the day (see next page).

Closing speech

Robert Wintemute concluded the day on an optimistic note, emphasising the following:

- On 22 October 1981, when the European Court of Human Rights decided in *Dudgeon vs. UK*, more than a third of what are now the 43 member states of the Council of Europe had total bans on sexual activity between men (and in some cases between women) – today the total ban has almost completely disappeared from the penal codes of the CoE member states;
- In 2021, the same will be true for discrimination against LGBT partnership and parenting. We will then be talking about how to put pressure on the few remaining countries that still refuse to open up civil marriage of joint adoption to same-sex couples; maybe it will even make less than 20 years; as we have seen, rapid progress has been made since 1995.
- The current situation resembles September 1989 when a trickle of East German refugees began crossing from Hungary to Austria through a crack in the Iron Curtain – within a few months, the Berlin Wall had fallen and mainly peaceful revolutions had taken place across Eastern Europe. The opening of civil marriage in the Netherlands has the same significance as that first crack in the Iron Curtain – it is a legal watershed for the world: what was once unthinkable has finally happened;
- The proposal for a similar opening up of civil marriage in Belgium could be the beginning of a domino effect as the walls dividing same-sex and different-sex partners come tumbling down in one country after another.
- The changes will take longer than in 1989 but by working together through ILGA-Europe, we can speed them up!

SUMMARY OF THE PARTNERSHIP DAY

Just meant to give some thoughts on what we have done today and how you can proceed.

Different starting points:

- We have different legislation
- We have different public attitudes
- The influence of religion is different.

Our ability to function as an LGBT organisation is different:

- Problems with registration, holding meetings
- Hard to get our issues on the political agenda
- Partnership has low priority in some countries.

Common advice on goals:

- Be realistic, and aim high!
- Don't ignore other LGBT issues such as ethnic minority LGBT issues, youth LGBT, persons without partner.

Strategies/Mean:

- Education is vital for the general public on LGBT issues
 - Make use of the media
 - Be rational, careful intentions, don't be aggressive
 - Know and stick with your approach.
-
- All issues relating to children will be difficult – be prepared
 - Incremental change; do it step by step
 - Be prepared or be ready to get a gift from your government
-
- BE INTERNATIONAL
 - Get advice and support from other countries
 - Realise we are different but we are strong together.

WORKSHOPS 1-18

Workshops 1 – 3, Thursday, 25 October 2001, at 14.30 – 16.00

WORKSHOP 1

Violence against Lesbians, Constance Ohms

In the workshop we will discuss specific aspects of fighting violence against lesbians:

- violence and discrimination
- different experiences and coping strategies of gays and lesbians
- prevention: lesbian counselling services and mainstreaming politics

WORKSHOP 2

Be Equal, Be Different, Nel van Dijk

Be Equal Be different produced a handbook and a photo exhibition in 2000 and a train the trainers program in 2001. A short introduction will be given of the intentions of the project. The 4 D-models that have been used to fight discrimination will be explained. The similarities and differences between the different discrimination grounds will be analysed. The last part will give explanation to the (dis)advantages for participating organisations in the project.

***WORKSHOP 3**

The EU Employment Directive – Implementation at National Level, Mark Bell and Nigel Warner

The EU Framework Directive means that member states and accession countries now have to introduce laws prohibiting discrimination on the ground of sexual orientation in employment. LGBT organisations can do much to work for the most beneficial implementation by their government.

The workshop will summarise the background to the Directive, examine the areas where action by national LGBT organisations may be called for during implementation, and introduce ILGA-Europe's guide for member organisations on implementing the Framework Directive.

Workshops 4 – 6, Thursday, 25 October 2001, at 16.30 – 18.00

WORKSHOP 4

Diversity and Equal Opportunities Policies and the Workplace, Michael Stuber and Angela Mason

Diversity refers to all the differences that make each individual unique – sexual orientation included. Thus, it can be a powerful tool to include GLBT issues in organisational development, cultural change and political contexts. The workshops presents basics of this approach and gives examples of how this comprehensive concept has helped to create better places for sexual minorities to work, and which potential it presents.

***WORKSHOP 5**

ILGA-Europe 1: Development of ILGA-Europe: Building Capacity, Fundraising and the Financial Outlook, ILGA-Europe Board

European level activity presents immense opportunities for furthering LGBT rights across the whole continent. But these opportunities cannot be exploited without adequate resource. The workshop will look at the Board's plans for strengthening ILGA-Europe's capacity, and the financial demands that will create, together with ideas for meeting those demands. In this context consideration will be given to the indicative budget sent to members in the third conference mailing.

There will also be an opportunity to address 3 other areas of formal conference business, if necessary: the accounts for the year 2000, the financial report for the current year and the appointment of ILGA-Europe's new auditor.

WORKSHOP 6

Making the Best Use of the EU Action Programme to Combat Discrimination (2001-2006), Mette Vadstrup

The Community Action Programme to combat discrimination, which was adopted last year, provides several possibilities for lgbt organisations at national or local level to get involved. Participants in this workshop will get an overview of the Action Programme, an update on the activities that the European Commission has launched so far and the possibility to discuss and develop ideas for participation in the Programme.

Guest speaker, Cécile Le Clercq (the European Commission), will additionally speak on the outcome of the Conference on the Action Programme, which was held in Brussels on October 18 – 19, 2001 in Brussels.

Workshops 7 – 9, Saturday, 27 October 2001, at 9.30 – 11.00

***WORKSHOP 7**

Immigration and Asylum, Mark Bell

This workshop explores the fast emerging EU policies on immigration and asylum and their relevance to lesbian, gay, bisexual and transgender persons. On immigration, the workshop examines the situation for LGBT persons and family members who wish to move either to or within the EU. On asylum, the workshop examines the possibility for claims for asylum based on persecution by reason of sexual orientation or gender identity. The situation of LGBT family members of asylum applicants/refugees is also considered.

***WORKSHOP 8**

Working for Transgender Rights, Nico J. Beger and Stephen Whittle

This workshop invites all trans activists and everybody interested in ILGA-Europe's work on transgender to come and discuss future directions of the transgender work already undertaken by ILGA-Europe. The workshop shall fulfil two aims: a skills workshop in identifying transgender issues and on lgbt joint work Secondly, an introduction to what IE has already done in relation to transgender rights and the development of a plan for precise future political work in ILGA-Europe, including, for example, a demands catalogue and establishing an EU wide transgender network group.

WORKSHOP 9

COC Netherlands Working Together with Partners in Central and Eastern Europe, Dennis van der Veur (COC Netherlands) with input from representatives of current partners of COC Netherlands: **Adrian Coman** (Accept, Romania), **Guenko Guenkov** (Gemini, Bulgaria) and **Maxim Anmeghichean** (Genderdoc-M, Moldova)

Since 1997 COC Netherlands implements projects with Central and Eastern European partner organisations with financial support of the Dutch Ministry of Foreign Affairs as well as with the Netherlands Organisation for International Relations (NOVIB) and HIVOS. In this workshop COC Netherlands will share experiences of the last 4 years.

Moreover we will focus on the needs of Central and Eastern European lgbt NGOs and the kind of relevant support they could to get of Western European lgbt NGOs. Key-factors of success (and failure) for a successful project will be discussed as well as concrete advice for co-operation. Special attention will be paid to the development of a strategic plan and fundraising techniques. This workshop is also a network opportunity for lgbt NGOs in East and West and will build upon the Pre-conference workshop 1.

Workshops 10 – 12, Saturday, 27 October 2001, at 11.30 – 13.00

***WORKSHOP 10**

EU Enlargement, EU Enlargement project team

Enlargement of the European Union presents significant opportunities to put pressure on the governments of accession countries to take action against sexual orientation discrimination. ILGA-Europe has carried out major projects in this area. These have involved documenting discrimination in these countries, and presenting it to the relevant EU institutions.

The workshop will start with an overview of the subject, and the work completed in the last year. It will then focus on the specific experiences and learning points of EU enlargement project team members from Romania, Slovenia, Poland and Hungary. The workshop will close with discussion of a second phase of research, now starting in other accession countries, particularly the Baltic States, Malta, Slovakia, and Bulgaria.

WORKSHOP 11

Stepping Stones and Roadblocks Project & Non-discriminatory access to services provided by the voluntary sector Project, Jackie Lewis and Kurt Krickler

ILGA-Europe has been and is involved in two projects with other European networks to combat discrimination on various grounds.

This workshop will introduce these two projects and discuss the “horizontal” approach of addressing discrimination i.e. on various grounds jointly. An approach which the European Commission has also adopted in the Community Action Programme to combat discrimination (2001-2006). Co-operation with other NGOs at national level will therefore become an important issue for ILGA-Europe members in the future.

WORKSHOP 12

Bisexuality, Heleen Rutgers and Frank Slootweg

The purpose of this workshop “Diversity in Europe, a bisexual perspective” is to inform and discuss the position of bisexuals in the European Union as well as to investigate what practical steps can be taken at European level to promote the rights of bisexual people.

Presenters Heleen Rutgers and Frank Slootweg will use the Klein sexual orientation grid to make the diversity in sexual orientation visible. We welcome everybody who is interested in an interesting discussion on bisexuality, which will end in practical suggestions for the ILGA-Europe work programme 2001/2002

Workshops 13 – 15, Saturday, 27 October 2001, at 14.30 – 16.00

****WORKSHOP 13***

The European Union and Combating Discrimination Outside Employment, Mark Bell

The EU adopted the Framework Directive in November 2000. This forbids sexual orientation discrimination in employment, with effect from 2 December 2003. This workshop examines the prospects for a further, wider anti-discrimination Directive. It will consider the options for a Directive dealing with discrimination in areas such as education, healthcare, social protection, and access to goods and services.

WORKSHOP 14

The Legal Combat of Hate Speech – the USA and the Netherlands, Astrid Mattijssen and Charlene Smith

Starting point is a recent Dutch case concerning defamatory and hateful speech against lesbians and gays.

In the workshop we will explore the criminal law and jurisprudence, the freedom of (religious) speech in the Netherlands and the United States. In the discussion, we would like to explore different European (legal) approaches of the participants.

****WORKSHOP 15***

The Council of Europe, Nigel Warner and Robert Wintemute

On 21 September 2001 the Committee of Ministers of the Council of Europe issued an historic statement regretting that discrimination and violence against homosexuals still occur in Europe, and acknowledging that progress in ending discrimination is still needed in member states' domestic law and practice. This statement is the culmination of efforts going back several years by members of the Parliamentary Assembly of the Council of Europe, working closely with ILGA-Europe and its members.

Earlier this month a case challenging the refusal of the French authorities to allow a gay man, Philippe Fretté, the possibility to adopt because of his sexual orientation was heard before the European Court of Human Rights. Robert Wintemute presented the case to the Court on behalf of Philippe Fretté.

The workshop will focus on the significance of these two major developments, and on other events at the Council of Europe during the year.

Workshops 16 – 18, Saturday, 27 October 2001, at 16.30 – 18.00

WORKSHOP 16

Creating Safe and Affirming Schools for LGBT Students and Staff – GLEE Project, Tim Bedford

This workshop will present the Gay and Lesbian Educational Equity (GLEE) Project funded by the European Commission Socrates Programme. This is a teacher training, curriculum development and research initiative to combat homophobia and heterosexism in schools supported by GLEENET (an internet-based communication and resource network). The workshop will also discuss the GLEE Leadership Training Course for teachers 'Creating Safe and Affirming Schools for Lesbian Gay Bisexual and Transgender (LGBT) Students and Staff' to take place in Oulu, Finland, from 20-27 July 2002.

WORKSHOP 17

Anti-discrimination Legislation & the Irish Experience, Marie Mulholland and Sile Larkin of the Irish Equality Authority

The aims of the workshop will be:

1. to familiarise workshop participants with the scope of anti- discrimination legislation in regard to sexual orientation currently existing in the Republic of Ireland
2. to identify the strengths and the difficulties of applying the legislation
3. to explore the responses and the needs of the lesbian and gay community as a result of the legislation
4. to discuss the role of the Equality Authority in providing a support to lesbians and gays who experience discrimination.

***WORKSHOP 18**

ILGA-Europe 2: The Work Programme 2001/02 and Any Other Issues, ILGA-Europe Board

This workshop provides an opportunity to review Work Programme items not covered in other workshops. It will also address one proposed amendment to the Work Programme - this is included in the Final Agenda circulated with the third conference mailing. Finally, it will provide an opportunity to address any other relevant issues which have arisen during because of the conference.

*** = Workshops dealing with aspects of ILGA-Europe's work programme or other formal business and able to make recommendations**

WORKSHOP 1: Violence against Lesbians

Constance Ohms

On the International Health Conference in 1986 in Ottawa the term health was redefined in a way not to restrict it any longer on the absence of illness but to include physical, mental and social wellbeing. This approach is based on a new understanding which connects our health also to socio-economical conditions: the close interrelation between the working conditions of lesbians on the labour market, their social conditions, their health status and their need of healthcare.

Thus the fight against violence and discrimination does contribute in an essential way to the status of being healthy. Certain criterions have to be taken into account to evaluate those socio-economical conditions of lesbians:

- Regulations of female homosexuality by the government like the penal code or direct and indirect discrimination
- Access of lesbians to the labour market
- The societal attitude towards female homosexuality
- Individual experience and evaluation of quality of living conditions of lesbians

Viewing violence against lesbians, and the discrimination as well as of lesbians and the lesbian lifestyle as an aspect of health, offers the possibility to develop a concept which demands a lot more from politics, politicians and the national health systems –including all those institutions which provide psycho-social support.

In 1999 the lesbian information and counselling centre in Frankfurt/Main, Germany, the lesbian counselling service in Berlin, Germany, the department of anti-discrimination of same sex lifestyles of the city of Vienna, Austria, the department of women's affairs of the city of Frankfurt and two self-help groups, Gérance in Brussels and SOLA in London, started a European wide project to combat violence against lesbians. The project is funded for four years by the European Union and the German Federal Ministry of Family, the Elderly, Women and Youth.

An extensive concept has been developed which is based on an enlarged definition of violence and an enlarged definition of prevention. It includes governmental institutions as well as NGOs on local, county and national level and demands their action. Since 2001 and till 2003 certain aspects of the concept are taken into action and needed research is and will be done.

In the workshop I will present the basics of the prevention concept, i.e. the definitions of violence and prevention as well as why a lesbian specific approach is useful (vs. homosexual approach). Furthermore some demands on NGOs as well as governmental institutions will be presented. Finally new research will be presented on the quality and quantity of a health care system for lesbians with experiences of violence and/or discrimination. Therefore public relation work, knowledge and attitude of family (counselling) centres, women centres, women shelter houses, police, victim counselling services and other social institutions in Germany, Austria and Belgium had been questioned.

WORKSHOP 2: Be Equal, Be Different

Nel van Dijk

In this very short mini lecture I am going to show you what kind of methods are used over the years to fight against discrimination. How do organisations deal with newcomers? The practice grown in the last decades is explained in a theoretical framework. To make it easier to keep in mind they are called the 4D models. Knowing this theory can be helpful when you try to recognise why certain measures are more helpful than others in fighting discrimination.

I will try to explain you the four models and of course at the end it will be clear which is the most preferable one.

The deficit model

In this model the idea is that newcomers simply have to learn how our organisation of society functions. They do not understand the norms and values of our society, they do not understand how we interact and very probably they do not have the skills to function in this society. The newcomers have the deficiencies. They have to catch up to the majority.

The solution is to give them appropriate instruments: training courses, good information and they get the chance to change if they do not want to remain outsiders. If they take the opportunity they soon will conform to the dominant culture. They will then have the skills to meet the demands of the organisation or society.

The difference model

You understand already that the idea behind it is that the newcomer is different, comes from a different culture, speaks a different language, and has a different religion and other values and norms. As a result the newcomer also communicate differently. This causes tensions and misunderstandings. By improving the communication this tensions and misunderstandings will be resolved. Not only the newcomers have to take action; also the dominant group should invest in order to eliminate the problems.

The discrimination model

This approach has to do with power. The idea is that the dominant group is not willing to share the power with the minority group. It discriminates against the minority in order to safeguard its own interests. This impedes the access of the labour market. Minorities are marginalised, both in the workplace and in the society at large.

Solution is to them the minority more power by affirmative action, contract compliance, target quotas et cetera. In the practice using this model a lot of expertise has been developed on how discrimination is ingrained in the structures and cultures of organisations.

You already understand that a lot of comments can be made by using this different model.

The deficit model is very one sided. It sees the newcomers as the problem. The behaviour of the dominant group is not questioned at all. It does not occur to anyone that the structure of the organisation could be causing some of its members to be excluded.

The difference model is already less one sided because communication should be improved between the dominant and the minority group. But there is a danger that the emphasis on the differences will make people blind to the similarities between groups. It is easy to perceive the other as deviant, as a problem case. There is a real danger that people will get stuck in a mindset in which any information about the other culture or the other socialisation pattern is merely crystallises into a series of stereotypes. One of the weakest aspects of the difference model is that it ignores relations of power. Improving communication and providing information does not alter the power of differential between groups. Inequality is not only a question of ignorance. Social and economic conditions are often the breeding ground for structural forms of exclusion.

A major drawback of the discrimination model is the deterministic nature of this model. It reduces all problems into issues of discrimination and prejudice. Objective deficiencies on the part of a minority group are ignored. Because of the strong emphasis on structures and on social relationships, the consequences of individual actions tend to be neglected. One serious danger here is to overlook the importance of good interpersonal relations. The opposition between the dominant group and the underprivileged group becomes sharper. A further drawback is that alliances with other minority groups are unthinkable, because they begin to regard each other as competitors.

So let's have a look to the diversity model.

The diversity model tries to combine the positive aspects of the three models discussed above. Since every human being is unique, some people might need a refresher course – but that doesn't mean that whole groups can be assumed to have deficiencies. Of course clear communication can build bridges between people – but too much emphasis on the differences between them may cause them to forget their similarities. Non-discrimination campaigners have given us vast amounts of knowledge about the unfavourable starting positions of minority groups and the structural factors that impede them in their functioning, and they have analysed economic, social and power differences.

The diversity model also focuses explicitly on such *exclusion mechanisms*. What is new about diversity is its recognition that such mechanisms can cut across the groups themselves. Diversity does not limit itself to the discrimination directed against a group, but it tries to include all groups. Nor is diversity simply the sum of all minorities groups, but it applies to all people together. This is because diversity does not start by looking at a minority group, but by fighting the mechanisms that cause exclusion. Certain procedures or certain elements of culture are harmful not just to people from minority groups, but to people from the dominant group as well. That is why diversity targets not the minority groups but the exclusion mechanisms. In dealing with an issue, we first have to judge whether people face any obstacles. Does our personnel policy facilitate all our employees in their development? Does our management style enable us to access the full range of qualities available in our staff? Is our public relations policy responsive to the broad diversity in our society? Briefly, the aim of the diversity model is to change a given environment or organisation in ways that enable both the dominant group and the outsiders to develop and grow, and to behave in ways that seem natural to them.

Definitions have a crystallising effect, and they raise expectations that problems can be solved through one simple blueprint. Preventing the exclusion of groups of people is a dynamic process. That is why the originators of diversity have chosen not to give this approach a definition, but only to explain it. By providing insights into the mechanisms that cause exclusion, people will get the tools they need to recognise such mechanisms and to put the diversity approach into practice in their own environments.

Combating exclusion is not only a dynamic process; it is also a continuing one. A fifth model will undoubtedly emerge in the future.

Deficit model

- Newcomers have deficiencies
- Newcomers have to conform to the dominant group
- The newcomer is to blame
- The dominant group can not be blamed

Difference model

- The others are different
- Differences are underlined
- Similarities are underestimated
- Danger of stereotyping
- No change in power relations

Discrimination model

- The dominant group is causing the problem
- Marginalisation of minorities
- Deficiencies are ignored
- Minority groups are competitors

Diversity model

- For everyone
- Eliminating discrimination
- Not problems, but opportunities
- Enhancing quality

For everyone

- Diversity targets all people.
- Diversity explicitly looks for similarities between individuals and groups.

Eliminating discrimination

- Diversity takes a society without discrimination as the fundamental principle of its philosophy.
- Diversity therefore takes into account all the differences that really matter.
- Diversity focuses primarily on mechanisms of exclusion.

Not problems, but opportunities

- Diversity starts by interpreting difference as a potential strength, not as a problem.
- Diversity emphasises the things that people have to offer, and not their presumed deficiencies. The key to change lies not in the problem, but in the opportunity.

Enhancing quality

- Diversity sees difference as a strength and makes use of the wide variety of viewpoints available.
- Diversity sees individual differences as opportunities for quality improvement. A diverse arsenal of viewpoints and experiences will improve problem-solving capability and enhance quality.

***WORKSHOP 3: The EU Employment Directive – Implementation at National Level**
Mark Bell and Nigel Warner

Framework directive

Overview/importance
Scope of protection
Exceptions
Enforcement
Evaluation

Areas to focus on during implementation at national level

Framework directive

Lays down a “general **framework** for **combating discrimination** on the grounds of religion or belief, disability, age or **sexual orientation** as regards **employment and occupation ...**”
Implementation by 2 December 2003

Framework directive – why important?

7 existing member states have no protection, while 11 of 13 applicant countries have no protection

Goes beyond the protections which exist in many countries

Framework directive – why bother?

Governments may not implement fully
Influence individual provisions to be as favourable as possible
Try to avoid potentially damaging provisions
Campaign for wider anti-discrimination laws to also include provision of goods and services, education etc
Publicise the new rights in LGBT community

Framework directive – scope

Recruitment
Promotion
Working conditions, including pay
Dismissals
Vocational training and guidance
Membership of an organisation of workers or employers
Applies in both public and private sectors

Limitations to scope – “state schemes” 1

Article 3.3: "This Directive does not apply to payments of any kind made by state schemes or similar, including state social security or social protection schemes".
Governments may argue that this means “all state schemes”, including occupational pensions/other benefits schemes are outside Directive.

Limitations to scope – “state schemes” 2

Two levels of response by LGBT organisations:

Check to make sure that governments not excluding occupational state pension schemes from protection from discrimination under their legislation

Go beyond Directive, and try to persuade governments to ensure that there is no discrimination against same-sex partners or their families in the provision of all types of social welfare benefit

Limitations to scope – “marital status”

Para. 22 of the preamble states: "This Directive is without prejudice to national laws on marital status and the benefits dependent on thereon".

LGBT response: argue that your government make it clear in the implementing legislation that discrimination against same-sex partners or their families in the provision of any workplace benefits is unlawful.

Framework directive – scope of “discrimination”

Direct discrimination
Indirect discrimination
Harassment
Instruction to discriminate

Framework directive – harassment (1)

“unwanted conduct ... with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment”

Framework directive – harassment (2)

2 areas of clarification:

no indication of standard to be used in determining whether a given action creates a hostile environment.

employer not liable for harassment caused by other employees or customers – should have duty to take all reasonable steps to prevent harassment at work.

Framework directive – exceptions

Positive action schemes
Genuine occupational requirements

NB: some common reasons for discrimination, e.g. views of customers or other employees, or work with children, not sufficient justification

Framework directive – genuine occupational requirements (GORs)

These are a commonly recognised justification for discrimination

Article 4 (1): discrimination okay where based on a genuine occupational requirement.

Framework directive – “GORs” – religion or belief (1)

Belonging to a particular religion may be a “genuine occupational requirement” for a particular job “having regard to the organisation’s ethos”

religious teachers – yes
mathematics teachers in school with religious ethos - uncertain
cleaner in a religious school - no

Framework directive – “GORs” – religion or belief (2)

Article 4 (2) almost certainly does not allow organisations with religious ethos to refuse to employ LGB people who are members of that religion.

BUT: such organisations can “require individuals working for them to act in good faith and with loyalty to the organisation’s ethos”. No further definition in Directive.

Framework directive – “GORs” – religion (3)

Article 4 (2) may ONLY be used by member states to maintain **existing** national *legislation* or *practices* already existing at the date of adoption of the Directive.

Implementation of Article 4 (2) will need to be scrutinised very carefully!

Framework directive – enforcement (1)

“legitimate interest” organisations can bring cases in support of a complainant – but not in their own name

Burden of proof rests with respondent once complainant establishes “facts from which it may be presumed that there has been direct or indirect discrimination”

Victimisation forbidden
Sanctions must be “effective”

Framework directive – enforcement (2)

A major defect in framework directive:

Unlike with Race Directive, no provision for establishment of organisation to promote equal treatment and assist victims.

Framework directive – other provisions

Member States to encourage “dialogue with appropriate non-governmental organisations”
In 2006, and every five years thereafter, Commission report of application of Directive – to take account of NGO viewpoints

Framework directive – conclusions (1)

Major step forward:
Protects from sexual orientation discrimination
Both direct and indirect discrimination
Public and private sectors
Comprehensive scope
Burden of proof favours complainant
Requires effective sanctions

Framework directive – conclusions (2)

BUT:

Religious exemption
Marriage-related benefits
Absence of enforcement agency

Working on implementation – Resources

Two categories of LGBT organisations:
Basically self-sufficient: network, input limited to information exchange/networking
Lacking resources at national level (esp accession countries)
Find legal help locally or internationally
Seminar for accession countries in 2002

Working on implementation – Stages of campaign

Before publication of government proposals – general lobbying paper (based on ILGA-Europe guide)
On publication of proposals: review, and propose amendments
Draw attention of Commission to any non-compliance
During parliamentary process: same

Working on implementation – forming alliances

Other Article 13 groups: age, disability
Humanist/secular/LGBT religious organisations in connection with the religious exemptions
Trades unions

WORKSHOP 4: Diversity and Equal Opportunities Policies and the Workplace **Michael Stuber and Angela Mason**

mi•st [Consulting

- **European Diversity Management and Marketing Consulting**
Specialised in:
 - Making the business case behind Diversity
 - Strategic Implementation of Diversity
- **Michael Stuber**
 - Richard-Wagner-Strasse 25
D 50674 Cologne
 - Tel. *49 - 2 21 - 2 22 12 - 50
Fax *49 - 2 21 - 2 22 12 - 51
 - Email mi.st@NetCologne.de
mob *49 - 1 71 - 8 99 8 99 8

Our Understanding of Diversity

- **Reality**
 - Diversity describes the fact that there are many ways in which we differ from - or are similar to each other
- **Mind-Set**
 - Diversity describes our awareness for the many differences, and how we deal with them

The Diversity of Diversity **The Vital Importance of Diversity** **Diversity - The Natural Cousin** **to The Changing Business Landscape**

- **Corporate Challenges for the years to come**
 - European Integration
 - Globalisation
 - Fast organisation change
 - Complex organisation structures
 - M&A, strategic alliances
 - Shorter innovation cycles
 - Shareholder Value (pressure on costs and productivity)
 - Brutal competition
 - Differentiation - in search of profiles
- ➔ **Diversity relates directly to all those trends!**

Managing Diversity Is Becoming a Necessity Gays and Lesbians are Everywhere Out, Proud and Accepted Aims: Profiling the Diversity Organisation

- ***In order to position an organisation in the changing environment and anticipate societal and cultural changes, the aims are to:***
 - Have a diverse workforce that reflects the Diversity of external stakeholders
 - Create an environment where everybody feels valued for all the differences he or she brings to the workplace
 - Have employees who actively value the differences of all stakeholders and are competent to actively leverage Diversity
 - Have a positive image as regards Diversity

- ***The Diversity of nations, languages and cultures within Europe is one a key issue in this context***

The Business Benefits of Diversity The European Experience

- ***European businesses are not used to dealing with differences***
 - ➔ Companies find it difficult to raise awareness for Diversity in general
- ***Diversity is only becoming visible for larger parts of the population***
 - ➔ Employees just start to realise that differences are there — and will remain
- ***National thinking has so far prevented a pan-European conscience***
 - ➔ Diversity is lacking common ground on the European level
- ***European companies are reluctant to learn from the U. S.***
 - ➔ To be successful, Diversity must be positioned in a European context
- ***In Europe, soft factors of business are being ignored and compliance won't be a major issue***
 - ➔ Introducing Diversity requires a strong business case

Diversity Requires Substantial Change Introducing Diversity

- ***Combining complex processes***
- ***Top Down***
 - Extended vision statement
 - Awareness training
 - Accountability for action (score cards)
- ***Bottom-Up***
 - Interactive communication with employees (Intranet, posters, help line, focus groups)
 - Employee networks
- ***Diversity as a business model***
 - Project management
 - Evaluation

Integrating Diversity

■ **HR**

- Job descriptions & staffing
- Performance appraisal, personnel development, training
- Compensation & Benefits
- Food policy
- Holiday policy

■ **Corporate Communication**

- Marketing & advertising
- Sponsoring & PR
- Internal language

Diversity provides a coherent context for existing initiatives:

■ **Cross-cultural training**

■ **Equal opportunity programmes**

■ **Team building activities**

■ **Gay marketing**

■ **Work / life balance**

- Flex time
- Home office
- Dependent care

■ **Lifelong Learning**

Do's and Don'ts in European Diversity

■ **Most common mistakes**

- Failing to be (truly!) all-inclusive (only addressing Gender and Nationality)
- Driving the project only by HR - "just another programme"
- Relying strongly on training / education initiatives
- Expecting immediate results

■ **Success factors**

- Showing visible and credible commitment from top management that cascades accountability
- Communicating with employees
- Linking Diversity directly to the core business, key factors and challenges
- Choosing a pan-national approach

Rita Mae Brown:

“The reward for conformity is that everyone likes you except yourself.”

We Help Our Clients Introduce Diversity Successfully

- ***Our mission is best described by our commitment to***
 - deliver world-class quality through our work
 - develop solutions tailored to the specific needs, current situation and plans of the respective client
 - provide most appropriate and cost-effective support
 - help our client successfully build and sustain commitment to Diversity throughout the organisation

- ***We embark on the most adequate part in each project as we***
 - give expert advice to facilitate planning,
 - provide tools to drive implementation, or
 - handle complexity to accelerate progress

Our Background Fits Diversity

- ***Multi-discipline qualification***

- ***Pan-European experience***

- ***Comprehensive approach***
 - Based on corporate strategy
 - Linked to core business - aimed at ownership and participation
 - Focused on key-functions
 - HR
 - Corporate Communication
 - Cost-effective multi-facet approach to implementation that is not over-emphasising training

- ***Academic Networking***

- ***Media Relations***

- ***Socio-political projects***
 - Non-profit organisations / NGOs
 - Public sector

- ***European benchmarking***

What You Need is What You Get

- ¿ ***Finalise your Diversity strategy and link it to corporate objectives?***
 - ¡ We facilitate workshops or provide 1-to-1 coaching

- ¿ ***Analyse your environment and internal situation?***
 - ¡ We provide tools to complete your business case

- ¿ ***Need to communicate if not sell Diversity internally?***
 - ¡ We help you develop your information and feed-back concept

- ¿ ***Want to be on the safe side of planning?***
 - ¡ We reflect your action plan and resource allocation

- ¿ ***Looking for means to measure the success of Diversity?***
 - ¡ We assist your experts in identifying valuable evaluation criteria

DIVERSITY

A Management Concept for Gays and Lesbians Too

United Colours of Benetton – Every colour under the sun! Internationalism and therefore ethnic diversity now feature highly in the advertising campaigns of fashion houses, student organisations and big businesses alike. Proudly they depict people of different skin colours and boast of cross-border mobility programmes, company structures and alliances.

Just how far inter-cultural understanding goes in reality, no-one knows since, regardless of all the trumpeting about multiculturalism, no-one can actually say whether kosher food is served in the canteen, whether prayer rooms are available for Moslems and when or who is celebrating New Year at the moment. Furthermore, while diversity is viewed as a great new opportunity, the actual appreciation, promotion and exploitation of various differences imply a whole range of challenges which the Germans, with their rather mundane approach to management, are all too prone to overlook or dismiss.

An interdepartmental meeting: the assembled company are (of course) all male, over forty and dressed in dark-blue suits. Before getting to grips with the business at hand, they inquire about the health of their respective wives and children. Once this ritual is over, the subsequent process of co-operation moves along splendidly. Admittedly, the group does discuss various matters but always mindful of a shared goal: the collective beer after work with football on the box and tales of women, preferably in graphic detail. Science even has a name for this chummy phenomenon: “male bonding”.

“Outsiders” in the shape of women, gays, the handicapped, foreigners, but also the very young, the very old, the very new and people from other sectors of the firm or other locations are always in an uncomfortable position, are excluded from informal networks or voluntarily exclude themselves.

Anyone with any common sense will wonder how creativity is supposed to come about here because our intuitive response is to first let interaction do its work in the belief that different backgrounds produce different ways of perceiving, thinking and working, all of which will combine to yield an interesting result. It has been proved moreover that heterogeneous teams really are more creative, more innovative and more successful than homogeneous teams – they just need a little more time.

It might be argued that Germany is better known for successful high-tech research and development than for trailblazing innovation in management or revolutionary plans for relations between employees or with customers. Admittedly, the socio-political and cultural circumstances have always been somewhat “special” here.

The USA by contrast experienced much bloodshed as a result of its social diversity when African Americans would no longer tolerate being treated as second-class citizens. In turn, the women’s movement challenged the established order, and finally gays and lesbians also began to fight for their integration.

These were the birth pangs of policies aimed at equal rights and equal opportunities for specific groups under the headings of Equal Employment Opportunities and Affirmative Action, measures which were very soon to be exposed as preference for particular groups and rejected as “reverse” discrimination. Now the managers had almost the whole of society against them: the SWAMS (Straight White American Males), who felt themselves disadvantaged by quotas, as well as women and the minorities (African Americans, Asian Americans, Hispanic Americans, gays, etc.) who still had no real clout in the economy.

In the mid-1980s, all this discontent prompted ten big firms to join together in devising a concept intended to bring the “great diversity” – majority and minorities – under one umbrella with the promise of a whole range of economic benefits. The idea behind “diversity” is to take into account every employee, whether male or female, with all their qualities and specific characteristics, so as to integrate each and every one of them and thereby enable them to contribute their utmost to the success of the firm.

Easier said than done: for decades the economy had been looking for recruits who “fit in” and with whom brotherly bonds could be forged. And now suddenly women, foreigners, gays, disabled people, Hindus and goodness knows what else were about to pop up in their illustrious ranks and destroy their hard-won cosy little world?

That is precisely what happened and the ten trailblazers of that time are now already reaping their first rewards. They and others now rank among the most popular employers and the most successful on their markets. Amongst them we find Hewlett-Packard and Rank Xerox, Ford and Motorola, Levi and American Express, to name but a few who are also active and well known in Europe.

With their far-reaching anti-discrimination guidelines and diversity-friendly business principles, these firms began to prepare the ground for cultural change. Time and again, the top managers came out clearly and unmistakably in favour of the development of diversity and even laid it down in their directors' job descriptions. Moreover, both managerial staff and employees were offered workshops to become more aware of differences and be trained in proper responses to them.

The success of diversity depends essentially on the recognition and rejection of deep-rooted prejudices and preconceptions such as exist at the levels of staff recruitment, evaluation and promotion. There are plenty of commonplace associations which serve as illustrations here:

1. When a male employee goes for a meal with his boss it is assumed that he is working on his career, but when a female employee does the same she is suspected of having an affair with the boss and of trying to “sleep her way up the ladder”.
2. When a male employee keeps a photograph of his wife on his desk he is seen as a good family man, but when a female employee does the same she is thought likely to sacrifice everything for her family, so that the firm would be better advised not to invest too much in her.

Once employees' awareness of differences has been heightened and many stereotypes have been dismantled, work can begin in earnest on putting diversity to good use in the firm. This includes employee groups (male or female) or networks which bring together a particular type of person, for example gays and lesbians. These are then able to disseminate information about their situation throughout the firm. In the USA, Gay Pride is for example also celebrated in the cafeteria in many firms and of course the official group from the firm also takes part in the parade.

Not least, diversity is also reflected in the marketing and sales fields: target groups are defined on the basis of hard market data going beyond conventional ideas of “mainstream”. In this way,

those who speak an immigrant language or old people are just as specifically targeted as lone parents or working women.

Diversity is thus an intellectual concept which can be applied to all aspects of a firm's day-to-day business. It is a tool which can enable virtually all areas of business activity to become more successful. At the same time, diversity does not amount to a new "programme" or "special area" placing a burden on the organisation or its budget.

Could something so "exotic" catch on in Germany? It already has. American firms are already in their starting blocks in Europe, ready to make use of their innovative understanding of employees and markets as a trump card. They are exploiting their "diverse" company culture in order to attract the best employees and successfully open up new markets.

Regardless of competition considerations, there are indications to suggest that Europe also needs diversity-based management. European firms are feeling the rising heat of international competition, with the result that many see the globalisation to which everyone attaches so much importance as their only chance. However, this also means that the fields of activity and participants are becoming increasingly diverse, a fact which decision-makers are having to cope with or at least coming to realise.

Meanwhile, European integration is contributing to this process by virtue of the fact that the population of every EU country is becoming increasingly mixed. In Germany, for example, a good nine percent of the population are now foreigners, a figure set to rise to over twenty percent in twenty years' time – roughly as many as in the US melting pot today.

Demands for greater profitability continue to exert pressure on firms to reduce costs and raise productivity and turnover. Diversity serves as a helpful instrument here. Studies have shown moreover that firms whose staff closely reflects the local population are more successful than others.

Unmistakable changes are taking place in society and therefore also in the employment and sales markets of many firms. More and more people are living alone, do not belong to any of the major religions, are bringing up their children alone or are living as unmarried couples. It is perfectly clear: the world order is moving away from the image of the traditional family. And by the same token, ideas as to what a workplace or an employer has to offer – and to expect – are changing.

The increasing self-awareness of gays and lesbians is part of this trend. Just four years ago there were fewer than half as many Gay Pride events as there were this year, and attendance is now fifty times what it was in 1993. Obviously, these people are also feeling an increasing desire to enjoy the same harmony between their private and working lives as their work mates, by being able to chat about their weekend or be accompanied by their partner to any social functions that may be held.

German and European firms are thus having to operate in what is in many respects an increasingly dynamic environment. In this situation, diversity holds out enormous opportunities and potential for development, especially in the highly competitive sectors and at international level.

Making diversity part of everyday routine harbours practically no dangers for the organisation concerned. Nonetheless, many errors are frequently observed when diversity is introduced, such as insufficient involvement of top managers, inadequate financial resources or excessive concentration on training. The result of this is generally that the positive effects of "real" diversity-based management are not achieved and in the end resources are wasted.

For gays and lesbians, diversity is the first management concept which naturally places them in a position of equality with other groups and, without any note of "exoticism", brings about a type of

integration which is accepted on all sides. The concept shows moreover how important – and successful – comprehensive, inclusive approaches are and gives the lie to representatives of self-interest. The gay movement has just as much to learn from this as those in charge of equal opportunities for women in the public and private sectors.

MICHAEL STUBER, PUBLISHED IN EGALITE NEWSLETTER, DEC. 1998
(translated from German by Michael Hales)

“Creating partnership”
23RD EUROPEAN CONFERENCE OF ILGA
(INTERNATIONAL LESBIAN AND GAY ASSOCIATION)
OCTOBER 2001, ROTTERDAM, THE NETHERLANDS

Notes

Workshop 4: Diversity and equal opportunities policies and the workplace
Date: Thursday, 25 October 2001, 16.30-18.00

Minute Taker:

Minutes were taken for each presentation to help bolster and add discussion options to the notes provided by both speakers.

A. Equal opportunity Policies and the workplace

By Michael Stuber

What? Why? How? are questions in regards to companies.

The question was raised during the discussion about the inclusion of beliefs/religion in core dimensions. The reason given was that some beliefs/religion are closely adhered to each separate religion such as Buddhists or Muslims etc.

We heard how most companies are focussing internally on diversity but as yet only some have shown diversity externally from the organisation.

B. Diversity

Angela Mason spoke of Stonewall (UK) and their new 'Diversity Champions' programme. This programme is to help organisations to become more diversified and therefore include LGBTs in any policy within that organisation. About fifty organisations so far have been registered with this programme.

The question was raised about what would happen if an organisation did not maintain or begin a programme for diversity then would that bring Stonewall into being viewed as supporting an organisation which did not adhere to anything it signed up to do! Angela reported that the organisations are reviewed and helped through the process so that this kind of problem will not occur.

There was also a point made that what Stonewall appears to be commissioning in mainland UK for companies and government departments is what Northern Ireland already has in Law in regards to section 75 of the Northern Ireland Act 1998. Whereby Public Authorities/Governing bodies have to consult with LGBT organisations which is different to the rest of the UK. Public bodies have to produce Equality Schemes which have to be approved by the Equality Commission in Belfast and then progress through a five year programme of screening their policies to ensure compliance with section 75. This is to ensure that as with Stonewall Diversity Champions the process of checks and balances are in place.

***WORKSHOP 5: ILGA-Europe 1: Development of ILGA-Europe: Building Capacity, Fundraising and the Financial Outlook
ILGA-Europe-Board**

Development of ILGA-Europe:

- Where we are now
- What we want to do
- Resource implications
- Financial implications
- Fundraising

NB: plans outlined in this presentation are indicative and subject to final board agreement.

Where we are now (1)

Initial funding for 12 months to November 2001

- Commission grant: € 216,000
- (80%)

First grant under Community Action Programme:

- Commission grant for December 01 to April 02: € 105,000
- 90%

Where we are now (2)

- Office
- Full-time Information Officer
- Part-time Administrative Officer
- Contributions by experts
- Contribution to conference
- Network meeting
- A considerable level of work by board members

Proposed organisation

Equivalent of four full-time positions covering the following roles:

- Executive director
- Information
- Research and Policy
- Administration

Executive Director

- Development of strategies
- Development of work programme
- Media policy
- High-level lobbying
- High-level relationships with members
- Grant applications/funders
- Staff
- Budget and financial control

Information Officer

- European Parliament lobbying campaigns
- Newsletter
- Fact sheets
- Media releases/media inquiries
- Membership communications
- Platform working groups
- Calls for proposals
- Network meeting programme
- Conference programme

Administration – What we do now

Incoming correspondence

Address database for newsletter

Media addresses/e-mail list

Processing payments, income and expense claims

Administration of network meeting

Administration – What we want to do extra

- Basic book-keeping
- Preparation of financial reports
- Proactive operation of web-site
- Conference administration:
 - * Budgeting
 - * Registration
 - * Scholarships
 - * Mailings

Research and policy development – What we want to do

- Research/maintain database of information on discrimination and best practice
- Research/prepare reports on discrimination/best practice
- Research/develop policy
- Participate in projects fighting discrimination/developing best practice

Research and policy development – What we want to do

Specific examples:

- Future developments in EU policy
- Third country trade and development agreements
- Six monthly briefings for presidency
- Reports for Parliament on human rights violations
- Transnational projects
- Input to policy development of Social Platform

EU co-funded activities – 2002 expenditure (in €)

Staff costs	169,215	
Office costs	<u>39,552</u>	
TOTAL SECRETARIAT		208,767
Board meetings	20,776	
Annual Conference	<u>60,000</u>	
TOTAL GOVERNING BODIES		80,776
Policy Work and Reports	18,760	
Information dissemination	29,100	
Network Meeting	<u>17,432</u>	
TOTAL WORK PROGRAMME		65,292
Other travel	25,766	27,766
Financial/legal advice etc	9,323	<u>9,323</u>
TOTAL OF EU EXP		389,924 =====

EU co-funded activities – 2002 income (in €)

EU Commission (90% of eligible costs)	350,932	350,932
ILGA-Europe share (10% of eligible costs):		
Contribution to conference by members	15,000	
Transfer from General Fund	<u>23,992</u>	<u>38,992</u>
TOTAL INCOME		389,924 =====

General Fund Income and Expenditure – 2002 (in €)

TOTAL INCOME needed	46,240
EXPENDITURE	
EE Board Member travel	6,520
Council of Europe	1,728
Other non-eligible costs	4,000
Interest charges	5,000
Total non-eligible	17,248
Contribution to EU co-funded Activities:	<u>23,992</u>
TOTAL EXPENDITURE	41,240
GENERAL FUND SURPLUS	5,000

Fundraising strategy

EU Expenditure:

- 90% Commission funding means that it should be possible to find remainder from foundations and “one-off” support for individual projects.

Other Expenditure:

- Combination of foundations and members support

Funding strategy – what we need

Twelve months to April 2003

10% EU expenditure:	€ 45,000
Conference contribution:	10,000
EU Cash to find:	35,000
Other “revenue exp”:	17,000
Capital expenditure:	5,000
Scholarships:	<u>20,000</u>
Total needed:	77,000

Funding Strategy

Sources

EU 10%:

- | | |
|--------------------|--------|
| • Stonewall pledge | 10,000 |
| • Foundation | 25,000 |

Scholarships/EE board members:

- | | |
|---------------|--------|
| • Foundations | 27,000 |
|---------------|--------|

Other exp/capital exp:

- | | |
|-------------------|---------------|
| Members? Friends? | <u>15,000</u> |
| Total | 77,000 |

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Minutes

Plenary/Workshop Session: ILGA-Europe 1: Development of ILGA-Europe: Building Capacity, Fundraising and the Financial Outlook
Chairwoman/man: Nigel Warner, ILGA-Europe Board
Date: 25 October 2001, 16.30

Minute Taker: Steffen Jensen, LBL, Denmark

Agenda:

1. Report on the financial year 2001 and proposed budget 2002
2. Appointment of an auditor
3. Development of ILGA-Europe

Re 1 and 2:

No questions were raised and no comments given. The workshop thus endorses the proposals from the board.

Re 3:

NW gave a presentation based on these headings:

1. Where is ILGA-Europe now?
2. Where will ILGA-Europe want to go?
3. Resource demands
4. Financial demands
5. Fundraising

Under 1) The present EU grant of 216,000 euro and the expected grant of 102,000 euro covering the period until May 2002 were mentioned, cf. the circulated paper on the budget.

Under 2) new proposed posts in the secretariat were mentioned:

- An executive director (as of 1 May 2002)
- A research and policy officer
- Upgrading of the administrative officer from half-time to full-time

It was also mentioned that it is supposed that the grant from EU can be raised accordingly.

Further NW mentioned that he foresees changes in the conference procedures in the future in such a way that the secretariat will be responsible for budgeting, registration, scholarships and mailings.

The resource demands are mentioned in the 2002 and 2003 budget circulated.

The financial demands on ILGA-Europe will be a co-financing of 10 %, i.e. around 39,000 euro in 2002. It is expected that about 10,000 euro will be covered by the participation fees for the conference and the remaining 29,000 euro must be covered by ILGA-Europe's general funds.

When you add other non-eligible cost (e.g. expenditures in non-EU countries), the demand will be around 50,000 euro in 2002 and around 77,000 euro on a full year basis from 2003.

The fundraising strategy was summed up: "Flying on a wish and a prayer!"

But in order to meet the 10% requirement from the EU Stonewall has promised a yearly 10,000 euro grant and discussions are to begin with another foundation. For the other costs the hope is that some foundations will be willing to support the work directed towards the EE countries.

For the rest ILGA-Europe must rely on members, friends and other individuals.

Some ideas were mentioned:

- Preparation of general fundraising material to approach individuals, organisations etc.
- Hiring of a professional fundraiser (presumably not possible to use EU grants for that)
- Fundraising events (which might be difficult for a rather unknown organisation)
- Also the question about whether ILGA-Europe should accept money from just anybody was raised.
- Proposal to ask members to donate e.g. 1% of their income to ILGA-Europe.

WORKSHOP 6: Making the Best Use of the EU Action Programme to Combat Discrimination (2001-2006)
Mette Vadstrup

Community Action Programme to Combat Discrimination (2001-2006)

http://europa.eu.int/comm/employment_social/fundamri/index_en.htm

The Action programme is based on Art. 13 and forms part of a 3 part strategy:

- The Framework directive on Employment
- The Race directive
- The Community Action Programme

The Scope of the Programme:

Activities dealing with discrimination on racial or ethnic origin, religion or belief, disability, age and sexual orientation.

Competencies:

The Commission proposes measures, methods and procedures for the work and it is the Member States representatives in the Programme Committee, who decides. The **Programme Committee** (contact persons for each member state, agenda and minutes of meetings can be found on the Commission web-site) oversees the implementation of the action programme.

The Activities of the Action Programme is divided into 3 strands (allocated euro for first year):

- Strand 1: Analysis and evaluation (budget 3.5 mill. euro)
- Strand 2: developing the capacity of organisations (budget 7.8 mill euro)
 - Strand 2.1: Transnational exchange projects
 - Strand 2.2: Support for European networks
- Strand 3: Awareness raising (budget 2.8 mill euro)

The total budget for the Programme (2001-2006) is 98 mill euro

Activities to be implemented in 2001:

Strand1:

- Evaluation of past actions of relevance to the program, in particular those funded under the preparatory measures (2000 budget)
- Launch a debate on means of collecting information related to discrimination faced by certain groups.
- Establishing a working group of officials responsible for the implementation of the Framework directive on employment and the race directive.
- Establishing groups of non-governmental experts to explore the measures existing in the Member States to combat discrimination on the grounds covered by the programme

Strand 2.1:

- Launch preparatory work to establish transnational actions to contribute to the development of policy to prevent and combat discrimination (a 3 phase strategy)

Strand 2.2:

- Provide for the running costs of selected European networks

Strand 3:

- Working with the Member States in the organisations on national seminars and awareness raising events in order to promote the Program
- Publish information on the participation in the Program on the internet:
http://europa.eu.int/comm/employment_social/fundamri/index_en.htm
- Support for Presidency/Member States conferences on issues related to discrimination.
- Publish first annual report on measures against discrimination in the Member States

Update on the various launched activities and evaluation on where it is possible to get involved:

- The Commission has launched a debate on collecting data to measure the extent and the impact of discrimination (discussion paper can be found on the Commission web-site). One of the workshop at the Commission conference on the program was dedicated to this subject, and there was produced a paper on the outcome.
- The working group of officials (horizontal approach) to overlook the implementation of Art. 13 directives has been appointed and held its first meeting.
- The call for tender on establishing non-governmental expert group has been published in August. The deadline for application was October 2 and the Selection procedure has not yet been finalised by the Commission.
- The Member States has a deadline until August 15 to indicate whether they will want to and to what extend they will get involved in national seminars and awareness raising events. Several Member States has yet not replied to Commission showing and interest. It is the national members in the Programme Committee that are the relevant contact person.
- Transnational projects – 71 projects has been pre-selected for phase 1 to begin 1 October. The y will be published on the web-site first week of November. The nature of the first phase is to form a co-operation agreement between various partners (with 1 leading partner to be in contact with the Commission). This means that there is still room for involvement by LGBT groups that have not participated in the call for tenders. The Commission held a Conference on October 18-19, in order to raise awareness of the Action Programme and discuss the future of the Programme with the NGOs and social partners, it additionally gave a possibility for the pre-selected projects to come together. And there was a specific workshop dedicated to building transnational partnerships. (contact the ILGA-Europe office if you are interested in receiving documents from the workshops and the conference)

Transnational Projects:

A transnational exchange action should include a range of participants from at least 3 Member States, and should

- Involve the transfer of information, lessons learned and good practice
- include a comparison of effectiveness of processes, methods and tools related to the chosen themes

The Commission has given priority to projects within the following area:

- Non-discrimination within and by public administrations (priority will be given to preparatory work developed in the field of health and education)
- Non-discrimination within and by the media
- Equal participation in political, economic and social decision-making
- Equal access to and supply of goods and services which are available to the public, including housing, transport, culture, leisure and sport

The Commission has launched a new strategy for this call for tender – basing it on a 3-phase strategy, where only the best projects are selected for the next stage:

- **PHASE 1: Preparatory Work** – is scheduled to begin 1 October 2001. The first phase will last no longer than 6 months, and the Commission will contribute a maximum of 50. 000 EURO to each project.

The actions during the first 6 months should concentrate on:

- *Development of partnership*: the applicant together with its core partner should find partners in at least one other Member State
- *The definition of objectives*: the applicant and its partners should define a specific problem to be addressed
- *Formulation of a work programme*: the preparatory phase should result in a Transnational Co-operation Agreement, which sets out the work programme for activities to carry out in phase 2.

(Priority for funding under phase 2 will be given to actions which involve, in a coherent, efficient and well-balanced manner, a wide range of transnational partners, including 4 or 5 in addition to the applicant's organisation)

- **PHASE 2 : Transnational Actions**

The second phase supports the implementation of the selected work programmes of partnerships for a maximum of 24 months with Commission funding granted on an annual basis. The Commission is estimating an annual amount of 175,000 euro for each partnership.

At the end of phase 2 the partners will be asked by the Commission to present the outcome of their actions.

- **PHASE 3 : Dissemination Period**

The Commission will support for a maximum of 6 months the costs inherent to the dissemination of those actions presenting the greatest added value at European level.

This envisages a financial contribution by the Community of not more than 85% of the total eligible project costs. The project partners must guarantee co-financing in cash of the remaining 15%.

WORKSHOP 7: Immigration and Asylum

Mark Bell

Sexual Orientation, Gender Identity and European Union Policies on Immigration and Asylum

This workshop explores the fast emerging EU policies on immigration and asylum and their relevance to lesbian, gay, bisexual and transgender persons. On immigration, the workshop examines the situation for LGBT persons and family members who wish to move either to or within the EU. On asylum, the workshop examines the possibility for claims for asylum based on persecution by reason of sexual orientation or gender identity.

Introduction: emerging EU immigration & asylum policies

Treaty of Amsterdam, 1999: immigration & asylum inserted into EC Treaty

- 5 year plan to create an 'Area of Freedom, Security and Justice'
- opt-outs for UK, Ireland and Denmark

Tampere European Council, October 1999

- agrees to establish common policies on immigration and asylum
- 'Scoreboard' on policy progress for next five years created
- available at: http://europa.eu.int/comm/dgs/justice_home/index_en.htm

Immigration law and policy

Key issue is family reunion. Immigration law instruments of all types (intra-EU, extra-EU) provide rights to be joined by certain family members of the migrant. However, frequently, these are limited to married partners and their children (and other relatives). As many LGBT people cannot marry, then they experience barriers to family reunion when they migrate to another state. Moreover, despite the proliferation of different forms of legally-recognised partnership (registered partnership, PACS, etc), these are rarely recognised outside the state in which they exist.

(1) Free movement rights for EU nationals

Regulation 1612/68, [1968] OJ Spec Ed (II)475.

(Available at: http://europa.eu.int/eur-lex/en/lif/dat/1968/en_368R1612.html)

Article 10(1):

'The following shall, irrespective of their nationality, have the right to install themselves with a worker who is a national of one Member State and who is employed in the territory of another Member State: (a) his spouse and their descendants who are under the age of 21 years or are dependants; (b) dependent relatives in the ascending line of the worker and his spouse.'

Case 59/85, *Netherlands v Reed* [1986] ECR 1283.

'As it now stands, it is impossible to speak of any consensus that unmarried companions should be treated as spouses.'

May 2001: Commission proposal on Free Movement Rights of EU Citizens (COM (2001) 257: http://europa.eu.int/eur-lex/en/com/dat/2001/en_501PC0257.html)

Family members defined as:

- (a) the spouse;
- (b) the unmarried partner, if the legislation of the host Member State treats unmarried couples as equivalent to married couples and in accordance with the conditions laid down in any such legislation ...

Problems:

- vague formula
- introduces a form of nationality discrimination
- right to family life is a fundamental right and should not vary from state to state

(2) Immigration rights for non-EU nationals

Proposed Family Reunion Directive, 1999: COM (1999) 638.

- follows similar approach to Free Movement of EU Citizens proposal

Latest Council proposal:

- three types of family members
 - spouse and minor children (the nuclear family)
 - ascendants and children over the age of majority
 - unmarried partners
- states will only be obliged to admit persons in the first category

Asylum law and policy

(a) Grounds for the award of refugee status

- Amnesty International report that in at least 18 states there have been cases of asylum granted for persecution related to sexual orientation.
- Parliamentary Assembly of the Council of Europe reported in 2000 that in 40 states world wide same-sex relationships between either men or women remain illegal, and that in a further 40 states same-sex relationships between men also remain unlawful.⁶

Proposed Directive on minimum standards for the award of refugee status, September 2001: COM (2001) 510.

- asylum can be awarded where there is a well-founded fear of persecution for reasons of (amongst others) membership of a social group
- Article 12(4) states that 'the concept of social group shall include a group which may be defined by relation to certain fundamental characteristics, such as sexual orientation, age and gender ...'.
- The proposal also specifies that the source of persecution can be 'the State, parties or organisations controlling the State, non-State actors where the State is unable or unwilling to provide effective protection.' (Art 9(1))
- Persecution is defined as also including acts of discrimination, discriminatory laws or the discriminatory implementation of laws. (Art 11(1))

(b) Procedures for assessing asylum applications (Proposed Directive: COM (2000) 578)

Key issues include:

- confidentiality
- evidence requirements
- application of safe third country / safe country of origin principles
- transfer to another EU state

(c) Reception conditions (Proposed Directive: COM (2001) 181)

(d) Family Reunion rights

⁶ Council of Europe, Parliamentary Assembly, 'Situation of gays and lesbians and their partners in respect to asylum and immigration in the Member States of the Council of Europe' Doc. 8654, 25 February 2000, par. 28.

e. g. Proposal on minimum standards for award of refugee status includes provision for refugee status to be awarded automatically to the accompanying family members of a person who is recognised as a refugee.

BUT 'family members' is defined as:

'the spouse or unmarried partner in a stable relationship, if the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law'.

Mark Bell, University of Leicester
mb110@le.ac.uk
October 2001

WORKSHOP 8: Working for transgender rights

Nico J. Beger and Stephen Whittle

Definition of transgender for ILGA-Europe (draft):

The term transgender is used as an umbrella term that includes both pre- and post-surgical reassignment transsexual people. It also includes transgender people who choose not or who, for some other reason, are unable to undergo genital reconstruction or hormone treatment. It further includes all persons whose perceived gender or anatomic sex may conflict with their gender expression, such as masculine-appearing women and feminine-appearing men as well as people born with elements of both physiological sexes (intersexuals). The legal category of relevance corresponding to sexual orientation is gender identity.

11 demands by ILGA-Europe (draft)

ILGA-Europe's work to promote equality for transgender people shall be based on the following objectives:

1. The freedom of every (!) person to portray their own chosen gender or have their intersexuality acknowledged as an intersexual gender.
2. The freedom from cosmetic genital surgery and/or genital mutilation for intersexual children before they can give informed consent.
3. The freedom to be fully acknowledged through the law with regard to civil status in the chosen gender, all state and other personal documentation without prejudice to hormone treatment or gender reassignment operations without and legal requirement of irreversible surgical or sterilisation procedures.
4. The freedom and right to receive appropriate medical care and assistance if wanted.
5. The freedom not to have to disclose details of any gender role reassignment unnecessarily.
6. The freedom to marry (a member of the opposite gender or of the same gender).
7. The freedom to enjoy a job without fear of dismissal or harassment because of their gender role change or gender indeterminacy.
8. The freedom to use the legal process to protect themselves in all aspects of their life in their chosen gender.
9. The freedom to take a biological or social parental role in their chosen gender.
10. The freedom to be acknowledged at death as being a member of their chosen gender group.
11. The inclusion of gender identity in all anti-discrimination articles and legal provisions.

Where to go from here? Suggestions

1. founding a trans workgroup around the board of IE
2. founding an EU wide trans network to co-ordinate joint efforts. Network meeting is possible during 2002.
3. Discuss the future of the gender directive
4. Formulate some very concrete proposal to go into the next funding application (April 2002 – April 2003)

Appendix

PROPOSED ADDITIONAL PROTOCOL BROADENING ARTICLE 14 OF THE EUROPEAN CONVENTION: THE NEED FOR EXPRESS INCLUSION OF "GENDER IDENTITY"

Submission of ILGA-Europe, the European Region of the International Lesbian and Gay Association, to the Steering Committee on Human Rights, Council of Europe⁷

I. "GENDER IDENTITY" SHOULD BE INCLUDED AS AN EXPRESSLY PROHIBITED GROUND OF DISCRIMINATION IN THE NEW ARTICLE 14

ILGA-Europe respectfully submits that the new Article 14 should also include the ground "gender identity" so as to make it clear that people who are transsexual or transgender⁸ are protected. Transsexual and Transgender people are one of the most vulnerable minorities in Europe. Their relatively small numbers make it extremely difficult for them to obtain any protection against discrimination through new legislation. Like lesbians and gay men, they face violence, harassment and the denial of jobs or services because their gender identity or expression does not correspond with their recorded birth sex.⁹ Further, much recorded homophobic discrimination and behaviour is in fact based upon perceptions of a person's apparent gender identity or expression, and hence implied sexual orientation rather than actual sexual orientation, which may well be unknown.

When a transsexual person undergoes gender reassignment, some member states of the Council of Europe refuse to acknowledge the change of their social gender and/or the change of their body morphology. In these states transsexual people are forced to endure the almost daily humiliation of revealing their birth sex in many practical areas of life, so making them vulnerable to discrimination and prejudice regardless of the success of their gender role transition. The European Court of Human Rights condemned this practice, where forced disclosure of birth sex is sufficiently frequent, by finding a violation of Article 8 in *B. v. France* (1992). In that case, the applicant could not legally change her male forename, and could not prevent the disclosure of her birth sex (male) in documents such as her national identity card and her passport, and in her social security number.¹⁰

Additionally this failure to recognise their new gender role means that for many they are effectively unable, in law, to found families and to take on the full social responsibilities embedded within the family. The European Commission of Human Rights was to condemn this practice by finding a violation of Articles 8 and 14 in *X, Y and Z v United Kingdom* [1996]. Although the European Court was unable to agree with the Commission due to the facts of the particular case, they did however unanimously find that transsexual people were able to form de-facto families and hence should be afforded protection under Article 8¹¹.

A. APPLICATION OF 'SEX' OR 'SEXUAL ORIENTATION' IS NOT SUFFICIENT

One approach to the protection of transsexual and transgender people would be to treat discrimination against them as a form of discrimination based on "sex". The European Court of

⁷ Drafted for the Board of ILGA-Europe by Dr. Stephen Whittle, School of Law, Manchester Metropolitan University, United Kingdom, with the assistance of Dr Robert Wintemute, School of Law, King's College, University of London.

⁸ The term transgender is used as an umbrella term that includes both pre- and post-surgical reassignment transsexual people. It also includes transsexual people who choose not or who, for some other reason, are unable to undergo genital reconstruction. It further includes all persons whose perceived gender or anatomic sex may conflict with their gender expression, such as masculine-appearing women and feminine-appearing men.

⁹ See Melanie McMullan & Stephen Whittle, *Transvestism, Transsexualism and the Law*, 2d ed. (London: The Beaumont Trust, The Gender Trust, 1995).

¹⁰ *B v France* [1992], Ser. A, No. 232-C, paras. 25-26, 59-63. The Court noted, at para. 12, that the applicant was "unable to find employment because of the hostile reactions she aroused".

¹¹ *X, Y and Z v UK Government* (75/1995/581/667) [1997] ECHR

Justice adopted this approach, in interpreting European Community sex discrimination law, in *P. v. S. & Cornwall County Council* (1996). The Court held that dismissal of a transsexual employee because she had announced her intention to undergo gender reassignment was

“discrimination ... based, essentially if not exclusively, on the sex of the person concerned. ... To tolerate such discrimination would be tantamount ... to a failure to respect the dignity and freedom to which he or she is entitled, and which the Court has a duty to safeguard”¹².

The disadvantage of this approach is that it closely associates biological sex with gender role. Those states that do not legally recognise a change of social gender¹³ maintain a situation whereby a transsexual person is still regarded as being of their recorded birth sex therefore any discrimination is based on recorded birth sex and resultant ‘sex change’ rather than new gender role¹⁴. Thus any claim by the transsexual person provides a field day for the mass media as an individual’s ‘change of sex’ becomes a crucial evidential element in any claim made. In this way the judicial process becomes both a site for discriminatory treatment as individuals’ (otherwise irrelevant) private medical histories are disclosed, and a source of further discrimination by others after such disclosure.

A transgender person, who does not intend to, or is unable to, undergo gender reassignment, is not regarded as having any possible claim based on grounds of sex. As they have not sought to ‘change’ their sex¹⁵ therefore any discrimination is only construed in terms of their original recorded birth sex which again is revealed during the judicial process.

Another approach would be to treat discrimination against transsexual persons as a form of discrimination based on “sexual orientation”. The Constitutional Court of South Africa adopted this approach, in interpreting the non-discrimination provision (Section 9(3)) of the 1996 Constitution of South Africa, in *National Coalition for Gay and Lesbian Equality v. Minister of Justice* (9 Oct. 1998). Justice Ackermann held that

“[t]he concept ‘sexual orientation’ as used in [S]ection 9(3) ... must be given a generous interpretation of which it is linguistically and textually fully capable of bearing. It applies equally to persons who are bi-sexual, or transsexual ...”¹⁶

The disadvantage of this approach is that transsexual and transgender people, like all other people, claim or express their sexual orientation in a variety of ways. Gender identity has little if any relation to sexual orientation other than that it can dictate how others perceive a person’s sexual orientation. It would also not address issues such as arbitrary gender specific dress codes in the workplace or access to gender appropriate restroom facilities or recognition of any right of non-disclosure concerning gender reassignment. It would also fail to address situations involving discrimination on the grounds of sexual orientation, where such discrimination has not yet been made illegal¹⁷.

The European Court of Human Rights has yet to adopt either of these approaches. Even if it were to adopt one of them, neither would provide symbolic recognition and condemnation of discrimination based on of the specific phenomenon of gender identity disorders and gender reassignment treatment, or simply just mistaken perceptions of gender identity. Only express inclusion of “gender identity” in Article 14 could do so.

12 Case C-13/94 [1996] European Court Reports I-2143, I-2165, paras. 21-22.

13 A change of social gender takes place when a transsexual or transgender person commences living full time in their new gender role.

14 E.g. discrimination against a transsexual woman would be considered as if it was discrimination against a man who had then undergone gender reassignment rather than against her as a woman. See the decision in *P v S and Cornwall County Council* (see note 6 above) which effectively affords protection by virtue of P [a man] undergoing gender reassignment, rather than to P as a woman who happens to be a transsexual woman.

15 E.g. a discrimination case brought by a male transgender person concerning dress codes in the workplace would fail as the question would lie as to what other uniform rules related to men in the workplace. See the decision in *P v S and Cornwall County Council* (see note 6 above) which only affords protection if a person ‘intends to undergo, is undergoing or has undergone gender reassignment’.

16 *National Coalition for Gay and Lesbian Equality and another v Minister of Justice and others* CCT11/98 (9 October 1998)

17 See the American case of *Von Hoffburg v Alexander* 615 F.2d 633 (1980) in which a service woman who married a female to male transsexual, who was legally male, was honourably discharged as it was held that the relationship disclosed her alleged homosexual tendencies. This seems a very illogical state of affairs as although her husband was a legal male he was held for the purposes of army regulations to be a biological female.

B. THE GROWING NUMBER OF PRECEDENTS IN NATIONAL AND INTERNATIONAL LAW JUSTIFIES EXPRESS INCLUSION OF 'GENDER IDENTITY'

In spite of the extreme difficulties that transsexual people experience in attempting to invoke the legislative process, there have been in the 1990s a growing number of precedents for express protection. The anti-discrimination legislation of a number of cities in the USA includes "gender identity" as a prohibited ground¹⁸. In the US state of Minnesota, anti-discrimination legislation defines "sexual orientation" as including "having ... a self-image or identity not traditionally associated with one's biological maleness or femaleness"¹⁹ and in California gender and gender expression are protected categories under the state's Hate Crime's legislation²⁰.

Discrimination against transsexual persons is also expressly prohibited in South Australia²¹ and in the Northern Territory of Australia²² where the ground sexuality is defined to include 'transsexuality', and in the Australian Capital Territory, where "transsexuality" is a separate prohibited ground²³. In New South Wales in Australia²⁴ discrimination is prohibited 'on transgender grounds' and the legislation refers to people as 'being transgender'.

The European Court of Justice has also found that it is no longer appropriate to discriminate against a transsexual person. Advocate General Tesauro has stated:

"To my mind, the law cannot cut itself off from society as it actually is, and must not fail to adjust to it as quickly as possible. Otherwise it risks imposing outdated views and taking on a static role. In so far as the law seeks to regulate relations in society, it must on the contrary keep up with social change, and must therefore be capable of regulating new situations brought to light by social change and advances in science. From that point of view, there is no doubt that for present purposes the principle of the alleged immutability of civil status has been overtaken by events. This is so in so far as and from the time that the fact that one cannot change one's sex for bureaucratic and administrative purposes no longer corresponds to the true situation, if only on account of the scientific advances made in the field of gender reassignment."²⁵

There is throughout Europe ever wider recognition of transsexuality both by legislation and judicial decision and sex change surgery is allowed in every member state of the European Community. Advocate General Tesauro, when calling upon the European Court of Justice to afford protection to transsexual people said:

"I am well aware that I am asking the Court to make a 'courageous' decision. I am asking it to do so, however, in the profound conviction that what is at stake is a universal fundamental value, indelibly etched in modern legal traditions and in the constitutions of the more advanced countries: the irrelevance of a person's sex with regard to the rules regulating relations in society. Whosoever believes in that value cannot accept the idea that a law should permit a person to be dismissed because she is a woman, or because he is a man, or because he or she changes from one of the two sexes (whichever it may be) to the other by means of an operation which - according to current medical knowledge - is the only remedy capable of bringing body and mind into harmony. Any other solution would sound like a moral condemnation - a condemnation, moreover, out of step with the times - of transsexuality, precisely when scientific advances and social change in this area are opening a perspective on the problem which certainly transcends the moral one."²⁶

In 1989 the Parliamentary Assembly of the Council of Europe adopted Recommendation 1117 on discrimination against transsexuals and a Resolution on the condition of transsexuals, which in cases of transsexualism called on member states to introduce legislation whereby

18 These cities include Minneapolis, San Francisco, Evanston (Illinois), Louisville (Kentucky) and Houston

19 See Minn. Stat. Ann. s. 363.01(45).

20 Calif. Stat. AB 1999, signed on the 28th September 1998.

21 Equal Opportunity Act, 1984.

22 Anti-Discrimination Act (REPA007), 1996.

23 Discrimination Act No.81 of 1991.

24 Anti-Discrimination Act No 48 of 1977, as amended by the Transgender (Anti-Discrimination and Other Acts Amendment) Act No. 22 of 1996, Schedule 1.

25 P v S and Cornwall County Council Case C-13/94 [1996] European Court Reports I-2143, I-2165, para 9.

26 Ibid. para 24.

“all discrimination in the enjoyment of fundamental rights and freedoms is prohibited in accordance with Article 14 of the European Convention of Human Rights.”²⁷

Within the European Court of Human Rights there has been a gradual move towards recognising that transsexual people are suffering from violations of their human rights. The most recent decision of the Court rules only by the narrowest of margins that there had not been a violation of Article 8 of the convention²⁸.

Albeit that there may not as yet be an international consensus that ‘gender identity’ should be treated like sex, race or religion, there is undoubtedly a growing awareness of and a recognisable trend towards acknowledging the extent of the discrimination that transsexual and transgender people face. When the existing list of grounds within Article 14 of the Convention are reviewed, those conducting the review must recognise the limitations the European Court of Human Rights have faced in attempting to provide protection through other articles of the Convention. Because of the fundamental failure of many nation states to afford recognition of the ‘change of sex’ of transsexual and transgender people, gender identity in itself becomes an irrelevance within arguments based around recorded birth sex. As such, although the treatment individuals complain of is inevitably concerned with the contradictory appearance of civil documentation or legal status and the morphology of the person who has to daily represent themselves, the Court is unable to consider them as being treated any differently from any other person of the same recorded birth sex. It is only by adding to Article 14 that there will be no discrimination based on gender identity that nation states will be obligated to initiate some steps towards addressing this contradiction and the other legal anomalies that transgender and transsexual people face.

However including ‘gender identity’ will not mean that the Court will be obligated to find that every distinction based on ‘gender identity’ automatically violates the Convention. The Court has established that a difference in treatment on grounds expressly included in Article 14 may be permitted provided that the difference in treatment has an objective and reasonable justification and is proportionate to a legitimate aim²⁹. The Court will still be able to consider, in each case, the consensus amongst the Council of Europe member states regarding the particular issue and the resulting breadth of the margin of appreciation that should be afforded member states.

3. THE LIST OF GROUNDS IN ARTICLE 14 DOES NOT INCLUDE SERIOUS KINDS OF DISCRIMINATION RECOGNISED IN EUROPE SINCE 1950 AND THEREFORE NEEDS TO BE REVISED.

One argument that might be made against the inclusion of ‘gender identity’ is that the current list of 13 grounds contained within Article 14 is long enough, and is non-exhaustive. If the original list of grounds adopted in 1950 is opened up, there will be no end to the additions that could be proposed. It is better to leave the addition of new grounds to the European Court of Human Rights. However in 1950 it would not have been possible to consider including the grounds proposed, as transsexualism had only just been recognised within medical circles, albeit as a form of pseudo-hermaphroditism³⁰. The text of the Convention, itself, had been taken from the Universal Declaration on Human Rights written in 1948 before even that recognition of this particular human condition. At that time, the emphasis was inevitably to be concerned with those particular matters that had led to the horrors of the war and the holocaust. Albeit that people with ‘gender differences’ had also been the target of the Nazi killing squads, it was not until the early 1980s that there was any recognition of that fact³¹. The Convention is a text of its time and yet it was intended that it be a

27 Recommendation 1117, 1989, Parliamentary Assembly of the Council of Europe

28 Sheffield And Horsham V. The United Kingdom (31-32/1997/815-816/1018-1019) [1998] ECHR

29 Belgian Linguistic Case [1968] Ser.A, No.6.

30 The term ‘transsexual’ was not coined until 1950 when the Convention was being written. David Cauldwell, a populist medical writer invented the term ‘psychopathia transexualis’ and the associated word transexual(sic). It was not used in a scientific paper until 1953, when the endocrinologist Harry Benjamin used the word ‘transsexual’ to describe a patient. Transsexualism was not separately categorised as a medical condition until its appearance in the Revised Third Edition of the Diagnostic Statistical Manual of the American Psychiatric Association in 1979.

31 The publication of *The Men with the Pink Triangle* (Heinz Heger, 1980) finally disclosed that homosexual people, and those perceived as homosexual (which would include transvestites and other people who were perceived as homosexual by their gender behaviour and who might have now considered themselves to be transgender or transsexual) were also victims of the Nazi killing machine.

text for a new Europe not the old one. We are now in that new Europe and as such the text needs updating for new social conditions and new social experiences.

To freeze the Convention at that historical moment in 1950 would fetter the Convention in a way that the European Court of Human Rights has itself rejected³². The Court's approach to interpreting the Convention has been to ensure that it grows with changing conditions in Europe. It may well be asking the Council to take that 'courageous step' called for by Advocate General Tesauro, of the European Court of Justice. But, just as the ECJ did not shy away from providing the educational thrust called for, it is also an appropriate time to make improvements to Article 14 of the Convention to recognise both the social changes that have taken place and which are still needed in the future. Amending Article 14 will provide a way for the Council of Europe to better reflect the Europe of the next millennium rather than a Europe petrified for all time at the end of the Second World War.

³² The Court has said "the convention is a living instrumentwhich must be interpreted in the light of present day conditions" (Tyrer v United Kingdom [1978] Ser.A, No. 26, para. 31)

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Workshop 8: Transgender issues

Chairwoman/man: Stephen Whittle and Nico J. Beger

Date: Saturday, 27 October 2001

Minute Taker: Ali Jarvis

Stephen and Nico presented an introduction to the subject and highlighted the following pressing issues :

- The enforced sterility of people undergoing gender reassignment
- Problems of legal identity not reflected in official documentation (passport etc)
- Implications on social freedom e. g. ability to go on holiday, join a gym
- Psychiatric intrusion into daily living
- Issues of visibility (“passing” as described by Stephen) and experiences of violence as a result
- Link to perceived ‘homophobic’ violence, 96% of transpeople in New York study had experienced violence
- “Guinea pigs” of the medical establishment
- Implications of gender change on pre-existing and future partnerships and wider family relationships
- Effects of unemployment (association for some with sex-work)
- Consequent implications of International standards of care and ‘real life’ test which requires employment
- Lack of awareness of existing protections e. g. workplace legislation arising from P vs. S and Cornwall County Council
- Implications for immigration and asylum – no consistency in international recognition
- Inappropriateness of widely accepted 3 part test that was based on the April Ashley case in the 1970s – chromosomes, gonads and genitals at birth
- Definition of gender at birth is often inadequate and based upon the most cursory examination
- Suggestion that integration into an L, G, B *and* T community makes sense because there is no absolute “gender binary” and many experiences of discrimination are common across these groups
- Gender identity needs to be seen as separate from sexual orientation although there are areas where the two touch e. g. over 50% of transmen in Britain self-identify as “queer”

Language:

Discussion took place over the correct terms – it was noted by Stephen that transgender is an overarching umbrella term whilst transsexual is normally used to describe those who have had medical involvement in their gender transition through hormones, surgery or both. It was however added that this was still not a completely clear area of distinction. The terms transmen, transwomen and transpeople are increasingly being adopted as inclusive descriptors. It was also stressed that the acceptable description of transgender people should refer to their reassigned gender not to their gender of birth – thereby recognising both the gender identity of the individual as well as their life experience (e.g. F t M transsexual is a transman).

Further points were noted as the session developed into a plenary discussion:

- Importance of valuing cross cutting experiences e.g. a transman can have had experience of both women's and men's politics and systems of organisation
- Issues of sexual orientation and consequent sexual behaviour very complex in relation to trans people
- Implications of homophobia within the trans community and transphobia within the LGB communities
- Despite a respect for differences there are however issues of genuine overlap
- Relationship protection
- Age of consent
- Recognition of families
- Experiences of violence, discrimination and harassment
- 1 million plus trans people estimated within the Council of Europe countries (defined as those engaged with medical intervention on some level)
- Following transition the lure of the "closet" and invisible integration can be a big temptation for some trans people
- 1 in 200 children born with indeterminate sex – although this is not always recognised immediately
- Need to get gender identity formally recognised as a ground for discrimination as trans issues do not fit neatly into either existing sexual orientation or gender legislation
- A trans working party has now been created within ILGA
- A survey is shortly to be carried out by Stephen on the status of trans people in Europe
- Focus on forthcoming gender directive
- Challenge of acceptable definitions – particularly insofar as they relate to surgery or medical intervention as a reference point
- However this needs to be balanced against the need to have something that is clear enough to allow workable legislative support and practices

In relation to ILGA-Europe's role – clarification was requested over the next steps

- need to explain ILGA-Europe's role and approach re. T issues
- distinctions of language
- opportunities and need for education and communication
- How we present the arguments internally and externally

WORKSHOP 9: COC Netherlands working together with partners in Central and Eastern Europe

Dennis van der Veur (COC Netherlands) with input from representatives of current partners of COC Netherlands: Adrian Coman (Accept, Romania), Guenko Guenkov (Gemini, Bulgaria) and Maxim Anmeghichean (Center Genderdoc-M, Moldova)

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Minutes

Plenary/Workshop Session: Workshop 9

Chairwoman/man: Dennis van der Veur and Adrian Coman

Date: Saturday, 27 October 2001

Minute Taker: Michel Soudan

The workshop dealt with so called “twining” projects only, where there is one partner in Western Europe (COC) and one partner in Central and Eastern Europe (Accept). Attention was drawn to the fact that a true partner relationship between organisations co-operating on projects only developed after a considerable time.

The following aspects of establishing twining projects were discussed:

1. Fact finding mission/partner identification phase: both partner organisations try to establish what their needs, possibilities and limitations are in order to maximise the probability of a successful project. This phase usually includes contacts with many other third parties (individual lgbt people, human rights NGOs, organisational developments NGOs, journalists, embassies (very useful!), international NGOs etc.) in order to have a general picture of the environment in which the project is going to take place and to establish necessary contacts. Gaining the support of embassies for instance increases the credibility of the project enormously. Embassies can also provide (limited) funds, expertise and political backing.
2. Convincing possible donors: lists of possible donors exist. Try building a convincing case by clearly explaining the objectives, how you want to reach them, what your possibilities and limitations are etc. Also, explain to possible donors why you have approached them and what other donors you have contacted.
3. Working together with other NGOs in the country concerned: try building on expertise already available in the country concerned. Working with partners also makes you more credible in the eyes of donors or other third parties (politicians, ...)

4. Attracting and keeping volunteers: because of social conditions in general being worse in Central and Eastern Europe than in Western Europe it seems to be more difficult to commit volunteers for a considerable length of time. Rewarding your volunteers by means of small gifts, giving them the possibility to meet other LGBT people while doing volunteer work, letting them work in short shifts, etc. all helped. Some organisations also “provide” volunteers such as the United Nations and the US Peace corps. It must be recognised though that there is only that much that you can do if you rely on volunteers exclusively. Once projects reach a certain scale, you do need paid professionals.

WORKSHOP 10: EU enlargement

Enlargement project team

Agenda

- *Overview of EU enlargement*
- *The ILGA-Europe project*
- *Team members' findings and experiences*
- *Phase two of the project*

EU enlargement project

States wishing to join EU must:

- *Incorporate existing EU Law into domestic legislation*
- *Establish “respect for human rights, including protection of minorities”*

Existing law: Framework Directive, Charter of Fundamental Rights

Respect for human rights: ECHR and its case law

Protection of minorities: action to fight discrimination

Enlargement process scrutiny of applicants

By EU Enlargement Directorate and European Parliament through annual reports

- *Enlargement Directorate has only mentioned Romania and Cyprus briefly.*
- *Parliament passed resolution in 1998 warning that it would not give consent to accession of any country which “through its legislation will policies violates the rights of lesbians and gay men”; referred to Bulgaria, Cyprus, Estonia, Hungary, Lithuania and Romania.*

Objectives of project

- *Help persuade Bulgaria, Cyprus, Hungary and Romania to repeal discriminatory laws*
- *Encourage all applicant countries to bring in anti-discrimination laws and to take action against discrimination*

Model: the Roma

How?

By carrying out research which demonstrate

- that discriminatory criminal laws part of wider pattern of oppression
- that even where they did not exist, discrimination such as to constitute serious social injustice requiring government action

The Research

Two projects funded by the Open Society Institute (OSI):

- *A report giving the situation in each of the accession countries*
- *Detailed research to give more concrete evidence in four countries: Hungary, Poland, Romania and Slovenia. Based on questionnaires.*

Research findings (1)

Public attitudes:

- *Hostile opinion polls in most countries.*
- e. g. people would not want to live near homosexuals: Romania: 86%, Lithuania: 68%, Slovenia: 60%; in Hungary only 2% would allow homosexuals in their apartment.*
- *Inflammatory homophobic speeches in many countries*

Research findings (2)

State discrimination:

- *Discriminatory age of consent laws in Bulgaria, Cyprus, Hungary and Romania*
- *Other discriminatory provisions in Bulgaria, Cyprus and Romania*
- *Hungary denies young LGB people the right to join lesbian and gay advocacy organisations*

Research findings (3)

Agents of the state:

Police: violence or harassment reported from Bulgaria, Poland, Romania, Slovenia and Turkey

- *Harassment of meeting places: Hungary, Romania, Slovenia*

Armed Forces: no absolute ban, but considered unsafe for LGBT people in some countries e. g. Bulgaria and Latvia; treated as medical disorder in Bulgaria, Cyprus, Hungary and Slovenia.

Research findings (4)

Private citizens:

Homophobic violence or harassment reported from almost every country.

Violence: Romania: 28%, Poland: 22% (70% conceal their sexual orientation)

Employment discrimination also widely reported. In many countries, people too frightened to complain. In Hungary 2 out of 3 hide their sexual orientation at the workplace, in Slovenia 1 in 2.

Research findings (5)

Recommendations:

- *Governments:*

Repeal laws

Anti-discrimination legislation

Anti-discrimination programmes

- *European Commission*

Monitor and report

- *Council of Ministers, EP*

Refuse accession until governments take above actions

Publicising findings

- *Brussels*

Summary reports, and detailed reports distributed to:

Enlargement Directorate

Employment/Social Affairs

EP Rapporteurs for accession countries

Accession country missions to Brussels

EU delegations to accession countries

- *National distribution (4 countries)*

MPs, government, press

European Parliament hearing

- *Press conference in Parliament to publicise findings*

Participants in the hearing:

Representative of Enlargement commissioner

Employment/Social affairs Commissioner

EP Rapporteurs for Romania, Slovenia

Various MEPs/Commission staff

Representatives of LGBT NGOs in accession countries

Enlargement Commissioner's representative:

- *“no flexibility in negotiations regarding equal opportunities and minorities”*
- *“what we want is a society that does not discriminate, regardless of sexual orientation.”*
- *The Copenhagen political criteria and Article 13 “not negotiable”*

- *Cyprus “still work to do”*
- *Romania “called on time and time again”*
- *Bulgaria, Hungary, Estonia, Lithuania, “being scrutinised”*
- *“some changes cannot be made through EU – especially family law, but should debate”*

Employment/Social Affairs Commissioner:

- *Emphasised the need for “freedom from discrimination”*
- *The Commission would be “inspired by the Charter – the Framework in which we all must work”*
- *On Framework directive: lucky with the momentum, timing and political situation; but v difficult.*
- *On further legislation: not for some time; much research/ preparation needed; Article 13 unanimity*
- *Thanked ILGA-Europe for the research*

European Parliament accession debate – 4/9/01

- *EP resolutions call on Bulgaria, Cyprus, Hungary and Romania “to eliminate provisions in the penal code that discriminate against homosexual men and lesbian women”*
- *Verheugen: “I want to make it crystal clear that the Commission will continue to press in the enlargement negotiations for full observance of human rights... This includes a ban on any discrimination based on sexual orientation”*

WORKSHOP 11: *Stepping Stones and Roadblocks* project & *Non-discriminatory access to services provided by the voluntary sector* project

Jackie Lewis and Kurt Krickler

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Workshop 11: *Stepping Stones and Roadblocks* project & *Non-discriminatory access to services provided by the voluntary sector* project

Chair people/presenters: Jackie Lewis and Kurt Krickler, ILGA-Europe, and Saskia Daru from UNITED for Intercultural Action

Date: Saturday, 27 October 2001, 11.30-13.00

Minute Taker: Carola Towle

Summary

The workshop gave an overview of the range of collaborative projects being undertaken by ILGA and its member groups to tackle discrimination across discrimination grounds, in co-operation with other anti-discrimination groups. It considered lessons learned and how to take these forward in our work.

Reasons for tackling different forms of discrimination together

- Moral/political imperative to act in solidarity and not only in self-interest
- Each so-called single issue group includes members facing every form of discrimination – e. g. LGBT community includes black, disabled, migrant, young/old etc LGBT people
- Article 13 sets a context for horizontal (multi-ground) actions to tackle discrimination – reflected in funding available for projects
- As LGBT groups – groups less established and recognised as valid NGOs - we know that we can achieve more in coalition than on our own

Examples of Projects

Stepping Stones and Roadblocks – project led by UNITED for Intercultural Action (European network against nationalism, racism, fascism and in support of migrants and refugees), with Mobility International (European disability rights group) and ILGA-Europe, which ran from Dec 1999 to March 2001. Three seminars, one hosted by each project partner, built up an understanding of the barriers to and opportunities for co-operative working to promote equality. Perceptions of substantial differences in causes, manifestations and effects (including economic) of discrimination on each ground existed at beginning of project (obstacles to joint solutions).

Examination of these led to identification of some specificities but far more substantial areas of commonality, giving stepping stones to effective solutions.

Information on the project – www.united.non-profit.nl

Project on non-discriminatory voluntary sector service provision – project led by SOLIDAR (labour movement NGO), with four large service providers, three anti-discrimination groups, including ILGA Europe, and a public sector trade union, which runs through 2001. The various partners in the project are working with the service providers – major providers of social care in 4 different countries – assisting them to audit their own services to ensure they provide access to **all** potential users, to audit their employment practices, and establish a Guide to Good Practice.

Further information: www.solidar.org.

Other Projects:

Austria – very broad coalition working on drafting anti-discrimination legislation

Research – large survey in UK and academic research in N Belgium both found similar factors in building and unlocking prejudice – social isolation and reliance on media for information; clear differences between different sectors of population e. g. men versus women, young versus older.

UK Citizenship 21 Project – providing funding for projects where joint action on fighting prejudice – e.g. between black and lesbian and gay police groups.

Possibilities for the future

- Focus on common history and experience of discrimination and opportunities for joint action e. g. around asylum and immigration, hate speech, stereotyping in media, development of legislation NGOs in Central and Eastern Europe
- Joint action around International Day Against Fascism and Anti-Semitism – 9 November - and Holocaust Remembrance Day
- Pushing for 'Year of....' which crosses boundaries – year of equality
- Constant review of our own structures, policies and practices to ensure we take up the issues of all the diversity of our members

WORKSHOP 12: Bisexuality
Heleen Rutgers and Frank Slootweg

Diversity in Europe, a bisexual perspective

The purpose of the workshop 'Diversity in Europe, a bisexual perspective' is to inform and discuss the position of the bisexuals in the European Union as well as to investigate what practical steps can be taken at European level to promote the rights of bisexual people.

Presenters Heleen Rutgers and Frank Slootweg will use the Klein sexual orientation grid to make the diversity in sexual orientation visible. We welcome everybody who's interested in an interesting discussion on bisexuality, which will end in practical suggestions for the ILGA-Europe work programme 2001/2002.

Presentors:

Heleen Rutgers (32) is chair of the foundation European Bisexual Conference. Other activities since she came out as a bisexual at the age of 22: board member of the Dutch Bisexual Network (LNBi), leader of bi discussion groups, journalist for magazines about sexuality and a gay radio service. Two times she talked about bisexuality on Dutch television and she appeared in the information film 'Van twee walletjes'.

Frank Slootweg (41) found out being a bisexual at the age of 16. He decided after two long lasting relationships to choose for a bisexual lifestyle and became board member of the Dutch Bisexual Network (LNBi) as well as the foundation European Bisexual Conference. Tasks within the LNBi: Bi News co-ordinator, information group co-ordinator, volunteer co-ordinator. Within the first EuroBiCon: volunteer co-ordinator, design, engineering.

Dutch Bisexual Network (LNBi)

LNBi is the only nation-wide association for bisexuals in the Netherlands. It is the editor of the quarterly magazine *Bi-Nieuws*, has a web-site with general information on bisexuality, an extra web where local bisexual groups can manage their own agenda items, personal ads, links, a mailing list and a phone line. It gives information on bisexuality for groups on request and represents bisexuals at pride days in the Netherlands and abroad. The LNBi was the initiator of the first European Bisexual Conference, which took place in Rotterdam 22-24 June 2001. The second European Bisexual Conference will be organised by Bi Irish in Dublin, Ireland, in 2003. The Dutch Bisexual Network is a member of ILGA since 1995. The LNBi also was the initiator of probably the first workshop on bisexuality ever at an ILGA Europe conference.

More information:

- Dutch Bisexual Network (LNBi): <http://www.lnbi.demon.nl/> (only Dutch)
- First European Bisexual Conference (EBC1): <http://www.intbiconf.org/>
- Bi Irish: <http://bi-irish.bi.org/>
- The Klein Sexual Orientation Grid at Bisexual Options: <http://www.bisexual.org/>
- Bi.org serving the world bi community <http://bi.org/>
- The Bisexual Resource Guide at Bisexual Resource Center: <http://www.biresource.org/>

**Lecture delivered for the opening of the 1st European Bisexual Conference
by Heleen Rutgers
Friday, 22 June 2001**

Same preferences, different lifestyles

What is bisexuality? I always start an information session about bisexuality with this question. Most of the time my audience then starts sniggering because they just think of the well-known prejudices like: being greedy, trying to have your cake and eat it too; they are sitting on the fence; they can't decide; they are untrustworthy; one relationship won't do for them; they can't remain faithful; and so on and so on. Or they bring in a statement that seems to be supporting: basically everyone is a bisexual. This one is terrible because it kills the discussion even before it gets started!

I let them come out with their prejudices, while gently smiling. Then I come out with the definition the Dutch Bi-Network applies to bisexuality: "Bisexuals are men and women that feel emotionally and/ or sexually attracted to both sexes, regardless of their actual behaviour."

Then all of a sudden my audience is silent, and I ask them why?

A few people start muttering that, by this definition, they also could call themselves bisexual. I ask them if they do and if not I put their minds at rest by telling them that I won't label anyone as a bisexual who doesn't want to be labelled like that. Relieved by this remark my audience starts questioning me about the difference between sex with a man and sex with a woman. They ask me whether falling in love with a woman feels the same as falling in love with a man and of course they want to know whether I fancy both sexes all the time. Once I spoke to a group of gay youngsters. They asked me this question over and over again. They wanted to know exactly when I fancy women and when I fancy men. In the end I answered: "Well, it's quite simple on even days I prefer girls and on odd days I prefer boys!"

Back to the definition. It is broadly based not to 'include' people who don't want to be included but to avoid exclusion of people who have no experience of sex with one or both sexes, but nevertheless call themselves bisexual because of their fantasies.

So, according to this definition we have the same preference: we feel attracted to both sexes, but our lifestyles can differ a lot! I will give you some examples:

1. A forty-year old woman has lived with her girlfriend and her two children for three years. The children come from her former relationship with a man.
2. A twenty-five year old man lives alone; and sometimes has one-night-stands with men or women.
3. A man aged thirty-two, lives with his wife. Occasionally he goes out alone, picks up a man and has sex with him.
4. A male-female couple, both thirty-seven years old, have lived together for ten years. Two years ago they met a woman, aged forty-three, they both liked very much. This woman had never made love with a woman before. What started as a one-night-stand as a threesome gradually changed in a relationship triangle. At the moment they are considering living together.

Of course I can give lots of further examples, but I will leave it at these four.

All these people call themselves bisexual. Do you see the similarity between them?

I will make it a bit more confusing:

The woman in the first example I gave could also call herself a lesbian as she now lives with a woman.

The young man in the second example could also call himself gay and explain his nights with girls as a reversion to what is called 'normal' in society.

The reverse applies for the man in the next example, the married one with occasional sexual contact with his own sex. A lot of men who behave like that call themselves straight and don't tell their wives about their attraction to men.

In the last example one could ask if the man really is bisexual because he has relationships with two women and no relationship with a man.

I repeat that all the people I described call themselves bisexual. How do you think the outside world will see them? The outside world only sees the relationships one is having. So if you are having a same sex relationship, the outside world sees you as a gay person. And if you are having a relationship with the opposite sex, the outside world sees you as a straight person. The same applies for you if you are single! That's strange, isn't it? No, it isn't, because being straight is the default value: it is the unmarked situation everybody consciously, but most of the time unconsciously, assumes until the contrary is proved.

That there is a contrary, an alternative option, we owe to the gay movement. I won't deny that they did a great job. Thanks to the gay movement heterosexuality is less expected in the Netherlands than it was thirty years ago. But, we don't have to thank just gay people because bisexuals have always been involved the gay movement as well. I'm sure a lot of gays are not aware of this. They think the bi's can easily come out, now that the gays have done the hard work. But we were already there!

Secondly we don't have to be grateful because the gay movement created a perfect copy of the straight world where being gay is the default value. As a bi, one is not obviously welcome in the gay community. In the Netherlands the gay movement is changing a bit: it feels sure and strong and these are the ultimate circumstances to welcome related preferences like bisexuality as well. But in a lot of other countries including some in Europe the gay movement still has a lot to fight for. They need 'straight' gays: 100% pink ones and not those 'unsure half gay maybe heterosexuals' that we are taken for.

The dualism of being straight or being gay with no option in between, not to mention a continuum, causes about bisexuality only to be visible when one is having a relationship with a man and a woman at the same time and one openly presents both as partners. And then we run up against another problem that harms our popularity: By insisting that we have more than one partner we are breaking the rule of monogamy.

This is the reason why a lot of bisexuals don't want to be part of the gay movement. They want their own place because they see stronger similarity between gays and straights than between gays and bi's. For instance: a lot of gays try to bring in marriage. A hot topic that the Dutch gay movement handled successfully: from the beginning of this year in the Netherlands it has been possible for same sex couples to marry and to enjoy all the rights of traditional marriage. Congratulations! However let's now turn to the bisexual point of view: It seems that gays try to live like straight couples in order to get accepted in society. What about people forming relationships with more than one person? They don't fit in the marriage one by one-thing. Here we touch on the monogamy discussion. I think this is work the gay movement has left for us, although I know that there are also a lot of gays and heterosexuals who live non-monogamously. It's the sacred cow the gay movement didn't dare to touch.

Personally, I feel like the one who has to build a bridge between the straight and the gay world. If I go out in a straight cafe or disco, I can pay attention to my feelings for men and the other way around if I go out in the gay scene. This feels a bit strange to me. I have to deny half of my feelings all the time! A few years ago one of the Dutch bisexual girls wrote a splendid metaphor about this: "It is as if they put a border right through your house and then ask: 'Which side of the border do you live?'"

When I'm among bisexuals I am allowed to feel all my feelings and then a strange thing happens: bisexuality is no longer an issue! At least it isn't the prominent issue any longer, it's just there and you can talk freely with the others about all subjects imaginable. You don't have to explain the

things you normally have to explain and you can start talking from the point things are really new and interesting for you. That's why it is so important to meet each other at a conference like we are having this weekend.

I return to the fact that only bi's with double relationships are visible. I think this is one of the most serious problems we are facing. It separates the bisexuals into two groups: the 'nice' bi's who are at least monogamous, or serially monogamous if you want, and the 'horrible' bi's who are non-monogamous. We have an image problem because the 'nice' bi's are not visible. If they don't speak up, they are automatically counted as straight or gay.

So I call on all bi's to become visible and not just during the process of coming-out; because this is the only way to achieve full acceptance of bisexuality. Because of the large differences between bi's I think we never can have a movement like the gay movement where a few role models are followed by the rest of the community. Moreover pursuing a strong bi movement has a large disadvantage: If you want to organise people you need a name, a logo, a mission-statement and all that stuff. And then the exclusion of people starts as happened to bi's in the gay movement. I hope we won't run into this trap! The bi movement (as far as it exists) should stay a place where all bi's in all their diversity feel at home.

“Creating partnership”
23RD EUROPEAN CONFERENCE OF ILGA
(INTERNATIONAL LESBIAN AND GAY ASSOCIATION)
OCTOBER 2001, ROTTERDAM, THE NETHERLANDS

Notes

Workshop 12: Diversity in Europe – a bisexual perspective
Chairwoman/man: Frank Slootweg and Heleen Rutgers
Date: Saturday, 27 October 2001, 11.30-13.00

Minute Taker: Hilde Vossen

Heleen and Frank introduce themselves. They give a summary of the purpose of the workshop: to inform and discuss the position of bisexuals in the European Union as well as to investigate what practical steps can be taken at European level to promote the rights of bisexual people, which will end in practical suggestions for the ILGA-Europe work programme 2001/2002.

Identification, prejudices

Then Heleen asked the 25 attendees of the workshop: “How do you identify yourselves?” The answers had a range of homosexual, lesbian, bisexual, transgender, pansexual and heterosexual. Everybody knew a prejudice about bisexuality, when asked. “Bisexuals are actually straight.” “Bisexuals are actually gay.” “They can’t make a decision.” “Bisexuality is beautiful. You have twice as much choice: between men and women.” “A bisexual is half man, half woman.” etc.

Definition, continuum

To show that bisexuality is far more than having sex with a man and/or a woman, the definition of bisexuals written by the Dutch Bisexual Network is being explained: “Bisexuals are men and women that feel emotionally and/or sexually attracted to both sexes, regardless of their actual behaviour.” Remarkable is the possibility of emotional attraction to both sexes. However, nobody in the workshop had to feel insecure to be identified as – for example- bisexual after filling in the Klein sexual orientation grid, because self-identification of your sexual identity is important in this. This workshop shows that heterosexuality and homosexuality are a continuum. You should be aware of this “never ending sexual identity” when you’re working at GLBT issues.

Measuring

Some remarks on the Klein sexual orientation grid: “I have problems with filling this in for afterwards you will not see that I’m attracted to boys and not men.” “I think you’re all very kind but I don’t want to talk about the results in class because I don’t want you all to know about my sexual fantasies.” “What a shame! You can’t choose a bisexual lifestyle in this grid, only a gay or a heterosexual lifestyle!” “I think these forms on measuring sexuality and sexual behaviour are very useful because of the prejudices within. But some of them didn’t lead to appropriate research results until now, so some laws that are made, inspired by these kinds of research, are inappropriate as well.”

Towards the ILGA Europe work programme 2001/2002

Point 8.4 “The rights of bisexuals” says: Investigate what practical steps can be taken at European level to promote the rights of bisexual people, beyond those issues already being addressed by work to eliminate sexual orientation discrimination.”

“If I read this,” an attendee says, “bisexuals have to do something very new, have to formulate their own issues precisely. Whatever these issues may consist of.”

An attendee asks: “As a self-identified gay man I understand this continuum you are talking about, very well. But when are bisexuals discriminated? What are the issues I can work on when I work for the trade union while thinking of bisexuals? Can you, for example name a law which discriminates bisexuals?” The answer is that it’s still not precisely known yet if there are any laws that discriminate against bisexuals. Bisexuals expect that there are laws that aren’t in their advantage. Therefore they need time, resources and expertise to study this subject. Then they can advise the executive board of ILGA Europe.

These notes are written down very quickly. Apologies for not quoting everything perfectly.

WORKSHOP 13: The European Union and combating Discrimination outside Employment
Mark Bell

The EU adopted the Framework Directive in November 2000. This forbids sexual orientation discrimination in employment, with effect from 2 December 2003. It is available at: http://europa.eu.int/eur-lex/en/lif/dat/2000/en_300L0078.html

This workshop examines the prospects for a further, wider anti-discrimination Directive. It will consider the options for a Directive dealing with discrimination in areas such as education, healthcare, social protection, and access to goods and services.

A. Why is there a need for another EU anti-discrimination Directive?

1. Article 21(1) of the EU Charter of Fundamental Rights clearly establishes that sexual orientation discrimination is unacceptable in all areas:

'Any discrimination based on any ground such as sex ... or sexual orientation shall be prohibited'.
(Available at: http://europa.eu.int/comm/justice_home/unit/charte/en/charter-equality.html)

2. Discrimination is an obstacle to freedom of movement within the European Union whether it occurs in employment or outside employment.

3. Article 26, International Covenant on Civil and Political Rights requires all signatories (this includes all EU states and all the applicants) to ensure that the law guarantees 'to all persons equal and effective protection against discrimination on any ground'. In contrast, current EU anti-discrimination law is generating an 'equality hierarchy' where it seems some are more equal than others:

- a. The 2000 Racial Equality Directive forbids discrimination on grounds outside employment: 'social protection, including social security and healthcare, social advantages, education, access to and the supply of goods and services which are available to the public, including housing'.
(Available at: http://europa.eu.int/eur-lex/en/lif/dat/2000/en_300L0043.html)
- b. The European Council has committed itself to adopting a Directive forbidding gender discrimination in areas outside employment before 2003. (European Social Policy Agenda agreed in Nice, December 2001).
- c. The Commission has indicated that it will submit a proposal to the Council for a Directive on combating disability discrimination in areas outside employment.

4. The European Parliament has called for a Directive to forbid sexual orientation discrimination in areas outside employment. In its Resolution on the Framework Directive, it proposed the following amendment:

'Within three years of the adoption of this Directive, the Council, on a proposal from the Commission and after consulting the European Parliament, shall decide, for all the grounds of discrimination referred to in Article 13 of the EC Treaty, on an extension of the scope to at least those fields defined in Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

(Amendment 35, European Parliament Resolution on the Framework Directive, 5 October 2000.)

5. There is a need to provide more effective enforcement mechanisms to assist individuals to use the law in practice. Specifically, there is a need to oblige states to provide institutional support for victims of discrimination.

B. What areas should this Directive cover?

Article 13 EC: discrimination can only be forbidden 'within the limits of the powers' of the EC Treaty, e. g. probably excludes law enforcement agencies

Suggested key areas:

- access to and supply of goods and services
- education
- healthcare
- social protection
- accommodation
- immigration
- asylum

C. How can enforcement of anti-discrimination law be improved?

Official institutions:

- issue-specific: e .g. Swedish Ombudsman on sexual orientation discrimination (www.homo.se)
- general equality agency: e. g. Irish Equality Authority (www.equality.ie) + Irish Office for the Director of Equality Investigations (www.odei.ie)
- general human rights agency

NGO-based enforcement

- supporting individual cases
- bringing cases in their own name

D. What steps can be taken to achieve this Directive?

- evidence of discrimination in these areas across the EU and applicant states
- lobbying MEPs, Commission, national governments, national parliament deputies
- "soft law" measures: e.g. Codes of Practice, European Year against All Forms of Discrimination?

Mark Bell, University of Leicester
October 2001
mb110@le.ac.uk

WORKSHOP 14: The legal combat of hate speech – the USA and the Netherlands
Astrid Mattijssen and Charlene Smith

Professor Charlene L. Smith
Washburn University School of Law
Topeka, Kansas, U.S.A.
zzsmch@washburn.edu

Constitution of the United States
Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Title VII
Title VII of the 1964 Civil Rights Act

Title VII prohibits defined employers, labor organizations, and employment agencies from discriminating in all aspects of their employment relationship because of an individual's race, color, religion, sex (including pregnancy), and national origin.

Title IX

Title IX of the Educational Amendments of 1972, 20 U.S.C.A. 1681, prohibits discrimination of the basis of sex in any educational "program or activity" receiving federal financial assistance.

HYPOTHETICAL

Based on actual facts

In a news broadcast about the growing violence by Moroccan boys against homosexuals, in a country where the Moroccan's were a small minority, a well known Imam (religious official) in that country said the following:

"We try to integrate into the society but we cannot violate our religious principals. We work together with everything that is good and confront everything that is bad. We Muslims see the homosexual phenomenon as harmful and noxious to society at large and not just for Muslims. It is harmful to the whole society because when it spreads to the young people, it will be the end of society.

I already know that this society has more aged persons than youngsters. If we stop reproduction, who is going to care for the aged if we allow men to marry men and women to marry women? Homosexuality is a disease that can reach everyone. That is what we are afraid of."

The Imam case

On 31 May 2001, an a widely seen television broadcasting, in a news and background programme about the growing violence by Moroccan boys against homosexuals, a very famous imam said the following words:

(only a part of the Imam's words were broadcast, the question was not broadcast) Is Islam able to adapt/adjust to the Dutch mentality?

The imam: "the Islam demands us to integrate in what ever society, but only an integration which is not violating with are religion, our ideas, our upbringing; Integration also means scientific integration, studies, work, working together with everything what is good, and taken the confrontation with everything ethic is bad for society; and that is why we see *the phenomenon homosexuality, that it is a phenomenon which is harmful/noxious to society at large and it is a danger, as I see it, for the Dutch people in particular. Because when this phenomenon spreads under Dutch youngsters, young men and young women. This means the end. Because what I know about the Netherlands maybe a big number of aged persons then youngsters. When the reproductivefunction1power of aged persons is over, who shall/will take care of other reproduction in the Netherlands when a man with a man marries and a woman with a woman.*"

The second part which was broadcast:

(only the Imam's words were broadcast, the question was not broadcast)

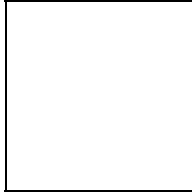
Is the Netherlands in your view like Sodom and Gomorra? We have whores, homos (homosexuals) drugs; everything is allowed here in the Netherlands. For a muslim you must get crazy of it?

The imam: "What I think, that democracy not only appears in permissively, meaning that a human is allowed to do anything, that what is prohibited and what is not-prohibited, that is not democracy, nor freedom, because ehh..., this case ehh..., *the phenomenon homosexuality does not limits to the sick persons, but maybe it spreads and the Dutch society knows a variety of nationalities. And when this disease appears, it can reach everyone. And that is where we are scared of.*"

**World Church of
the Creator**
Kids! 

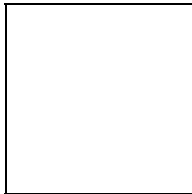
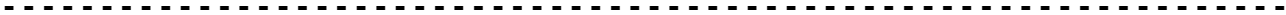
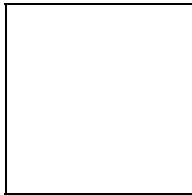
Welcome to the World Church of the Creator Children's Site!

One of the purposes of this site is to make it fun and easy for children to learn about our Racial Religion - Creativity. There are games to play, stories to read, and many other things do here. I try to add as many things to this site as I can to positively influence our children. I would want my child to grow up loving their Race - and not being influenced by the sick and degenerate society of today, which promotes the destruction of our Racial heritage, and all sorts of degeneracy imaginable. It is our duty, as White people, to stop the decline of our White civilizations all over the world, which have been on a constant downfall since 1945. It all starts with the proper raising of our children...



If you would like to contribute something to this site, please email me at steelfront@hotmail.com. Feel free take a look around and have fun! Don't forget to take a look at our [updates](#), if you are here often.

-WCOTC Staff



WORKSHOP 15: The Council of Europe

Nigel Warner and Robert Wintemute

PART 1:

OVERVIEW OF COUNCIL OF EUROPE

Covers 43 countries, 800 million people

Three main institutions:

- Committee of Ministers (Foreign Ministers)
- Parliamentary Assembly (Delegates from member state parliaments)
- European Court of Human Rights [Up to 1998 European Commission on HR took first look at cases]

COUNCIL OF EUROPE AGENDA

Parliamentary Assembly (PACE):

- recommendations to Committee of Ministers
- monitor human rights record of candidate member states

Committee of Ministers:

- response to PACE recommendations:
 - on asylum and immigration
 - on situation of lesbians and gays in Europe

European Court of Human Rights: current cases

Committee of Ministers' Possible Responses

- Ignore
- Make neutral reply to Assembly
- Make supportive reply to Assembly
- Make their own Recommendation to Member States

PACE recommendation on asylum and immigration

Member States to:

- Recognise persecution on grounds of sexual orientation for purposes of asylum
- Ensure that bi-national l/g couples are accorded the same residence rights as bi-national hetero couples

PACE Recommendation on the situation of lesbians and gays

to Committee of Ministers:

- Include sexual orientation discrimination in anti-discrimination clause of the European Convention on Human Rights (ECHR)
- Extend the terms of reference of ECRI (European Commission against Racism and Intolerance)

to Member states (11 recommendations), inter alia:

- Prohibit sexual orientation discrimination
- Repeal "sodomy laws"; equal age of consent
- Equal treatment in employment
- Registered partnership
- Combat homophobia in schools, medical profession, armed forces, police, etc.

General aspects of Committee of Ministers' reply:

- It agrees that, regrettably, discrimination and violence against homosexuals still occur. Differentiated treatment of homosexuals under the law and in practice still exists in member states as do contemptuous or intolerant attitudes towards them.
- The case-law of the ECHR provides a strong general incitement to all member states to reform any discriminatory legislation or regulations.
- Homosexuality can still give rise to powerful cultural reactions, but this is not a valid reason for governments or parliaments to remain passive. On the contrary, this fact only underlines the need to promote greater tolerance in matters of sexual orientation.

Committee of Ministers' specific responses 1

- "No" to specific reference to sexual orientation discrimination in ECHR, but draws attention to Court's ruling in Portuguese custody case.
- ECRI terms of reference: "stresses the importance of covering all forms of discrimination within Council of Europe's activities"; and welcomes ECRI's call for "wide debate within C of E as to how it might best address the various areas of discrimination".

Committee of Ministers' specific responses 2

- The Committee of Ministers can mark its agreement with several of the injunctions addressed to member states in paragraph 11.iii of the recommendation.
- In this regard it underlines in particular the need, mentioned in sub-paragraph 11.iii.e, for [...] measures in the areas of education and professional training to combat homophobic attitudes in certain specific circles.

Committee of Ministers' response – evaluation

- Consensus statement by 43 countries – historic recognition of homophobia
- Involves considerable self-criticism by countries which still have discriminatory laws
- Important step in removing any respectability from homophobia
- Backing for Court's stand against sexual orientation discrimination.

Council of Europe – new members

Armenia: new criminal code delayed by constitutional issues, so sodomy law still in place, but Parliamentary Assembly maintaining pressure for repeal.

Republika Srpska: new criminal code makes no distinction between opposite and same-sex sex.

Committee of Ministers' Recommendation on the freedom of exercise of the profession of lawyer

"Legal education, entry into and continued exercise of the legal profession should not be denied in particular by reason of sex or sexual preference," (Rec. 2000 (21) (25.10.2001) on the freedom of exercise of the profession of lawyer (Principle II.1).

COUNCIL OF EUROPE WORKSHOP- PART 2 (27 October 2001)

by Robert Wintemute (robert.wintemute@kcl.ac.uk)

I. Existing case-law of the European Court and Commission of Human Rights³³ (issues other than partnership and parenting)

A. Freedom of expression, assembly and association

- state interference (or failure by the state to protect against private interference) with lesbian, gay, bisexual and transgendered books, magazines, newspapers, films, videos, meetings, marches, parades and demonstrations, or the establishment and operation of LGBT associations, could violate Articles 10 and 11 of the Convention

- *Scherer v. Switzerland* (No. 17116/90) (14 Jan. 1993) (Commission report) (applicant's conviction of publishing obscene material for showing a video in a gay sex shop violated Article 10); (30 March 1994) (Court judgment) (struck out of the Court's list because the applicant had died)

- *Reiss v. Austria* (No. 23953/94) (6 Sept. 1995) (Commission admissibility decision – inadmissible) (applicant's conviction under Pornography Act for showing film in gay bar did not violate Article 8; Article 10 not argued)

- *Hauer v. Austria* (No. 18116/91) (13 Oct. 1993) (Commission admissibility decision – inadmissible) (removal by police of LGBT organisation's banner at solemn ceremony did not violate Article 10)

- *Gay News Ltd. v. U.K.* (No. 8710/79) (1982), 28 D.R. (see below) 77 (Commission admissibility decision – inadmissible) (conviction of blasphemous libel for publishing a poem about a Roman soldier's fantasy about sexual acts with Jesus Christ did not violate Article 10)

- *Szivárvány társulás a melegek jogaiért v. Hungary* (No. 35419/97) (12 May 2000) (Commission admissibility decision - inadmissible) (refusal to register lesbian and gay rights organisation, the Rainbow Association, unless it excluded members aged under 18, did not violate Article 11 or Articles 11 and 14)

B. Criminal law

1. Total bans on same-sex sexual activity violate Article 8 (private life)

- *Dudgeon v. United Kingdom* (22 Oct. 1981), Series A, No. 45 (Court judgment)

- *Norris v. Ireland* (1988), Series A, No. 142 (Court judgment)

- *Modinos v. Cyprus* (1993), Series A, No. 259 (Court judgment)

2. Ages of consent to male-female, male-male and female-female sexual activity must be equal under articles 8 (private life) and 14 (non-discrimination)

- *Sutherland v. U.K.* (1 July 1997) (Commission report)

³³ All judgments and admissibility decisions of the European Court of Human Rights are available at <http://www.echr.coe.int/hudoc>, as are some reports and admissibility decisions of the former European Commission of Human Rights. Type the applicant's name after "Title", or type in the application number, and tick "Reports" or "Admissibility Decisions" at the top if you are looking for one of these rather than a judgment of the Court (it is safer to tick both English and French at the top; some decisions are published only in one language).

3. Non-sado-masochistic group sexual activity in private cannot be prohibited under Article 8 (private life)

- *A.D.T. v. U.K.* (31 July 2000) (Court judgment)
- *Laskey v. U.K.* (1997) (Court judgment)

4. Other discrimination against (private, non-commercial) same-sex sexual activity by the criminal law

- probably violates Article 8 (private life), on its own or with Article 14 (non-discrimination) (but see II. below)

C. Legal recognition of gender reassignment

- *B. v. France* (25 March 1992), Series A, No. 232-C (Court judgment) (Articles 8, 12, 14) (France required to change legal sex on birth certificate)
- *Sheffield & Horsham v. U.K.* (30 July 1998) (Court judgment) (Articles 8, 12, 14) (U.K. not required to change legal sex on birth certificate)

D. Dismissals from employment

- *Lustig-Prean & Beckett v. U.K., Smith & Grady v. U.K.* (27 Sept. 1999, violation, 25 July 2000, compensation) (Court judgments) (Article 8) (armed forces)
- *B. v. France* (see above) (dismissal of transsexual employee?)

E. Custody claims by lesbian and gay biological parents

- *Salgueiro da Silva Mouta v. Portugal* (21 Dec. 1999) (Court judgment) (Articles 8, 14)

F. Other discrimination by a public authority against LGBT individuals

- probably violates Article 8 (private life), on its own or with Article 14 (non-discrimination) (but see II. below)

G. Discrimination by private parties against LGBT individuals

- can argue that the state has a positive obligation under Articles 8 (private life) and 14 (non-discrimination) to pass legislation prohibiting sexual orientation discrimination in the private sector; argument accepted by the Supreme Court of Canada in *Vriend v. Alberta*, [1998] 1 Supreme Court Reports 493, <http://www.droit.umontreal.ca/doc/csc-scc/en/index.htm>

II. Cases falling outside the Convention (where Protocol No. 12 is needed)

- *F. v. Switzerland* (No. 11680/85) (10 March 1988), 55 D.R. 178 (Commission admissibility decision – inadmissible) (ban on same-sex but not different-sex prostitution)

- (Optional) Protocol No. 12 to the Convention (and Explanatory Report), <http://conventions.coe.int> (Search, ETS No. 177) (opened for signature 4 Nov. 2000, the 50th anniversary of the signing of the Convention in Rome; will enter into force after 10 ratifications, only in ratifying Member States; can be used if Article 14 does not apply, if your government has signed and ratified)

"Article 1

(1) The enjoyment of *any right set forth by law* shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

(2) No one shall be discriminated against by *any public authority* on any ground such as those mentioned in paragraph 1." (Emphasis added.)

**European Convention on Human Rights, Protocol No. 12,
Signatures and Ratifications as of 23 October 2001**

Ratified (1 Member State)	Signed (26 Member States) (04/11/00, 50th anniversary of European Convention, except where indicated)	No Action (16 Member States)
Georgia (15/06/01, signed 04/11/00)	Austria Belgium Cyprus Czech Republic Estonia Finland Germany Greece Hungary Iceland Ireland Italy Latvia Liechtenstein Luxembourg Macedonia (FYR) Moldova Netherlands Portugal Romania Russia San Marino Slovakia Slovenia (07/03/01) Turkey (18/04/01) Ukraine	Albania Andorra Armenia Azerbaijan Bulgaria Croatia Denmark France Lithuania Malta Norway Poland Spain Sweden Switzerland United Kingdom

III. Pending cases

A. Adoption by an unmarried individual

- *Fretté v. France* (No. 36515/97) (oral argument before Court on 2 October 2001)

B. Age of consent

- *S.L. v. Austria* (No. 45330/99), *G.L. v. Austria* (No. 39392/98), *A.V. v. Austria* (No. 39829/98)

C. Refusal to accept blood from openly gay or bisexual male donors

- *Tosto v. Italy* (No. 49821/99), *Crescimone v. Italy* (No. 49824/99), *Faranda v. Italy* (No. 51467/99)

IV. Potential new cases

A. Male-male prostitution

- Greece - Amnesty International press release (12 October 2001),
<http://www.web.amnesty.org/web/news.nsf/WebAll/041F675560E1226580256AE10042CA86?OpenDocument>

"The trial of seven men charged under Article 347.1 (b) of the Penal Code is due to begin on 12 October 2001 in Athens. Article 347 punishes those found guilty of engaging in indecent acts between males for financial gain, by between three months' and five years' imprisonment. ... The Greek Penal Code does not criminalise homosexual acts, for financial gain or otherwise, between women, and prostitution involving heterosexual acts is not criminalised, as long as the prostitute has fulfilled legal procedures before starting to work."

B. Other issues?

V. Texts of the Parliamentary Assembly of the Council of Europe (PACE) and the Committee of Ministers (CM) to cite in all cases

- PACE, Opinion No. 216 (2000), <http://stars.coe.fr/ta/ta00/eopi216.htm> (26 Jan. 2000) ("the ground 'sexual orientation' should be added"), based on the Report of the Committee on Legal Affairs and Human Rights, Document 8614, <http://stars.coe.fr/doc/doc00/edoc8614.htm> (14 Jan. 2000)

- PACE, Recommendation 1470 (2000) on the "Situation of gays and lesbians and their partners in respect of asylum and immigration in the member states of the Council of Europe", <http://stars.coe.fr/ta/ta00/erec1470.htm> (30 June 2000)

- PACE, Recommendation 1474 (2000) on the "Situation of lesbians and gays in Council of Europe member states", <http://stars.coe.fr/ta/ta00/erec1474.htm> (26 Sept. 2000)

- CM, Reply to PACE Recommendation 1474 (Decision, Item 4.3, 765th meeting, 19 Sept. 2001, <http://cm.coe.int/dec/2001/765/43.htm>)

VI. How to bring a new case?

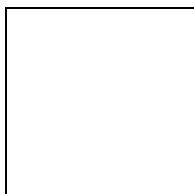
- A. Assess the strength of the case on the facts and the law.
- the facts should be sympathetic, suggesting a clear injustice against an innocent individual who has done no harm to others
 - the applicant must be committed to see the case through to the end in Strasbourg; because of the time necessary to exhaust domestic remedies, and the Court's large and growing backlog of cases, this could take as long as 10 years!
 - **ILGA-Europe's advice should be sought regarding the strength of the case**; a "test case" on partnership or parenting could set a good or bad precedent for 43 Council of Europe member states; as a non-governmental organisation with expertise on sexual orientation discrimination, ILGA-Europe might be able to ask the Court for permission to submit written comments on the legal issue in the case (this is a "third-party intervention" under Article 36 of the Convention and Rule 61 of the Rules of Court)
- B. Make sure that the applicant is represented by a lawyer.
- an applicant who represents herself or himself could set a bad precedent; it's like trying to perform surgery on yourself!
- C. Make sure that the applicant exhausts domestic remedies, i.e., all remedies under your national constitution or legislation (Article 35(1) of the Convention).
- D. The applicant's lawyer must send a letter to the Court **within six months of the final domestic decision** (Article 35(1) of the Convention).
- follow the Court's instructions at <http://www.echr.coe.int/eng/general.htm>
 - see the Rules of Court at <http://www.echr.coe.int> ("Basic Texts") for additional details on procedures before the Court

VII. Further reading

Robert Wintemute, *Sexual Orientation and Human Rights: The United States Constitution, the European Convention, and the Canadian Charter* (Oxford University Press, 1995, hardback edition, 1997, paperback edition)

Robert Wintemute, "Strasbourg to the Rescue? Same-Sex Partners and Parents Under the European Convention" in Robert Wintemute and Mads Andenæs (editors), *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law* (Oxford, Hart Publishing, <http://www.hartpub.co.uk>, published on 22 October 2001)

WORKSHOP 16: Creating Safe and Affirming Schools for LGBT Students and Staff – GLEE Project
Tim Bedford



The GLEE Project Leadership Training Course

Creating Safe and Affirming Schools for Lesbian Gay Bisexual and Transgender (LGBT) Students and Staff

**Pohto Conference Centre
Oulu Finland
20-27 July 2002**

A Course Developed by the European Union Socrates Comenius Programme



GLEE PROJECT

The GLEE project is an interactive network of teacher training, curriculum development and research initiatives to combat homophobia and heterosexism. The project is funded by the European Commission as part of the Socrates Comenius Programme for school education. In line with the Amsterdam Treaty (Article 13 EC) the project demonstrates the European Union's commitment to combating all forms of discrimination.

GLEE LEADERSHIP COURSE

Teachers from primary and secondary schools (ages 3-18) are invited to participate in the next GLEE Project Leadership Training Course taking place in Oulu, Finland from 20-27 July 2002. The aims of the course are for participants to:

- reflect on the extent of homophobia and heterosexism in their school community and its destructive effects
- develop strategies to combat homophobia and heterosexism in school policies, practices and curricula
- work towards combating all forms of discrimination to make schools safe and affirming environments for all

During the course participants will learn to use an internet-based support network called GLEENET. After the course this will provide a resource centre as well as facilities for on-going communication between participants and their schools from the different countries to share ideas and gain support for their own local initiatives.

Participants will also be encouraged to develop transnational projects with other participants and submit these for funding from the EU Comenius 1 School Partnerships Programme:

School Partnerships Programme

<http://europa.eu.int/comm/education/socrates/comenius/activities/comenius1.htm>

COURSE OUTLINE AND APPROACH

Unit 1: Introduction

Unit 2: Cultural Diversity & Schools

Unit 3: Sexualities & Gender

Unit 4: Homophobia & Heterosexism

Unit 5: Transforming Schools

Unit 6: Gleenet Support Network & Resources

Unit 7: Developing Action Plans & Projects

Unit 8: Evaluation and Closure

The course has a participant centred approach with an emphasis on sharing ideas and experiences. The common language of the course is English though some small group sessions may be offered in Finnish, Italian or Portuguese.

TRAINING TEAM

The course has been developed by an international training team from:

Oulu University, Finland

Parma University, Italy

Terrence Higgins Trust, UK

ISCTE Portugal

Scola EB 1 No3 de Alcoitao, Portugal,

GLSEN, USA

FOR WHOM

The course is open to all teachers from primary and secondary schools (ages 3-18) interested in working to realise the project's aims and objectives

COST

The cost of the course is 1200 euros covering the course fee, accommodation, use of conference facilities and most meals but does not include travel costs. See below for details of grants to cover costs.

HOW TO APPLY

The Leadership Training Course is open to primary and secondary school teachers of all subject areas. To apply teachers should firstly pre-register for the course by completing the Leadership Training Course application form and return it to the project co-ordinator by 14 January 2002 at the latest. The application form is available from the project co-ordinator or from the GLEE Project web-site.

The number of places is limited and those teachers selected to attend the course will be sent an acceptance letter by 31 January 2002 at the latest.

APPLYING FOR A GRANT

Teachers selected from eligible institutions from European Union and Associated Countries will be eligible to apply for an individual training grant from their EU National Agency responsible for the

Socrates Comenius programme. This grant usually covers travel costs to Finland, accommodation, subsistence and the course fee. Grant application forms can be obtained from the National Agencies.

For addresses of National Agencies:

<http://europa.eu.int/comm/education/socrates/comenius/natagenc.htm>

For details of Eligible Countries and Institutions:

<http://europa.eu.int/comm/education/socrates/comenius/particip.htm#eligible>

For details of Individual Training Grants:

<http://europa.eu.int/comm/education/socrates/comenius/activities/comenius2.htm#mobilitygrants>

Persons applying for a grant should send the EU application, together with the course organisers acceptance letter to their national Socrates agency. The grant application deadline is 1 March 2002.

There will also be a number of places for self-funded participants e.g. from teachers outside the EU and Associated Countries.

CONTACT INFORMATION

For further information contact:

Timothy Bedford

GLEE Project EU Co-ordinator

University of Oulu Faculty of Education

P.O. Box 2000

FIN-90014 Oulu

Fax: +358 8 558 494 59

t.bedford@oulu.fi

<http://glee.oulu.fi>

WORKSHOP 17: Anti-discrimination legislation & the Irish experience
Marie Mulholland and Sile Larkin of the Irish Equality Authority

Actions to Promote and Develop Equality on Sexual Orientation

- Consultation with the nine grounds including representative organisations within LGB community re: policy development/project initiatives
- Establishment of LGB advisory committee
- Production of national resource report on LGB needs
- Development of communications and follow-up strategy re: report's recommendations
- Negotiating with national structures for inclusion of recommendations.
- Supporting and resourcing development of cross-cutting issues within the LGB community e.g. disability & sexual orientation
- Tackling discrimination in the workplace via Equality Reviews and Action Plans covering all nine grounds including sexual orientation.
- Equality-proofing of service provision across all nine grounds including sexual orientation.

KEY THEMES OF LGB REPORT RECOMMENDATIONS

- Mainstreaming of sexual orientation within all public policies, programmes and services with relevance to the needs, circumstances, representation and resourcing of LGB people.
- Strategic development of the LGB community to develop existing and additional community supports, resources and participation.
- Legal reform to bring about recognition of same sex partnership rights and entitlements with regard to taxation, property, immigration, health and other matters.
- The concept of non-discrimination to be endorsed in a constitutional clause.

EQUALITY AUTHORITY FUNCTIONS

- Elimination of discrimination on nine grounds
- Promote Equality of Opportunity
- Information service
- Free Legal Advice & Representation
- Review & Monitor

EQUALITY AUTHORITY – MISSION

- Promote and defend the anti-discrimination rights established in the Equality legislation
- Provide leadership in:

Equality issues
Awareness
Diversity
Mainstreaming

WORKSHOP 18: ILGA-Europe 2: The Work Programme 2001/02 and any other issues
ILGA-Europe Board

“Creating partnership”
23RD EUROPEAN CONFERENCE OF ILGA
(INTERNATIONAL LESBIAN AND GAY ASSOCIATION)
OCTOBER 2001, ROTTERDAM, THE NETHERLANDS

Minutes

Workshop 18: ILGA-Europe 2: The Work Programme 2001/02 and any other issues
Chairwoman/man: Jackie Lewis and Kurt Krickler (ILGA-Europe Board)
Date: Saturday, 27 October 2001, 16.30-18.00

Minute Taker: Kurt Krickler

The workshop considered the proposed Work Programme 2001-2002 and the one amendment proposed by EGALITE.

The workshop agreed three amendments and, therefore, recommends to the Plenary to endorse the overall direction of the Work Programme 2001/2002 and its main areas of activity, as proposed, subject to the following changes (which are underlined here):

(1)

Paragraph 1.2.1 shall read:

“Work with member organisations in EU Member States and accession states to ensure full and effective inclusion of LGBT human rights in the transnational anti-discrimination projects.”

(2)

Paragraph 6.2 shall read:

“Find means of providing support and technical advice to assist in the development of LGBT human rights organisations in Central, Eastern and Southern Europe, in such areas as lobbying skills, funding, organisational development, combating discrimination and mobilising international pressure in respect of particular human rights violations.”

(3)

The amendment proposed by EGALITE shall read as follows and be inserted as paragraph 8.1.1 so that the originally proposed paragraphs 8.1.1 and 8.1.2 will be renumbered 8.1.2 and 8.1.3:

“8.1.1 Ensure transparency and members’ involvement, through regular consultations with and information to members (e.g. electronic mailing, newsletter, meetings, ...), and consider the members when making decisions.”

Important issues worth noting that came up in the workshop:

Paragraph 1.4: It was stressed again that ILGA-Europe shall seek a broad coalition with other NGOs, in particular those working against racism, when lobbying in asylum matters at EU level.

Paragraph 1.5: Opportunities for stronger linking between organisations in EU member states and accession countries should be used.

Paragraph 1.10: European Social Agenda adopted at Nice in December 2000 offers large opportunities to address sexual orientation discrimination in the context of social exclusion. Opportunities should be used.

Section 3: OSCE is the appropriate forum to reach out to countries that are not Council of Europe members.

Section 6: Not to forget there is a Europe beyond the EU and the accession countries.

Standing Orders: Consider amending them to allow for the chairing-pool to operate in advance of the conference to improve its preparations for the conference.

ILGA-EUROPE WORK PROGRAMME 2001/2002

As **approved** at the annual conference, Rotterdam, October 2001

1. EUROPEAN UNION

1.1 General Framework Directive for equal treatment in employment and occupation

1.1.1 Work with member organisations in EU Member States and in applicant countries to ensure full and effective implementation of the Directive at national level by:

- Providing guidance on technical matters and resources
- Promoting exchange of information between member organisations,
- Exchanging information and best practice with other international networks working on the implementation of the Directive

1.1.2 Work with other European level NGOs concerned with the implementation of the Directive to encourage co-operation and a common approach at national level.

1.2 The Community Action Programme to combat discrimination

1.2.1 Work with member organisations in EU Member States and accession states to ensure full and effective inclusion LGBT human rights in the transnational anti-discrimination projects.

1.2.2 Seek to ensure that sexual orientation discrimination is fairly represented in research, evaluation or awareness-raising projects sponsored by the Commission under the Programme.

1.3. Going beyond the Framework Directive

Begin work on a long-term campaign to persuade the European Union of the need for a Directive to cover sexual orientation discrimination in all areas of EU competence outside employment, by:

- Preparing an initial policy statement explaining the need for such a Directive
- Developing and implementing a long-term action plan involving both ILGA-Europe and its member organisations with the purpose of persuading the Commission and Member States to introduce such a Directive.

1.4 Asylum and Immigration – harmonisation of regulations under the EU plans to create an Area of Freedom, Security and Justice

Take the opportunity of the EU's harmonisation plans to campaign for regulations which take account of LGBT rights. In particular:

- Work for the full recognition of the diversity of families, and of same-sex couples and those involving one or both partners of transgendered status, in the draft 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.
- Work for the explicit inclusion of persecution on the basis of sexual orientation or gender identity in the definition of refugee status to be included in the proposed Directive on the approximation of rules on the recognition and content of refugee status

1.5 Enlargement of the European Union

1.5.1 Continue to use the EU accession process as a means of exerting pressure on applicant state governments to take action against sexual orientation discrimination by:

- Facilitating further research into sexual orientation discrimination in applicant countries
- Reporting the findings to the European Commission and Members of the European Parliament

1.5.2 Seek to ensure that the EU accession process takes account of gender identity discrimination, particularly around human rights violations against transgendered people.

1.6 EU Charter of Fundamental Rights

1.6.1 Continue to participate in the Platform/ETUC campaign for the Charter to have formal legal status.

1.6.2 Seek to ensure increased recognition for LGBT rights in any proposals for development of the EU Charter of Fundamental Rights in the run-up to the 2004 Inter-Governmental Conference, including explicit reference to gender identity discrimination in the Charter's non-discrimination article.

1.7 Human Rights in the Member States

Publicise violations of EU human rights standards, inter alia, by seeking to persuade the European Parliament to refer to them in its Annual Human Rights Resolution, and by persuading the Council to include them in its Annual Human Rights Report.

1.8 Human Rights in Third Countries

Promote LGBT rights in countries outside the EU ("third countries") by:

- Alerting the Presidency, European Parliament, and Commission to grave violations of the rights of LGBT people, with a view to persuading these bodies to make representations to the government in question
- Researching and providing information on LGBT human rights violations to the Commission and Presidency of the Council for use in bilateral trade and development negotiations
- Working with the Commission to implement EU human rights and democratisation strategies in third countries in regard to the rights of LGBT people
- Working for the inclusion of specific reference to Article 13 discrimination in the human rights clauses of bilateral trade and co-operation agreements with third countries.

1.9 Development of EU policies in relation to transgendered persons

1.9.1 Research transgender rights in relation to European Union law and practice and develop a programme of work to address issues identified

1.9.2 Work for the specific inclusion of gender identity discrimination in the proposed directive on gender discrimination in areas of EU competence outside employment

1.9.3 Develop recommendations for further action by the Commission

1.10 Other EU programmes

1.10.1 Seek to influence the implementation of the European Social Agenda programme to maximise the opportunities for working for LGBT rights

1.10.2 Participate in EU sponsored projects on the exchange of best practice, extent of discrimination, and methods used to combat discrimination, in such fields as employment, education and health care.

1.10.3 Explore the possibilities offered by the new powers covering "police and judicial co-operation" for combating discrimination in the criminal law, and follow-up with action, if appropriate

1.10.4 Inform member organisations of relevant Calls for Proposals

1.11 Civil and Social Dialogues

1.11.1 Promote LGBT rights in the Civil Dialogue by participating in consultations on development of social policy, especially through the Platform of Social NGOs.

1.11.2 Encourage employers and unions to promote non-discrimination on all grounds through the social dialogue mechanism, e.g. through a code of practice on implementing the employment discrimination directives.

1.12 Mainstreaming of LGBT issues

Engage in dialogue with the Presidency and the Commission so that systematic consideration is given to ensuring equality for LGBT people in all Community policies, at the point of planning, implementing and evaluation.

2. COUNCIL OF EUROPE

2.1 The European Convention on Human Rights

2.1.1 Promote the effective use of the European Convention in support of LGBT rights by *inter alia* encouraging and supporting individuals and organisations to take suitable test cases.

2.1.2 Seek to develop co-operation with other organisations to campaign for Council of Europe member states to ratify Protocol 12 to the Convention.

2.2 The Parliamentary Assembly

Work with the rapporteurs of the Monitoring Committee to ensure that Armenia complies with its obligation to repeal the law that criminalises same-sex acts between men and releases any people still imprisoned under this law.

2.3 The Committee of Ministers

Follow up responses of the Committee of Ministers to the Recommendations of the Parliamentary Assembly on the Asylum/Migration and Discrimination issues, and contribute to the implementation of any actions proposed by the Committee of Ministers.

2.4 Commissioner on Human Rights

Review the powers and role of the Commissioner on Human Rights, and explore scope for promoting LGBT human rights through this position.

3. ORGANISATION FOR SECURITY AND COOPERATION IN EUROPE

3.1 Prepare submissions for and participate in the review conferences and the relevant meetings of the Office for Democratic Institutions and Human Rights (ODIHR), especially the implementation meetings of the Human Dimension;

3.2 Establish contacts with the Parliamentary Assembly of the OSCE.

4. ACTIONS TO COUNTER HUMAN RIGHTS ABUSES AGAINST LGBT AND HIV-POSITIVE PEOPLE IN EUROPE (other than through the mechanisms set out in sections 1 to 3 above)

4.1 Monitor human rights abuses based on sexual orientation, gender identity and HIV status in Europe

4.2 Mobilise international support for victims of such abuses by organising support campaigns by ILGA-Europe's members, and by other international NGOs such as Amnesty International, Human Rights Watch, and the International Gay and Lesbian Human Rights Commission.

5. ACTIONS TO COUNTER HUMAN RIGHTS ABUSES AGAINST LGBT AND HIV-POSITIVE PEOPLE OUTSIDE EUROPE (other than through the mechanisms set out in sections 1 to 3 above)

Respond to calls for action, particularly from ILGA, Amnesty International and the International Gay and Lesbian Human Rights Commission, and encourage member organisations to do likewise.

6. PROGRAMME OF ACTIVITIES IN SUPPORT OF LGBT HUMAN RIGHTS ORGANISATIONS IN CENTRAL, EASTERN AND SOUTHERN EUROPE (other than through the mechanisms set out in sections 1 to 4 above)

6.1 Encourage co-operation and mutual support between member organisations within Central and Eastern Europe and between organisations in this area and in Western Europe.

6.2 Find means of providing support and technical advice to assist in the development of LGBT human rights organisations in Central, Eastern and Southern Europe, in such areas as lobbying skills, funding, organisational development, combating discrimination and mobilising international pressure in respect of particular human rights violations.

6.3 Consider developing proposals for joint projects in the LGBT field under the PHARE/TACIS/ACCESS programmes.

6.4 Seek to increase number of member organisations in Central, Eastern and Southern Europe and facilitate their participation in the work of ILGA-Europe, including subsidising participation in ILGA-Europe events.

7. HIV/AIDS

7.1 Co-operate closely with the Gay European Network for HIV Prevention, and encourage ILGA-Europe members to co-operate in AIDS prevention projects within this network, including when seeking funding from the EU and other institutions

7.2 Co-operate with other international NGOs working in AIDS prevention, e.g. the European Council of AIDS Service Organisations and the Global Network of People Living with HIV/AIDS.

7.3 Participate in campaigning initiatives to promote access to treatment

8. DEVELOPMENT OF ILGA-EUROPE

8.1 Organisational development and funding

8.1.1 Ensure transparency and members' involvement, through regular consultations with and information to members (e.g. electronic mailing, newsletter, meetings,), and consider the members when making decisions.

8.1.2 Continue to develop the capacity of ILGA-Europe to carry out its work programme, including the recruitment of an Executive Director.

8.1.3 Develop stable funding, particularly with regard to the co-finance needed to supplement the European Commission's core funding, and to finance activities not covered by this core funding.

8.2 Enhanced involvement of, and work for, transgendered persons

8.2.1 Actively seek to increase its transgendered membership.

8.1.2 Work to increase its visibility as a transgender lobby NGO at European level further.

8.2.3 Establish a work group of interested transgender activists to help the board with its work on transgender issues.

8.3 The rights of bisexuals

Investigate what practical steps can be taken at European level to promote the rights of bisexual people, beyond those issues already being addressed by work to eliminate sexual orientation discrimination.

8.4 Documentation and Research

8.5.1 Develop and maintain a country-by country inventory of discrimination laws and practices; monitor developments and keep up-to-date.

8.5.2 Produce reports and provide information to European institutions, the United Nations, and to other organisations as appropriate.

ILGA-EUROPE CONFERENCE PRESS RELEASES

Press release, 5 October 2001

ILGA-EUROPE CONFERENCE AT ROTTERDAM – 24TH TO 28TH OCTOBER 2001

From 25 until 28 October 2001 Rotterdam will host the 23rd conference of ILGA – short for International Lesbian and Gay Association – Europe. Theme of this year's conference is "Creating Partnership".

After last year's wonderful conference in Bucharest, organised by Accept, COC Netherlands has accepted the challenge to work in close co-operation with the *Schorerstichting* and COC Rotterdam towards an equally successful 23rd conference. Rotterdam has shown its hospitality and is the conference's main sponsor. During the conference 80 to 100 delegates from countries ranging from Ukraine to Ireland and from Sweden to Malta will convene to discuss a wide variety of subjects: the inclusion of applicant member states into the European Union and its consequences for LGBT(lesbian, gay, bisexual and transgender)-rights in those countries; violence against lesbian women; equal opportunities and the workplace; international co-operation of LGBT organisations, resulting for instance in the Triangle Project by COC Netherlands, Accept of Romania and Gemini of Bulgaria. The conference also aims to review and to renew policies and strategies of ILGA Europe, platform of so many LGBT organisations. "Creating Partnership" refers to Friday, 25 October, a day entirely devoted to partnership laws in Europe. This particular theme came about when the Netherlands opened up marriage to same-sex couples on 1 April 2001. Which developments in this respect are showing in Europe? Which strategies would LGBT organisations want to adopt towards partnership laws? The day will be chaired by Robert Wintemute, London based legal expert who is about to launch a book on this subject. During the conference several prominent speakers will perform. One of them is Mrs. Meys, vice prime-minister of Belgium. Another is Mrs. Jones Bos, Dutch Human Rights Ambassador. Finally several members of the European Parliament are expected to contribute to the discussions.

Apart from the City of Rotterdam, contributions to the conference have been made by HIVOS Netherlands, Heinrich-Böll-Stiftung and Mama Cash. ILGA-Europe is sponsored by the European Union.

ILGA-Europe's Board will give a press conference on Tuesday, 23 October, from 16.00 hrs. until 17.00 hrs. at COC Rotterdam, Schiedamsesingel, Rotterdam. The opening plenary session is also open to the press and will be held on Thursday, 25 October, from 10.00 hrs. until 11.15 hrs. Location: the big hall on the 11th floor of the Hogeschool Rotterdam, Rotterdam. For more information on possibilities to cover ILGA-Europe's 23rd conference, please contact the organisers at +3120 6223652, or through e-mail (info@ilgaeurope2001.org). More information on the conference can also be found at www.ilgaeurope2001.org.

Press release, 28 October 2001

ILGA-EUROPE'S ANNUAL CONFERENCE CONCLUDES IN ROTTERDAM

Rotterdam, 28 October 2001: The Annual Conference of the European Region of the International Lesbian and Gay Association, held in Rotterdam, the Netherlands, since 24 October has successfully concluded today.

120 delegates from 31 countries attended the gathering that was addressed by Dutch members of the European Parliament, Lousewies van der Laan (Liberals) and Joke Swiebel (Socialists/Social-Democrats) as well as Boris Dittrich, member of the Dutch Parliament, and Renée Jones-Bos, Human Rights Ambassador at the Dutch Ministry for Foreign Affairs.

The theme of the four-day conference was "Creating partnership", and one day was dedicated to discussing equality for all forms of partnerships and families of lesbian, gay, bisexual and transgender people. The programme of the conference, which was organised by the Dutch national lesbian and gay association COC, included workshops and debates on transgender rights and the further development for LGBT people at EU level where new opportunities are opened up by its Community Action Programme to combat discrimination and the legal changes envisaged in the field of immigration, free movement and asylum.

The meeting also served as ILGA-Europe's general assembly, and the organisation could look back on an extremely successful business year. Since December 2000, ILGA-Europe has been operating on a core-funding grant from the European Commission which had made it possible to open an office in Brussels and to hire two employees in February 2001. Another major activity area of the past 12 months was the important work carried out in the context of EU enlargement.

The conference adopted a work programme for the period 2001-2002, foreseeing the further development of ILGA-Europe's staffing resources. It is planned to hire two more staff in 2002 to be able to fully make use of the opportunities offered at EU level by the action programme against discrimination.

A new board was also elected. It is composed of the following persons: Nico Beger (Germany), Adrian Coman (Romania), Riccardo Gottardi (Italy), Tatjana Greif (Slovenia), Kurt Krickler (Austria), Tiia Lampela (Finland), Jackie Lewis (United Kingdom), and Nigel Warner (United Kingdom).

The conference received financial support from the City of Rotterdam, the Heinrich-Böll-Foundation, HIVOS, the Open Society Institute, Mama Cash, and COC Haaglanden which made it possible to bring many delegates from Central, Eastern and Southern Europe on a scholarship programme to the conference.

The City of Rotterdam received the delegates both at the City Hall and at the Boijmans van Beuningen Museum which offered a tour of its current spectacular Hieronymus Bosch exhibition.

The next ILGA European conference will take place in Lisbon in autumn 2002 and be organised by Portuguese ILGA member Opus Gay.