



The Convention on the Future of Europe – what place for us?



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Editorial

New publication dates for the Newsletter

Though a slight delay is nothing new to you, our readership, you probably will have wondered by now why the February issue of the *ILGA-Europe Newsletter* hasn't arrived yet.

The reason this time is not DHL's or TNT's poor performance but a deliberate decision taken by ILGA-Europe's staff and board to move the publication dates. From now on the *Newsletter* will be published in March, June, September and December. So – welcome to our March issue!

Staff changes at the ILGA-Europe office

The office is as ever experiencing change. On 10 February our new public affairs officer started, so that the office count was back to four. Unfortunately, however, just before going to press news has reached us that we will before long be recruiting a new policy and research officer. For details please see page 4.

News from the EU institutions

As you will see the last three months have been an incredibly busy and vibrant period. With regard to policy initiatives, there is encouraging news concerning the free movement directive, COM (2001) 257. We have been pushing for a more expansive definition of family for a long time, one that takes into account what is long a reality in Europe: diversity. With the plenary vote in the European Parliament we are one step closer to a legal recognition of this reality. However, as Mark Bell points out in his article on page 6, it is but the first step on a long road. Much lobbying is still needed to ensure that the text be finally adopted.

Another important area is the Convention on the Future of Europe, which is busy drafting a future constitution for the EU. We have followed this process closely and combined our efforts with the other major anti-discrimination NGOs in order to ensure that the fight against discrimination remains high on the future agenda of the European Union (see page 5).

Implementing the Framework Directive – state of affairs

The adoption of the Framework Directive in 2000 has been one of the core developments in strengthening LGBT rights. As a reminder: this European Community directive sets an obligation to all the EU member states as well as the candidate countries to introduce legislation prohibiting discrimination at the workplace on the grounds of religion or belief, disability, age or sexual orientation – on the latter ground by the end of 2003. ILGA-Europe has worked closely with its member organisations in monitoring developments at the national level. The directive constitutes a unique opportunity for comprehensive protection from sexual orientation discrimination, which we ought to exploit to the fullest. With nine months still to go, where do we stand? Did member states produce adequate legislation? And what about the candidate countries? For a first overview, please read more on page 10.

THE EDITORIAL TEAM

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Evaluation and development of ILGA-Europe's structure

“Fail to plan, plan to fail”

In the last few years ILGA-Europe has been going through tremendous change. Receiving core funding by the European Commission has been a major breakthrough, enabling our organisation to really act effectively for the rights of LGBT people. Any achievement though has a cost, and becoming a professional NGO means developing our conception of everybody's role in ILGA-Europe, something not many people were really aware of before embarking in this new, challenging adventure.

Today we have a fully staffed office, with an executive director in place and a number of projects being developed and carried out. Change however never comes smoothly. Uncertain about boundaries and responsibilities, conflict has at times arisen between a board who had previously fully run ILGA-Europe by itself and the staff. It became increasingly clear that areas of responsibility had to be re-defined, procedures had to be re-formulated in order to adjust to ILGA-Europe's evolving structure.

Not surprisingly, those who seemingly had the best grasp of the transformations ILGA-Europe was about to experience, were Commission officials. When the Commission agreed to fund ILGA-Europe, one of the key objective was to fund capacity building of the organisation: both to be able to act effectively in the short run and to develop into a strengthened NGO, financially able to stand on its own feet in the long run. To this end and to ensure that our funding was money well spent, the Commission strongly suggested we get an external consultant for an independent evaluation of our activities. By then the board was already considering the idea of looking for guidance from someone who was an expert in NGO development. Mindy Sawhney

was hired. She considered ILGA-Europe's actual needs and then came up with two basic proposals. The first was just to evaluate the activities being carried out in relation to our work programme, the second seemed more promising and was finally accepted by the board: to strengthen ILGA-Europe's evaluation systems, thus building our own organisational capacity.

Nice and easy to say, but what did this imply? Mindy undertook her job that included studying ILGA-Europe documents, interviewing Commission's official to understand their priorities, hold

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briefing meetings with staff, interview experienced board members, assess the current evaluation systems, propose new ones and eventually design and lead a joint board-staff workshop to discuss putting the systems in place.

The joint workshop took place the day before ILGA-Europe's last board meeting at the end of November and was quite an experience. All board members

were present, as well as reserve members and staff. Mindy led us through an analysis of our strengths and weaknesses. We identified ILGA-Europe's areas of work and strategic objectives, the key activities to be carried out to accomplish them and the indicators to measure our effectiveness. The whole workshop was a hands-on concrete exercise on how to go about planning in order to have a clear procedure and measurable results.

Moreover Mindy gave us an insight on the diversity of roles within an organisation. Board and staff are complementary:

while the board has to state vision and values and the staff members have to devise operational plans and carry them out on a day-to-day basis, setting up the strategy of the organisation should happen jointly in the middle grounds between board and staff. While board members have the ultimate responsibility of the organisation's performance, they cannot meddle with every single decision taken by staff (e. g. the colour of the pen-

cils being bought) in order not to compromise staff effectiveness. It emerged that the quality level of ILGA-Europe accomplishments depends strongly on ILGA-Europe's governance practices.

Following this training session an entire day of the next board meeting was dedicated to the long postponed issue of governance. Far from being the solution to all issues, this long discussion was a first crucial step shedding some light, among other things, on board members' duties and responsibilities both in their full capacity and as volunteers on specific projects. During future board meetings further analysis will be devoted to the subject of governance, making best use of the new things we learnt, aiming to set up effective and long-lasting procedures, thus harmonising board activities with the new, stronger structure of ILGA-Europe as it is being built. This is necessary if we want to construct an organisation that is bound to stay and continue fighting in the years to come for the full equality of LGBT people. As one can read in many organisational training courses, “Fail to plan, plan to fail”, but failure, at the moment, is not in ILGA-Europe projects.

RICCARDO GOTTARDI

Where to draw the line...

For many years the work of ILGA-Europe has been in the hands of a dedicated, hard-working group of volunteers, known collectively as the *executive board*. Under their guidance the organisation has grown to the point where it now employs four full-time staff in the head office in Brussels.

This growth, funded largely by the EU Commission through the Action Programme to combat discrimination, has brought

recognition and success, but, as board member Riccardo Gottardi highlighted, it has also created some internal strains. Fortunately,

With the expert's recommendations regarding evaluation and monitoring systems, we have already experienced a notable performance improvement.

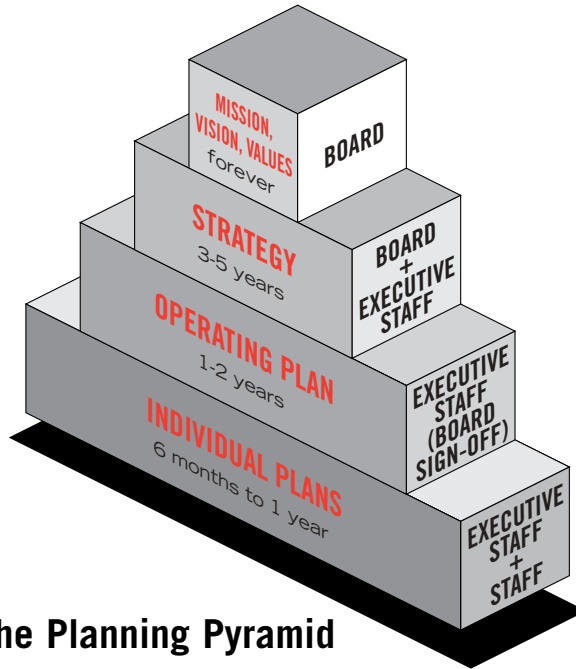
ly, the board and the staff recognised the difficulties and took steps to overcome them. For me, the retention of Mindy Sawhney

was a crucial first step. With her recommendations regarding evaluation and monitoring systems, we have already experi-

enced a notable improvement of ILGA-Europe's performance. Perhaps the single most important message was the need to be

sure of where to draw the line when determining responsibility in the planning and implementation of our work programme. When the board were the planners *and* the implementers, any division of responsibility merely amounted to an allocation of volunteer resources. With the advent of a full-time staff, including an executive director, this division has become more important. The training session spent some time discussing this aspect of our work, and the conclusion can best be summed up with the diagram shown on the right.

From this it is clear that the board, as representatives of the



The Planning Pyramid

membership of ILGA-Europe, maintain the strategic overview of the organisation's work, but the day-to-day implementation of strategic plans and the delivery of the work programme is the responsibility of the staff, managed by the executive director.

The process of self-assessment by the board is continual, and recent discussions have concentrated on team working and developing the team's strengths. We are confident that our stakeholders and partners will see an improvement in our effectiveness as a result.

AILSA SPINDLER

Personnel news

New public affairs officer in post

On 10 February 2003 Birgit Hardt started working as ILGA-Europe's new *public affairs officer* in the Brussels office, so that the headcount of full-time staff is now back to four.



Birgit Hardt has a bachelor degree in Modern European Studies from University College London and an M Phil in Economic and

Social History from the University of Cambridge, UK. Originally from Cologne, Germany, Birgit spent the last ten years abroad, studying and working in Canada, Central America, the UK, Spain and Belgium. She gained her first valuable experience at European level by doing a five-month stage in the European Commission (DG Education and Culture) in 2001. Birgit was also able to gain some understanding of the NGO sector through doing voluntary work in Canada and Guatemala. She further brings to the job experience in academic research and in publishing as well as one and a half years of working for an international management consultancy.

One of Birgit's areas of responsibilities is to further strengthen ILGA-Europe's national co-ordination network and to foster the effective exchange of information. This involves closely monitoring the EU calls for proposals and relevant developments with-

in the EU institutions as well as gathering national-level information from the network members.

Birgit is much looking forward to contributing to ILGA-Europe's work in fighting discrimination and fostering equality. She feels excited and pleased to be working closely with both the office team and the board as well as the national member organisations. Her contact details are: birgit@ilga-europe.org phone: +32-(0)2-7326248.

Short but sweet...

Just before going to press, our current policy and research officer, Licinia Pereira, told us that she was offered a post in the European Commission (DG Employment & Social Affairs) that was difficult to refuse. She will leave us by the beginning of April. We very much regret that we have had her undoubted tal-

ents for such a short time only. Her initiative and hard work will be missed. Though we are sad that the Commission "lured her away", we are very happy for her personally and wish her the best for the future.

For ILGA-Europe this means that we will shortly be recruiting a new member of staff again. The policy and research officer will research and draft policy documents and reports in ILGA-Europe's key areas of activity, monitor developments in relevant EU policies and initiate proposals for appropriate responses, develop an information resource centre on discrimination, human rights violations and best practice to counter discrimination. Full details of the job and a job application pack will be published at the ILGA-Europe website in due course.

AS

New ILGA-Europe project

Discrimination and Best Practice Information Centre

ILGA-Europe is currently working to establish a European "Discrimination and Best Practice Information Centre" on sexual orientation and gender identity discrimination which aims at serving as an updated and comprehensive resource tool to promote action and change for all those fighting against this kind of discrimination in Europe: LGBT organisations, European decision-makers connected to LGBT issues, human rights organisations, journalists, academics and the public in general.

The centre will collect and publish data on ILGA-Europe's website¹ in all 45 European countries plus the three Caucasian republics that are also members of the Council of Europe. Besides the fifteen EU member states and the thirteen accession and candidate countries, these are: Albania, Andorra, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina,

¹ Some relevant publications will also be available at the ILGA-Europe office.

Croatia, Georgia, Iceland, Liechtenstein, Macedonia, Moldova, Monaco, Norway, Russian Federation, San Marino, Serbia and Montenegro, Switzerland, Ukraine and the Vatican.

The information will cover three distinct but complementary areas: national legislation, general discrimination aspects, and anti-discrimination projects. Part I will collect and provide legal information on existing discriminatory laws, anti-discrimination provisions (including the implementation of the Framework Directive) and the status of same-sex partnership/marriage rights (inheritance, immigration, social security, employment benefits, housing rights, etc.) as well as possibilities of adoption, granting of asylum, etc.

Part II will aim at providing information on non-legal aspects of discrimination in each country. As for each part, it will be possible to make a cross-theme analysis, and references/links to

relevant web-sites, organisations and publications will be provided. The areas covered include:

- employment (access to and benefits)
- access to services in the areas of health, housing, education, insurance and social security
- institutional/organisational discrimination (state agents, churches, freedom of expression, political parties, the media and others)
- private sphere of life including public figures, the family and society in general.

This part will be a key area to provide evidence – to the public in general and to the European institutions in particular – on the extent of discrimination existing outside employment and occupation and therefore on the need for a directive that would address discrimination LGBT people face in other spheres of life.

Part III is dedicated to compiling best practice data from European projects combating sexual orien-

tation discrimination, namely those funded under the Community Action Programme to combat discrimination as well as under the EQUAL and DAPHNE programmes. For past projects and studies, there will be a summary of the findings. For those that are on-going, there will be information about the partners, the subjects and aims of the projects as well as a follow-up of findings/results.

The establishment of the Discrimination and Best Practice Information Centre falls under the work of ILGA-Europe's policy and research officer who will be contacting member organisations and others in order to collect all the information available. If you wish to contribute with relevant information and reports, please e-mail to: info@ilga-europe.org. The launch of the information centre is planned to take place in the second half of 2003.

LICÍNIA PEREIRA

The Convention on the Future of Europe

EU to give up on non-discrimination?

At the EU summit in Nice in December 2000 the EU leaders agreed on the need to instigate a fresh debate on the future of Europe, which is to form the basis for further reform proposals at the next Intergovernmental Conference in 2004. At the Laeken summit in December 2001, the European Council set up the *Convention on the Future of Europe* with the objective of addressing the challenges of a new, enlarged Europe. The aim is to rethink the Union's role,

respond to citizens' concerns, improve its operations and finally propose a draft constitution for the next Intergovernmental Conference to consider. To this end, the Council drew up 80 questions to be addressed by the Convention during its working period.

ILGA-Europe has been following the Convention's development from the outset, working in close collaboration with the Platform of European Social NGOs. In June 2002 ILGA-Europe

launched its submission to the Convention. We called for placing fundamental rights at the heart of Europe as well as emphasising equality as a core value of the Union. Finally, we urged the Convention to focus on the EU's role in promoting human rights world-wide and in strengthening the principle of democracy within the EU.

The Convention consists of representatives of the national governments and parliaments, the Euro-

pean Commission and the European Parliament as well as delegates from the accession countries' governments. Ten separate thematic working groups were set up to make proposals on particular aspects of the future constitution. The *Praesidium*, a small circle of 13 members within the Convention, was then to produce a draft text based on the reports received by the working groups.

Much to our surprise there was no working group to consider

social issues. Only after intensive lobbying by the Social Platform and members within the Convention was an eleventh working group set up at the end of November 2002: the “Social Europe Working Group”. On 6 February 2003 this working group was to present its final report to the Convention plenary. However, the agenda for this plenary session was changed at short notice – Convention president Valéry Giscard d’Estaing chose it as the moment to present the first 16 draft articles of the future constitution.

First draft plays down importance of equality and the fight against discrimination

There seems to be an unmistakable trend to play down key social issues within the Convention. Not only was the Social Europe Working Group set up in the last minute – the first 16 articles were drafted prior to the report of this working group and did not take its findings into consideration. This is clearly reflected in the text unveiled on 6 February which is supposed to lay down the Union’s values, objectives and competencies.

Disappointingly, there is no reference to the principle of *equality* in the article on the Union’s values, while the *fight against discrimination* was omitted from the Union’s competencies. There is indeed an article on discrimination. However, the only ground of discrimination referred to is *nationality*. Though the Conven-

tion has stated its objective to include an article on non-discrimination in the second part of the constitution concerned with EU policies, this is not enough. At present non-discrimination on the grounds of sex, racial or ethnic origin, belief or religion, sexual orientation, disability and age is among the fundamental principles of the EU, with an overarching and mainstreaming effect on all EU policies. The fight against discrimination on the above grounds must remain a core thread linking values and competencies to the provisions on policies.

Europe’s anti-discrimination NGOs have major concerns that the new proposal constitutes a backward move from the Community *acquis* on fundamental rights.

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Convention. Whether or not they will actually appear in the final text of the constitution remains to be seen. The next discussion in the Convention took place on 27 and 28 February, after the deadline for this *Newsletter*. Shortly after, the next 16 articles will be published.

We urge ILGA-Europe members and supporters to continue their lobbying efforts to the Convention (and especially the Praesidium members) in order to ensure that the future constitution will promote a Europe which respects the fundamental values of equality, human rights and diversity.

For further information, please see: <http://european-convention.eu.int>

BIRGIT HARDT

In the weeks following the publication of the first articles, ILGA-Europe combined its efforts with the other main European NGOs working for equality and against discrimination: ENAR (European

Romano Prodi launches debate on “Penelope”

European Commission president Romano Prodi launched an internet debate with the public on a future constitution for the European Union based on the working document “Penelope”. “Penelope”, written at Prodi’s request in agreement with Commissioners Michel Barnier and António Vitorino, aims to give a general idea of the possible content of a future EU constitution. Prodi and the experts who are drawing up the document personally respond to comments and proposals from the public on issues such as democracy, justice and monetary policy.

The debate was launched when the Convention unveiled their draft of the first constitution articles. It forms part of the “Debate on the Future of the European Union”, a project introduced at the Nice Intergovernmental Conference in December 2000. The ideas put forward in the context of this debate will be taken up in the preparation of the next Intergovernmental Conference in 2004.

<http://europa.eu.int/futurum/forum/Public/ThreadList.cfm?&lang=en>

Santini Report

EP calls for free movement rights for unmarried couples

On 11 February 2003 the European Parliament adopted its first reading report on the Commission’s proposal for a directive on the free movement of EU citizens (COM (2001) 257). ILGA-Europe, its national partners and the European Parliament Gay and Lesbian Rights Intergroup have been actively campaigning for many months to improve the position of unmarried and same-

sex couples within this directive. Happily, we can report a considerable success and the final resolution of the Parliament reflects many of ILGA-Europe’s recommendations.

The Commission originally proposed that full free movement rights would be limited to spouses of EU citizens. Unmarried partners would only gain the right to

move within the Union if the receiving state treated unmarried partners in a manner comparable to married couples under national law. This would be a major obstacle to free movement, especially where the partner is a non-EU national.

The debate within the Parliament’s committee has been extremely lengthy and the rap-

porteur, Giacomo Santini (EPP-ED/I), opposed granting free movement rights to same-sex or unmarried couples.¹ Nonetheless, the Parliament ultimately approved an amendment presented by seven MEPs from various political groups.² This amendment has the following effects: ■ same-sex spouses will enjoy the same free movement rights as opposite-sex spouses;

■ registered partners (to be defined according to national law) will also enjoy equal free movement rights with married couples;
 ■ unmarried partners with a “durable relationship” will enjoy free movement rights where the law or practice of *either* the state they are leaving, or the receiving state, treats unmarried partners in a corresponding manner to married partners. A durable relationship can be proven by reference to factors *such as* the length of the relationship, previous cohabitation or shared parental responsibilities.

Moreover, the children of registered partners and unmarried partners (where covered by the directive) will also enjoy the same free movement rights as the children of married couples. The right to remain in the receiving



The final resolution of the European Parliament reflects many of ILGA-Europe’s recommendations

state is also protected, even where marriage, registered partnership or unmarried partnership comes to an end. Finally, the Parliament has amended the proposed directive to provide expressly that there shall be no discrimination on grounds of gender identity (as well as sexual orientation) in its implementation.

The amendments adopted constitute a major recognition that the right to free movement cannot be confined to opposite-sex married couples in the modern

European Union. The Parliament’s amendments do not meet all of ILGA-Europe’s objectives. In particular, there will remain no right for unmarried partners to move between countries without any domestic legal recognition of unmarried couples (e. g. from Ireland to Greece).

Nonetheless, it must be acknowledged that this was a highly controversial proposal in the Parliament and the final resolution was only approved by 269 to 225 votes, with 46 abstentions. Con-

sequently, this seems a sensible and pragmatic compromise.

The draft directive must be adopted under the co-decision procedure. This means that it must be approved by *both* the Parliament and the Council. As a result, a lengthy process of bargaining between these two institutions is likely to follow. The Council’s first reading position remains to be adopted, but it is already clear that many states do not support the extension of free movement rights to same-sex and unmarried partners. Therefore, ILGA-Europe’s campaign is not finished; rather, it has just reached the first stage. The active lobbying of national organisations undoubtedly played an important role in ensuring the progress already achieved. It will be crucial to continue this pressure on MEPs and national governments in order to ensure that the Parliament’s position is not diluted or deleted in the negotiation process that lies ahead.

MARK BELL

¹ See Newsletter # 4/02, p. 8.
² Ole Sorensen (ELDR/DK), Michael Cashman (PES/UK), Joke Swiebel (PES/NL), Sarah Ludford (ELDR/UK), Kathelijne Buitenweg (Greens/EFA), Marco Cappato and Maurizio Turco (both non-attached/Italy).

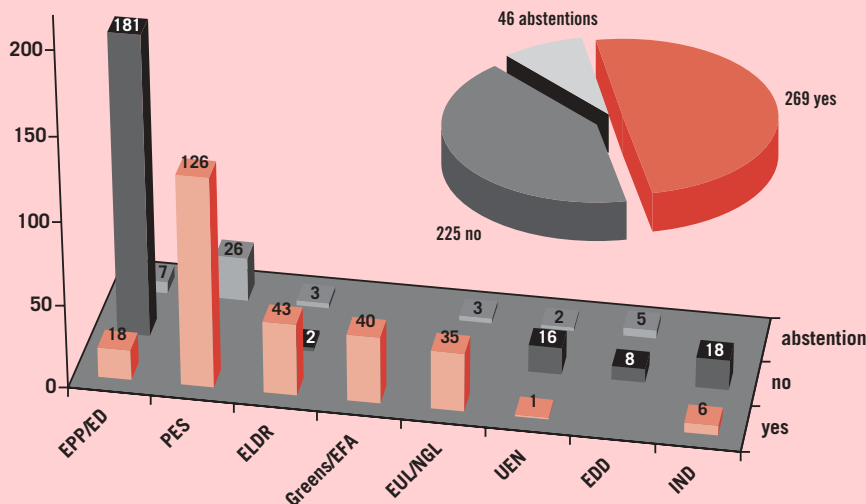
Highly controversial European Parliament vote on free movement

The battle to extend free movement rights beyond the traditional opposite-sex family is not over. As Mark Bell points out, the vote on 11 February 2003 is but one first step. The pie chart clearly indicates just how close the result was. Should the draft text be returned to the European Parliament for a second reading, there is a lot of scope to further our lobbying effort. To this end it will

be useful to take a closer look at the votes both on party lines and by country. Take for example the Socialist block. It is remarkable to note the amount of abstentions. Less surprising is the overwhelming majority of the European People’s party (Christian Democrats) voting against the proposal. Details on country line are difficult to compile, as information is only available on

individual MEPs and by party line. To check how your respective national representatives have voted, please refer to the EP’s web-site at www.europarl.eu.int and follow the path: Activities > Plenary sessions > Minutes (Proceedings of the Sitting by date) > Rapport Santini

BH



EPP/ED	Group of the European People’s Party (Christian Democrats) and European Democrats
PES	Group of the Party of European Socialists
ELDR	Group of the European Liberal, Democrat and Reform Party
EUL/NGL	Confederal Group of the European United Left/Nordic Green Left
Greens/EFA	Group of the Greens/European Free Alliance
UEN	Union for Europe of the Nations Group
EDD	Group for a Europe of Democracies and Diversities
IND	Non-attached

Same-sex partnerships

Mutual recognition in the EU needed

On 30 January 2003 Belgium became, after the Netherlands, the second country in the world to open up civil marriage to same-sex couples. This historic vote¹ in the House of Representatives marked the end of a long struggle. Indeed, this legislation had already been approved by the Belgian Council of Ministers in June 2001 and by the Senate in November 2002.²

The new legislation grants equal status and rights to same-sex couples as to married opposite-sex couples. These rights include equal legal treatment in areas such as inheritance, taxation, social security, etc. The legislation, however, does not include provisions with regard to the raising of children. Moreover, marriages between persons of the same sex are only possible if they are of Belgian or Dutch nationality.³ This is different from the marriage legislation in the Netherlands where foreign nationals residing in the country can also get married and where adoption is possible.

There are now eight EU member states, i. e. a majority, offering some sort of legal recognition to same-sex couples. Registered partnership laws extending rights similar to those attached to marriage exist in Denmark, the Netherlands, Sweden and Finland. Laws in France, Germany and Portugal provide for the legal recognition of same-sex partnerships, albeit with considerably fewer rights than those

enjoyed by married partners. In Belgium there is also the 1998 law on “legal cohabitation”, in force since January 2000, that guarantees unmarried couples of both same and different sex a very limited number of rights.

There are now eight EU member states – i. e. a majority – offering some sort of legal recognition to same-sex couples.

Registered partnership legislation also exists in Norway and Iceland, two countries part of the European Economic Area for which EU law on free movement is relevant, too.

Recently, the British government has also made a commitment to draft a law proposal later this year on the legal recognition of same-sex partnerships. Good news from Luxembourg as well, where a proposal for a partnership law is being debated in parliament. The Irish government is currently also looking at recommendations made in this area by the Equality Authority.⁴ Last February in Spain, however, the majority of the ruling conservative *Partido Popular (PP)* voted down in parliament five legislative proposals on the recognition of same-sex partnerships tabled by various opposition parties. The PP considers such legislation as “unconstitutional”.

The increasing legal recognition of same-sex partnerships and marriages in Europe is in alignment with two other recent developments at EU level:

- the adoption of the Santini report (doc. T5-0040/2003) by the European Parliament on 11 February 2003 that approves the principle of mutual recognition in this area; and
- the adoption, on 15 January 2003, of the report on the situa-

tion concerning basic rights in the EU in 2001 (doc. T5-0012/2003, rapporteur: Joke Swiebel) by which the European Parliament

- *Calls on the Member States to pursue an explicit and coherent*

policy to combat discrimination against homosexual men and women... (par. 100);

- *Calls on the Member States to recognise unmarried partnerships – between both couples of*

different sexes and same-sex couples – and to link them to the same rights as apply to marriage (par. 102);

- *Urges the European Union to put the mutual recognition of unmarried partnerships and the issue of marriage between persons of the same sex on the political agenda and to draft specific proposals on the subject* (par. 103).

For more information on the specific provisions in the various countries consult: www.cersgosig.informagay.it/inglese/index.html

LP

Legal recognition of same-sex couples in EU member states

Austria	No provisions.
Belgium	1. Marriage. 2. <i>Cohabitation légale</i> , very limited legal rights.
Denmark	<i>Regstreret partnerskab</i> , almost same rights as marriage.
Finland	Registered partnership (<i>rekisteröity parisuhde</i>), almost same rights as marriage.
France	<i>Pacte civil de solidarité (PaCS)</i> , considerably fewer rights than marriage.
Germany	Registered partnership (<i>Eingetragene Lebenspartnerschaft</i>), fewer rights than marriage.
Greece	No provisions.
Ireland	No provisions.
Italy	No provisions.
Luxembourg	No provisions.
Netherlands	1. Marriage. 2. Registered partnership (<i>geregistreerd partnerschap</i>), almost identical with marriage.
Portugal	Two forms of legal recognition of domestic partnership: <i>união de facto</i> and <i>economia comum</i> , considerably fewer rights than marriage.
Spain	No provisions at federal level.
Sweden	<i>Regstrerat partnerskap</i> , almost same rights as marriage.
United Kingdom	No provisions.

¹ This legislation received an overwhelming approval: 91 in favour, 22 against and 9 abstentions.

² The law is currently awaiting official publication. It should enter into force in June 2003.

³ The legislation stipulates that marriages by foreigners must correspond to the marriage law in their home country.

⁴ See report “Implementing Equality for Lesbians, Gays and Bisexuals”, Chapter 3: Partnership Rights; The Equality Authority, May 2002, pp. 20-29.

Intergroup on Gay and Lesbian Rights

Campaigning for equality

Dear ILGA-Europe readers,

On behalf of Joke Swiebel, chair of the Intergroup, we welcome you to the "Intergroup corner" in this *Newsletter*. Below you will find a summary of our activities.

Since our last *rendezvous* in November, the Intergroup on Gay and Lesbians Rights has kept on moving and our work is beginning to harvest its fruits.

Following our October meeting on the subject of the recognition of same-sex partnerships by the EU institutions, the Intergroup presented its views before the European Parliament's Legal Affairs ("JURI") Committee which is debating draft directive COM (2002) 213. The rapporteurs of this report, Malcolm Harbour (EPP-ED/UK) and Manuel Medina Ortega (PES/E), agreed to include our proposals. The vote will take place on 18 March 2003 and, according to our sources, it is unlikely that there will be opposition within the committee to our proposals. The Commission, however, might prove more difficult as they consider the introduction of such a regulation as far too expensive. We will keep you updated on the results!

And... further successes

On 21 January 2003, the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs in the European Parliament adopted the report of MEP Giacomo Santini (EPP-ED/I) on the free movement of EU citizens and their families. This report was adopted in plenary on 11 February (see p. 6). Importantly for us, a broader concept of family was taken on board: a) the spouse, also

including spouses of the same sex, b) the registered partner, also including partners of the same sex, c) the *de facto* (unmarried) partner in a durable relationship.

The amendments – tabled by MEPs Michael Cashman (PES/UK), Kathalijne Buiten-

hopefully – celebrating the results.

The meetings

Since October 2002, the Intergroup has held three more meetings. In November, we dis-

(PES/UK), Kathalijne Buitenweg and Michael Cashman (member of the Intergroup Steering Committee) as well as Ailsa Spindler, ILGA-Europe's executive director.

The coming months

After several months of work, we are glad to see that the Intergroup is moving forward and that our work is beginning to produce very concrete results. No doubt, we still have a long way to go, but this will help us to do it with enthusiasm! 2003 is an important year with the transposition of the two anti-discrimination directives, the enlargement process and the work of the Convention on the Future of Europe, amongst others.

The Intergroup is very grateful for the confidence that many people show to us. We receive many testimonies of persons that share discrimination cases with us, especially regarding EU issues, but also asking the Intergroup to take action in other fields.

We are equally glad about the co-operation with ILGA-Europe, and we welcome their new public affairs officer, with whom we will be working very closely.

To finish with, just to announce that the Intergroup will have its web-site functioning from mid-March on at www.gayandlesbianrightsintergroup.org. We hope this will improve our communication. If you want to receive our round up or the minutes of our meetings, contact Rosa Santrich at: jswiebel@europarl.eu.int phone: +32-(0)486 42 62 19 or +32-(0)2 284 5992.

ROSA SANTRICH



weg (Greens/EFA, NL), Marco Cappato (non-attached/I), Baroness Sarah Ludford (ELDR/UK), Ole Sørensen (ELDR/DK), Joke Swiebel (PES/NL) and Maurizio Turco (non-attached/I) – received the support of a coalition of members of many political groups including PES, ELDR, Greens/EFA, EUL/NGL, and the Italian Radicals. This *ad hoc* coalition was the result of discussions in the Intergroup on Gay and Lesbian Rights.

And...further action

The work of this cross-party alliance having proved very successful, its members are determined to continue their joint action. Therefore, they co-ordinated the presentation of their amendments to the report of MEP Carmen Cerdeira (PES/E) on family reunification (COM (2002) 225) to read along the same way as the Santini ones. The Intergroup looks forward to following the debate and –

cussed human rights with Cecilia Malmström (ELDR/S), former EP rapporteur on human rights in the world, and Dick Oosting, director of Amnesty International's EU office.

In January 2003, we held an interesting meeting on non-marital partnership in EU legislation. As speaker we invited MEPs Sarah Ludford (member of the Intergroup Steering Committee), Jean Lambert (Greens/EFA, UK) and Anna Terrón i Cusí (PES/E – who was obliged to cancel in the last minute). The discussion was lively and many attendants stressed that partnership recognition is not exclusively a demand from same-sex couples, but a right, for people that do not opt for marriage, to secure arrangements for their private affairs.

February was dedicated to discrimination and the future implementation of the Framework Directive. As speakers we had MEPs Richard Howitt

European Union

Framework Directive implementation update

In 1997 an explicit legal competence for the European Community to take action to combat sexual orientation discrimination was, for the first time, created under Article 13 of the Treaty of Amsterdam.¹ On this legal basis, the Council of Ministers of the European Union adopted *Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation* in November 2000.² This “Framework Directive” (FD) prohibits discrimination on the grounds of religion or belief, disability, age and sexual orientation in these areas.

The FD is part of a recent package of anti-discrimination measures, which include

- the *Community action programme to combat discrimination (2001-2006)* established by Council Decision 2000/750/EC of November 2000

- the *Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin* adopted in June 2000 (the “Race Directive”), and

- the *European Parliament and Council of Ministers Directive 2002/73/EC of September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions* (the “Gender Directive”).

By forbidding discrimination in employment and occupation on

grounds of sexual orientation, the FD constitutes the first EU legislation to fight the discrimination which LGBT persons face in an important social and economic area of their lives. The Gender Directive on the other hand provides protection from discrimination on the basis of gender identity³ since EU law regards discrimination against transgender persons as a form of sex discrimination – a principle established by the European Court of Justice in the 1996 case of *P v S and Cornwall County Council*.⁴

Scope of the Directive and other particularities

The FD is very comprehensive in its coverage of all aspects of employment and self-employment (recruitment, promotion, working conditions including pay, benefits and dismissals); vocational guidance and training (including some university courses); and membership in an organisation of workers (trade unions), employer associations and professional bodies (e.g. law societies and medical councils). In addition, the directive applies to both public and private sectors.

In its Article 2, the FD divides discrimination into four elements: direct, indirect, harassment and instruction to discriminate. Direct discrimination occurs when a “person is treated less favourably than another ... in a comparable situation”; whereas indirect discrimination takes place when there is an “apparently neutral

provision...” which would bring “a particular disadvantage” to a person. Harassment on the other hand is deemed to be a form of discrimination: an “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”. Finally, instruction to discriminate would cover, for example, instructions given to employment agencies.

The FD provides for some exceptions permitting discrimination in specific circumstances. Two apply to sexual orientation, and one is a general exception relating to religion or belief. The former are connected to positive action schemes and genuine requirements to perform a particular job. The final text in the directive concerning the latter (Article 4.2) is both complex and unclear. In essence the text says that upon access to employment bodies with a religious ethos, where belief is a genuine, legitimate and justified occupation requirement, discrimination is allowed. However, an important provision in Article 4.2 states that this exception can only be implemented by member states which already had national legislation or practices of this type in existence on the date of adoption of the directive.

Concerning same-sex partners, the directive does not cover payments of any kind made by state schemes or similar, including state social security. Furthermore, the directive is without prejudice to national laws on

marital status and the benefits depending thereupon.

In terms of enforcement, organisations with a legitimate interest in ensuring the implementation of the directive may act legally “on behalf or in support” of a victim of discrimination. However, they cannot act without the consent and authorisation of the victim. In the case of sexual orientation this is of particular relevance since victims are often unwilling to take action because this might make public their sexual orientation. A positive aspect is the shift of the burden of proof (Article 10). This means that it is up to the respondent to prove before a court or other competent authority that there has been no breach of the principle of equality, once the complainant has established facts from which it may be presumed that discrimination has occurred.

One of the major weaknesses of the Framework Directive, however, is that – unlike the Gender and the Race Directives – it does not oblige member states to establish an independent body to assist the victims of discrimination.

Concerning sanctions for the non-respect of the directive, it stipulates that penalties for those who discriminate must be “effective, proportionate and dissuasive” (Article 17). It is a problem that this is not further defined. However, existing case law of the European Court of Justice on sex discrimination indicates that the Court will insist that any remedies must be adequate and provide a real deterrent effect.

Deadlines and ILGA-Europe’s campaign

The FD obliges all EU member states to introduce legislation

¹ “Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting upon unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”

² Council Directive 2000/78/EC of 27 November 2000, OJ L303/16. Prohibits discrimination on the grounds of religion or belief, disability, age and sexual orientation.

³ The implementation deadline is the end of October 2005. Because the implementation deadline is within three years, and although ILGA-Europe is campaigning for the implementation of this directive, this article will focus on the Framework Directive whose deadline is December 2003.

⁴ Case C-13/94, *P v S and Cornwall County Council* [1996] ECR I-2143.

⁵ The Race Directive must be transposed into national law by an earlier date, July 2003. Governments may choose to implement both directives at the same time.

prohibiting discrimination at the workplace on the grounds of religion or belief, disability, age or sexual orientation – in the latter case by the end of 2003.⁵ Moreover, the candidate countries must also implement this legislation, as part of the *acquis communautaire*, prior to their accession. Some member states already have anti-discrimination legislation in this field. The extent to which they will have to

amend their existing laws to meet fully the requirements of the FD will depend on how far these are already met by existing legislation.

So, altogether, 25 European countries will have to comply with the requirements of the FD – fifteen by December 2003, and most likely ten more upon accession on 1 May 2004. This situation constitutes a unique oppor-

tunity to campaign for comprehensive protection from sexual orientation discrimination. Conscious of this historic moment, ILGA-Europe had launched a European-wide campaign in 2001 to ensure the proper implementation of this directive. Since then, ILGA-Europe has been monitoring developments in the member states. It also produced a guide for member organisations and LGBT activists explaining

the importance of the directive and how they can contribute to its full implementation at national level. Member organisations have been lobbying their national governments to adopt legislation that would go beyond the minimum standards set out in the FD.

ILGA-Europe organised and participated in several events to disseminate this information. ILGA-Europe's EU national co-ordina-

Update on the implementation of the Framework Directive in the EU member states

Note: The countries in red are those which are of concern due to the lack of progress shown so far in transposing the directive into national legislation (not applicable for the candidate countries since their deadline is not end 2003).

Austria

Inter-ministerial discussions on the transposition of the directives began in 2001, but so far there has been no public consultation. Moreover, the government has not yet presented any law proposal.

Belgium

Anti-discrimination legislation was adopted in December 2002. Its scope is far wider than the Race and Framework Directives since it covers all areas of economic, social, cultural and political life. It should enter into force within ten days of its publication (expected to happen very soon).

Denmark

Anti-discrimination legislation concerning sexual orientation in all fields already exists. There is however a proposal in the parliament to further

ensure the full implementation of the directive.

Finland

There was a proposal in the parliament but this bill treated the various grounds of discrimination differently and did not go through. Elections will take place in March 2003, and the directive (along with the one on racism) is expected to be implemented by the new parliament.

France

New legislation came into force in November 2001 (*Loi relative à la lutte contre les discriminations*) and January 2002 (*Loi de modernisation sociale*), however these laws have not fully transposed the provisions of the two directives with regard to the definitions of direct and indirect discrimination, harassment, etc.). There has been no real public debate on the directive. It is expected that the new government will have a minimalist approach to implementing the directive.

Germany

Law proposal being discussed at the moment. The government plans to

adopt legislation before July since it wants to implement both directives at the same time.

Greece

The government has not yet published legislative proposals for the transposition of the FD but says it will do so within the deadline. For this purpose, the Ministry of Labour and Social Affairs has set up a committee to prepare a draft bill.

Ireland

There was a consultation with key actors in summer 2002, but the government has yet to publish its detailed proposals for amending the existing anti-discrimination legislation (1998 Employment Equality Act and 2000 Equal Status Act). A great part of the directives' scope, however, is already covered by existing anti-discrimination legislation.

Italy

The government has formally inserted the Framework Directive by having it mentioned in the so-called "community law" adopted at the end of 2001 (the "community law" is an annual law

which covers all European directives). The parliament adopted legislation in March 2002 empowering the government to transpose the directives through statutory rules. An Employment Ministry working group has recently been set up to develop these rules (officially due by March 2003) but no legislative proposal has yet been made.

Luxembourg

Since 1997 legislation prohibiting discrimination on grounds of sexual orientation exists. However the government has yet to present proposals to fully transpose the FD.

The Netherlands

A proposed amendment to the Equal Treatment Act is being discussed. This change would transpose the provisions of the Race Directive and the FD regarding religion and sexual orientation.

Portugal

The new labour code drafted in November 2002 is now under debate in the parliament. However, there are no specific legal references to discrimination on sexual

orientation, and it has several gaps regarding the requirements of the FD.

Spain

No proposals have been presented yet.

Sweden

Implementation is well underway. Draft legislation has been circulated to NGOs and social partners for comment. The bill being drafted for presentation to parliament at the moment should be in force by July 2003. There are also debates about implementing anti-discrimination measures in schools and the whole education system as well as to expressly include "gender identity".

United Kingdom

The regulations implementing the FD have been published for consultation. The government will soon publish the final proposals for adoption by parliament in May/June. It plans to finalise the guidance for employers in September, and the regulations to come into force in December 2003.

Update on the implementation of the Framework Directive in the EU candidate countries

Bulgaria

The 2002 Employment Promotion Act has provisions to combat discrimination but not on grounds of sexual orientation. There is also no specific competent anti-discrimination enforcing body. Draft anti-discrimination legislation (covering all Article 13 grounds, including gender) has recently been submitted to the parliament.

Cyprus

Implementing the FD is under preparation as part of the accession process, but so far sexual orientation is not included.

Czech Republic

Inter-ministerial committees were due to produce draft legislation before the end of 2002 but have not so yet.

Estonia

The government has recently published a draft for an Equality and Equal Treatment Act.

Hungary

In June 2002, the government announced the establishment of a new anti-discrimination office to fight against labour discrimination against women, people with disabilities, Roma and other minority groups; LGBT people, however, are not included. The new government had planned to present comprehensive anti-discrimination legislation by the end of 2002, and this should ensure the full implementation of both directives.

Latvia

The new Labour Act in force since 2002 contains anti-discrimination provisions for all Article 13 grounds, except sexual orientation. In February 2002 an inter-institutional group was set up to monitor the implementation of the directives.

Lithuania

The new Labour Code came into force on 1 January 2003, and the new

criminal code will come in force in May 2003, both cover sexual orientation discrimination. In addition, the mandate of the Ombudsman will be extended to cover sexual orientation.

Malta

In October 2002 the parliament approved the Employment and Industrial Relations Act. A specific reference to sexual orientation, albeit a rather insignificant one, which was present in the draft bill, was removed from the final text.

Poland

The transposition of anti-discrimination *acquis* is limited so far. In June 2002, an ordinance was adopted mandating the Plenipotentiary for the Equal Status of Men and Women to establish an office responsible for the fight against discrimination on several grounds, including sexual orientation.

Romania

Parliament adopted a law on the prevention of all forms of discrimination (including sexual orientation) in January 2002 but this law does not fully cover all the requirements of the directive, such as harassment or the shift of the burden of proof. An anti-discrimination enforcing body, the National Council for the Prevention of Discrimination, started operating in November 2002.

Slovakia

The constitution contains a general non-discrimination clause, but no specific legislation on sexual orientation exists. In April 2002, a new Labour Code was adopted but it does not apply to sexual orientation discrimination. In March 2002 the government adopted a second action plan to combat all forms of discrimination. In June 2002 the parliament, however, rejected a bill for an anti-discrimination law cover-

ing sexual orientation – explicitly because of this inclusion.

Slovenia

In April 2002, a new Employment Relations Act, which also forbids discrimination on the ground of sexual orientation, was adopted. Breaking this law will be sanctioned by fines. There are still some important gaps with regard to the requirements of the FD.

Turkey

The non-discrimination clause in the constitution and provisions in other laws are only general and thus do not protect from discrimination on grounds of sexual orientation. The Job Security Act approved in August 2002 does not include sexual orientation as a prohibited ground for dismissal, although it includes such grounds as gender and race.

tion network meetings in July 2001 and April 2002 were of particular importance for its members in EU countries. For the accession countries the most significant campaign event was the TAIEX meeting in July 2002.⁶ Furthermore, ILGA-Europe published articles in the *Newsletter* and updates and working documents on its web-site. At European level, ILGA-Europe has been co-operating with other anti-discrimination NGOs within the Social Platform in order to share information on strategies

and tools for monitoring the implementation process.⁷ At ILGA-Europe's annual conference in Lisbon in October 2002 a plenary session and workshops discussed the directive and the particular role of trade unions in its implementation.

Moreover, since these two semesters of 2003 are crucial for the Framework Directive's implementation, we have called upon the Greek and Italian EU Presidencies to pressure, monitor and support the member states and accession countries in their actions to comply with this EU anti-discrimination legislation.

As part of this information, promotion and monitoring cam-

paign to ensure the full implementation of the Framework Directive, ILGA-Europe has gathered information on existing legislation in each of the member states and accession countries and their measures already undertaken to implement the directive by the end of the year (see boxes on pages 11 and above).

It is also worth mentioning that the states have the duty to establish a dialogue with social partners and non-governmental organisations during the implementation process. This opportunity should be seized by LGBT organisations to make sure the directive is correctly and fully implemented.

Finally, member states will have to provide "all the information necessary" to the European Commission until December 2005 (and every five years thereafter) as the Commission will have to draw a report to the European Parliament and Council on the implementation of the directive. In this report, the Commission will have to take into consideration the opinions of the social partners and of "relevant non-governmental organisations".

For queries, news, updates or to receive ILGA-Europe's guide "Implementing the Framework Directive", please contact our office at: info@ilga-europe.org.

⁶ See Newsletter # 2/01, p. 7; # 2/02, p. 8; # 3/02, p. 7.

⁷ The European Disability Forum (EDF), the European Older People's Platform (AGE) and the European Network Against Racism (ENAR).

EU Presidencies

ILGA-Europe prepared memoranda

The Presidency of the European Union consists of a member state chairing the Council of Ministers, the main decision-making institution, for a period of six months. The Presidency of the Council plays a vital part in the organisation of the Council's work, especially as the driving force in the legislative and political decision-making process. It develops policy initiatives, sets the agenda for the European Councils, has to organise and chair ministerial level meetings and the European Councils, and elaborates compromises capable of resolving difficulties.

Since the Austrian presidency in the second half of 1998, ILGA-Europe has traditionally had contacts and meetings with representatives of the countries holding the EU Presidency in order to discuss issues relevant to the LGBT movement at EU level and ways the respective Presidency could progress on them during its six-month period. In the recent past ILGA-Europe met with representatives of the Spanish and Danish Presidencies.

In the first half of 2003 the EU is presided by Greece. The Greek Presidency (www.eu2003.gr) has

as its main five priorities: Enlargement, the Lisbon Process, Asylum and Immigration, the Future of Europe and the EU's external relations. ILGA-Europe has sent to the Greek Presidency a "memorandum" presenting the key areas of LGBT concerns which can be advanced through concrete measures taken by the Presidency; issues which should be in the agenda; and general information about ILGA-Europe and its objectives.

The calendar of presidencies follows a pre-established cycle. From July 2003 onwards, Italy

will take over the Presidency of the Council. In 2004, Ireland will be responsible for the first six months, and the Netherlands for the last six months.

ILGA-Europe has already prepared its memorandum for the Italian Presidency and anticipates working closely with the Presidencies in 2004.

ILGA-Europe's memoranda to the two Presidencies can be downloaded at:
www.ilga-europe.org/m3/eu_presidency.htm.

LP

Social Platform Update

Increased collaboration of anti-discrimination NGOs

One of the main objectives of the Social Platform is to act as a meeting place for NGOs. As such the exchange of information as well as co-operation on concrete policy issues are to be fostered. ILGA-Europe is pleased to report that in the field of anti-discrimination, this is happening more and more. In January the "Anti-Discrimination Working Party" was set up. Forming part of the "Social Policy Working Group", it consists of representatives of the major anti-discrimination NGOs. The aim is to raise the profile of anti-discrimination

work within and beyond the Platform as well as to collaborate on common policy objectives.

Currently, the group focuses its joint efforts on two fields: the Convention on the Future of Europe and the implementation of the Framework Directive to combat discrimination in employment. With regard to the Convention, co-operation has been particularly effective. Formulating a joint position paper on the first draft articles to ensure that all four organisations push for the same changes has

proved positive indeed (see also p. 5).

It is not only with regard to the Convention, however, that the group works together. It is currently reviewing the proposals put forward for the anti-discrimination campaign planned by the Commission. In order to raise awareness for the Framework Directive, the Commission has subcontracted an advertising company to launch a European wide information campaign in 2003. Unfortunately, NGOs have not been involved in the process

so far. However, the advertising agency has accepted to attend the meeting of the Anti-Discrimination Working Party in March to hear its comments on the agency's current proposals. The group will try its best to ensure that the campaign is rooted in people's real lives and reflecting their collective experience in the field of discrimination. Whether or not these efforts will have any tangible influence, however, remains to be seen.

BH

your source of information on European LGBT issues:

www.ilga-europe.org

In our series presenting European NGOs ILGA-Europe is working together with at European level, we introduce in this issue CEDAG, the European Council for Voluntary Organisations

NGO co-operation at EU level

CEDAG – European Council for Voluntary Organisations

CEDAG stands for *Comité européen des associations d'intérêt général*. It is a network of voluntary organisations from across the EU member states. CEDAG's members are regional and national umbrella bodies for the voluntary sector. Together they represent over 50,000 voluntary organisations with over 9 million individual members. The network was established in 1989 in order to provide a voice for the voluntary sector at European level on issues common to all the voluntary organisations.

CEDAG considers that:

- the voluntary organisation is a citizens' project. It promotes values of solidarity and creativity to respond to needs that are not often covered by the market economy;
- the voluntary organisation promotes projects. The range of the voluntary organisations' activities is not only limited to responding to these gaps. The dynamics of project development must also be facilitated;
- the voluntary organisation promotes a different enterprise culture. The economic activity of voluntary organisations implies social added value and participatory practices.

CEDAG's aims are to:

- contribute to the construction of a society that is united, participatory and aware of the future generations' interest;
- campaign for recognition of the voluntary sector by the EU



institutions and for the sector's right to be consulted on Community policies of concern;

- promote recognition at EU level of the economic contribution made by the voluntary sector;

- lobby for Community legal, fiscal and competition policies which:

- recognise the general interest character of voluntary organisations, their disinterested and democratic management approach and their services orientated towards people and

- encourage the sector's development;

- provide a forum for voluntary organisations across the EU to exchange examples of best practice in the voluntary sector;

- inform its members about any issues of interest for them at EU level, current EU policy developments and funding opportunities relevant to the voluntary sector.

CEDAG's work programme

CEDAG's work programme comprises the following areas:

Governance: CEDAG promotes the adoption of a Commission-wide Code of Practice, drawing on models developed by CEDAG's member organisations.

Future of the EU: CEDAG participates in the debate on the Future of Europe, especially on the

themes of participatory democracy and the important role of associations as essential components of civil society.

Statute of the European association: Through its working group on this issue, CEDAG promotes the adoption of such a statute, after the adoption of the society and the co-operative statutes.

Corporate social responsibility: CEDAG considers that associations are companies but with a democratic running and a non-profit aim. Therefore, CEDAG has responded to the consultation on CSR.

Services of general interests: CEDAG promotes the recognition of SGI in the EU Treaties.

Employment policies and the voluntary sector: CEDAG compares the role of voluntary organisations in employment initiatives in the member states and seeks to influence Community-level employment policies.

Candidate countries: CEDAG develops links with voluntary organisations in candidate and accession countries and encourages the exchange of information and best practices.

Services to members: CEDAG publishes a monthly newsletter, has a web-site (www.cedag.org), holds seminars and conferences and disseminates information on calls for proposals.

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MARIE RANTY

Transnational project

Combating discrimination through diversity education

Part of the EU Action Programme to combat discrimination – the programme under which ILGA-Europe receives much of its core funding – includes funding for transnational projects for the exchange of information and good practice.

In previous Newsletters (# 1-3/01), we reported on developments of the first round of these projects, which has been launched in March 2001. 27 projects have finally been selected to start implementing their activities in the so-called phase II which started 1 October 2002.

The grounds covered by the projects are well balanced and all but three cover more than one of the grounds mentioned in Article 13. The three projects that cover only one ground concern discrimination on the grounds of disability or age. Sexual orientation is included in 12 of the 27 projects. A majority of the selected projects focus on non-discrimination within and by public administrations, which reveals a particular concern for this area both by local and regional authorities and by civil society organisations. The majority of the partners responsible for the overall coordination are NGOs of which six are European or national level organisations and nine smaller organisations. Furthermore, nine public authorities, one trade union and three universities or research institutes are also involved as lead partners.

ILGA-Europe had also provided assistance to pre-selected project partners interested in including sexual orientation in their projects. One of these projects ILGA-Europe had assisted in this way is called “Introduction of anti-discrimination training measures within public administrations”, led by the *Centre Européen Juif*

d’Information (CEJI). ILGA-Europe asked its director Pascale Charhon to tell us more about their project.

ILGA-Europe: Why did you set up this project?

Pascale Charhon: Many of the EU cities are undergoing a major social transformation with implications for anti-discrimination measures. Public authorities need to be prepared to meet the needs of the communities, which they serve, and to fulfil legislative mandates that ensure equal treatment for all. There are two main trends that contribute to this change: 1) demographic changes in respect to age, ethnicity and gender; and 2) paradox of urban growth and increasing social exclusion and discrimination.

Is discrimination a problem in the public sector?

It is widely acknowledged that acts of discrimination appear in the public sector such as in the administration of justice system, health, education, employment, housing and the supply of and/or access to goods and services. Research reports have revealed that the grounds of discrimination that have remained still widely untackled within the workplace in the public and private sector are those of ethnic origin, age, disability, and sexual orientation. Although EU anti-discrimination legislation has set standards of acceptable behaviour for member states, it does not change the prejudiced attitudes and stereotyping across the EU. Education and training are thus critical forces to complement legislative measures in order to tackle institutional discrimination.

How will your project address these issues?

The project offers to provide anti-discrimination training in public authorities, in the areas of education and health, in Altea (Spain), Belfast (Northern Ireland) and Berlin (Germany). Training is a core activity in the project, which also includes: a) partnership building between public authorities and local NGOs; b) setting up a local trainers pool and customised training programme, c) needs assessment on the reality of discrimination in the public authorities and the communities they serve, and d) focus groups and consultation processes with public authority managers and staff, and with local community groups representing discriminated populations.

What are the objectives for the project?

To facilitate a training process through which public authorities will establish an action plan to:

- develop equality and diversity policy in order to provide more culturally sensitive, equitable, caring and quality services;
- implement equality and diversity policy in all aspects of human resources, in particular in recruitment, training, review, promotion, retention and progression;
- foster better community relations and communication strategies with local groups;
- document a replicable training model and disseminate information within public authorities at local and European level.

What outcomes can we expect from this work?

We expect the project to:

- create partnerships between public authorities and NGOs, and between NGOs;
- identify needs within public authorities and within the communities that they serve;



Pascale Charhon

- raise awareness of public authority staff and management on issues of multiple discrimination and anti-discrimination measures; and raising awareness of some issue-focused NGOs on the intersection of multiple discrimination;
- build competencies for intercultural communication, situational analysis and institutional planning;
- institutional planning for mainstreaming equality into policies and practices through the short, middle and long term.

How do you see ILGA-Europe getting involved?

In the context of the above mentioned project, CEJI and our project partner, the Northern Ireland Council for Ethnic Minorities (NICEM), are happy to count on the support of ILGA-Europe, which has agreed to share its expertise and contribute technical knowledge and network contacts to the project. One of the ultimate goals of the project is to be able to empower NGOs with a package of training resources that address all forms of discrimination with particular focus on the issue of multiple discrimination.

We thank you very much for the interview.

LGBT Muslim groups and Islamophobia

Support and awareness raising

LGBT people who identify as Muslim culturally and/or religiously often face multiple discrimination, with homophobia strong in traditional Muslim society, and Islamophobia and racism a serious issue in the wider social context. For this reason ILGA-Europe has chosen to place a particular emphasis in its work on supporting the capacity development of LGBT Muslim groups.

ILGA-Europe has maintained a dialogue with representatives of various groups for LGBT people who identify as Muslim culturally and/or religiously, and with mainstream member organisations undertaking work in this field. This dialogue has centred on the capacity development needs of these groups, and the actions ILGA-Europe could undertake to

support them. Two workshops were held at ILGA-Europe's 2002 annual conference in Lisbon in order to discuss precisely these two issues.

As a result of this dialogue, ILGA-Europe has developed a project which will encompass actions to support the capacity development of LGBT Muslim community groups, to raise awareness among member organisations of the issues raised by (homo)sexuality in the context of Islam with its diverse religious and cultural background and of the need to combat Islamophobia within the LGBT community and more widely.

More LGBT Muslim groups and organisations will be contacted to participate in the project. Articles will be published in the *Newsletter*

and information will be posted at ILGA-Europe's web-site. A seminar will be held on the day before the next annual conference in Glasgow in October 2003 to gather the participants of the project. This meeting will provide an opportunity to share and learn from each other's experiences, to disseminate the results of relevant best practice projects and to discuss the possibility of forming a European network group, its objectives and structure.

In the context of the project, ILGA-Europe will further organise workshops at the annual conference in October to discuss particular themes of interest and to provide on-going European expert support, namely in applying for transnational exchange projects funded by the European Commission.

At the end of the project a report with a compilation of texts and working documents, contacts, studies, projects, best practices and links will be published. If you want to receive more information about the project or participate, please contact the office at info@ilga-europe.org.

As part of this project and in order to launch the debate on the issues the first two contributions are published below and on the following page. One is written by Omar Nahas of the Yoesuf Foundation, a Dutch organisation providing information about Islam and male and female homosexuality, the other by Suhraiya Jivraj from the Safra Project in the UK who also participated in the Lisbon conference.

LP

Quran studies contribute to discussing sexual diversity

Islam and Homosexuality

For a lot of LGBT people the significance of religion for modern humanity is not an issue worth discussing. The relationship between religion and issues of sexual diversity is troublesome. The holy books – the Bible and the Quran – are mostly used to oppose all kinds of sexual behaviour outside heterosexual marriage. No wonder that a lot of LGBT people do not feel comfortable about religious institutions. But are the holy texts of any use other than for damning LGBT people? Of course they are. Religion's review of sexual diversity consists of two components. The first contains the rules of interdiction and commandments (the do's and the don'ts). The second component

includes the ethical values behind these rules.

Common ground

What is considered to be a sin or not depends on particular interpretations of a religion. To enter into a debate on these differing interpretations of rules can easily lead to confrontational yes/no debates with no room for finding a common ground. A better approach might be to focus on the ethical values behind those rules instead. This could help find a common ground between religious ethics on the one hand and LGBT ethics on the other.

Finding a "common ground" implies looking for shared goals in a positive way, i. e. focusing on what both parties want. Five years ago I started looking at this common ground between the

Muslim and the LGBT communities. I found the link to the Islamic point of view to be that of respecting the rights of each human being. After the Queen Boat affair¹, however, I realised that there was a serious gap in this way of thinking.

Reading the Arabic press at the time made me aware that it is not enough only to look for what we both strive for. Religious leaders and secular lawyers in the Muslim world were not ready to support LGBT people solely on the grounds of human rights. Analysing the way Muslims speak on issues of sexual diversity I came to the conclusion that the way of talking about things determines the result of a possible dialogue. It is not enough to recognise "what we want together". It is necessary to determine "what we *don't* want together" as well.

In my eyes, it takes a considerable effort to use the human rights argument on LGBT issues from an Islamic point of view. Numerous organisations worldwide are already undertaking this effort and are thus ensuring an adequate definition is reached on "what we want together". What needs to be done now is to find out what it is that we both don't want, i. e. our "common opponent".

To define this "common opponent" is equally, if not more difficult. For me, considering the diversity of religions, sexual orientation, cultural expression of individuals and groups that reside in Europe, the common opponent to us all is that of causing harm. "To not cause harm to and for others" constitutes an important common basis. It is this point I want to expand on in the following:

¹ In May 2001, 52 men were arrested in Cairo for alleged homosexuality and tried in a special Emergency State Security Court under fabricated charges for "obscene behaviour" and "contempt of religion".

Why spending energy on religion?

A lot of LGBT people who identify as Muslim religiously or culturally are torn between their sexuality and socio-religious expectations. They experience an inner conflict by being outside the “social ideal” of heterosexual marriage and the religious rules. Most people no longer directly identify this inner conflict as a religious problem but see it as a cultural problem based on religious sources instead. Studying Islam’s views on sexual diversity helps them understand this conflict and deal with it. This is especially true when they begin to discover the extent of common grounds with the religion itself.

Often religious figures come up with a negative judgment of LGBT people. Almost all countries in Europe have experienced a kind of friction between people with religiously based ideas and sexual minorities. Islamic studies on sexual diversity help LGBT Muslims face these judgments and provide them with instruments for a rational constructive dialogue with their religious leaders.

The Dutch Yoesuf Foundation, for example, uses Islamic arguments in reaching out to the Muslim community in general. This foundation is working together with “Islam and Citizenship Group”, the national Dutch gay and lesbian association COC

and “Humanistisch Verbond” on the national *DIALOGUE* programme where people of all religions and humanistic beliefs are invited to participate.

Another reason to spend energy on religion is to establish a bridge between secular and religious based emancipation. Western secular emancipation of LGBT people focuses mainly on LGBT people themselves and is built on three elements: coming out, visibility and empowerment. The Islamic emancipation, on the other hand, is purely inclusive. This means that emancipation concentrates on the environment of LGBT people, leaving LGBT people in a grey area. Respective-ly we call these two different

methods of emancipation “vertical” and “horizontal” emancipation. Studying the religious horizontal way of thinking helps emancipation locate the cross-fields of emancipation.

Building emancipation means creating methods acceptable both for the LGBT community and their social environment. The time is ready enough for reconciling religious contributions with the humane inclusive emancipation of LGBT people. In my eyes, it is only when the holy texts address the needs of all people in such a way that we can call them holy.

OMAR NAHAS
Yoesuf Foundation

The Safra Project

Muslim LBT Women

The Safra Project is a voluntary resource project conducting research and providing information on issues relating to lesbian, bisexual and transgender women who identify as Muslim, culturally and/or religiously (Muslim LBT women).

On the 30 January 2003 we launched our “Report of Initial Findings: Identifying the difficulties experienced by Muslim LBT women in accessing social and legal services” at the Greater London Authority. Barbara Roche MP, Minister for Social Exclusion and Equalities and Deputy Minister for Women, delivered the key-note speech. As well as supporting our work generally she particularly welcomed this report as much needed information on people’s experiences of multiple discrimination.

The “Report of Initial Findings” identifies some of the issues Muslim LBT women face as a result of their sexual orientation or gender identity combined with their cultural or religious identities. It highlights the struggle to reconcile

these multiple identities which can often lead to mental health problems such as depression and self harm. In addition, the consequences of coming out (or being found out) can be extremely harsh for Muslim LBT women and can include rejection by family and friends; intensified pressure to get married, sometimes leading to forced marriage; domestic violence; homelessness; losing custody of children and/or abduction of children. Muslim LBT women seeking asylum in the UK often experience additional difficulties.

The report documents these experiences and also explains why many Muslim LBT women find it difficult to access appropriate social and legal services to address these difficulties. Because of the lack of research and visibility in this area, many service providers are not aware of the issues that Muslim LBT women face. Moreover, when using services, Muslim LBT women often encounter (a combination of) Islamophobic, racist, sexist, homophobic and transphobic behaviour, as well as more general culturally insensi-

tive, gender biased and heterosexist attitudes. Other obstacles Muslim LBT women encounter are a lack of information on where to find suitable services, fears to be seen at locations where services are provided and limitations on freedom of movement.

As well as highlighting the experiences and needs of Muslim LBT women, the report makes recommendations for ensuring more accessible and appropriate social and legal services. The recommendations to service providers include recognising the need to be inclusive in their approach by acknowledging people as individuals with multiple and interrelated identities. The compartmentalised approach of service providers who have started providing women-specific, LGBT-specific, race-specific or religion-specific services often does not use this approach and therefore often overlooks the needs of Muslim LBT women.

A second key recommendation is that service providers should ensure that their multicultural policies do not ignore diversity

within Muslim communities. Service providers too often assume that Muslims are not LGBT and that LGBT people cannot be Muslim, a perception often reinforced by Muslim communities themselves.

It is particularly important for service providers to be aware of the differences between religious, cultural and patriarchal norms as service providers often do not raise LGBT issues or women’s rights in relation to Muslims because they fear negative reactions or accusations of racism and cultural insensitivity. However, service providers should not reinforce gender bias, homophobia and transphobia under the guise of being culturally sensitive but instead ensure that they support and protect the rights of women who challenge the so-called norms of their communities.

For more information visit our web-site: www.safraproject.org or email: info@safraproject.org; phone: + 44-(0)7941 659 320.

news clips

European Court of Human Rights Unequal age of consent is a breach of the Convention

On 9 January 2003 the European Court of Human Rights in Strasbourg published its judgments in two cases¹ challenging the discriminatory age of consent for gay sex (18) in Austria (Article 209 of the penal code). The general age of consent for all other forms of sexual relations is fixed at 14. The Court held unanimously that there had been a violation of Article 14 (prohibition of discrimination) taken into conjunction with Article 8 (right to respect for private life) of the European Convention on Human Rights.

This judgment had been expected as the former European Commission of Human Rights had already ruled in a British case (*Euan Sutherland v. United Kingdom*) in 1997 that unequal age of consent provisions are in breach of the Convention. Since the British government agreed to comply with this ruling, this case had never come before the Court.

It took the Court 27 years to finally make it clear once and for all that unequal ages of consent are discriminatory after the European Commission of Human Rights had first ruled

in 1975 that they were not. The Court is certainly not ahead of legal developments with this judgment. On the contrary: It comes at a time where, out of the 44 member states of the Council of Europe, only three are left with general unequal age of consent provisions (Albania, Bulgaria,² Portugal), and two more under specific circumstances (Greece and Ireland).

The judgments are also too late to affect the situation in Austria, as Article 209 was repealed in July 2002 (cf. *Newsletter # 3/02*, p. 22), but they will come as some consolation to the 1,200 people who have, over the years, been unjustly prosecuted under Article 209.

KURT KRICKLER

¹ The two cases are: *L. and V. v. Austria* (application nos. 39392/98 and 39829/98) and *S.L. v. Austria* (application no. 45330/99). The full text of the judgments is available at: www.echr.coe.int.

² In the *Newsletter # 4/02*, p. 12, we reported about the uncertainty over the repeal of the discriminatory age of consent in Bulgaria. Further research showed that this law had not been repealed in the context of the penal code reform of September 2002 as reported in the European Commission's regular progress report on Bulgaria.

Daphne II Programme (2004-2008)

On 5 February 2003 the European Commission transmitted to the Parliament and Council a draft decision to launch "Daphne II", a follow-on from the Daphne Programme (2000-2003) aimed at preventing violence against women and children, protecting victims and at-risk groups.

Since the launch of the Daphne Initiative and the Daphne Programme, 270 projects have received financial support from the Commission. Daphne II calls for a larger budget of 41 million € in order to meet the current high level of demand and allow for the arrival of the new member states in 2004.

The Daphne Programme has emerged as an important example of good practice in this area. The range of projects is diverse, with support for a heterogeneous set of organisations, from training bodies and universities, voluntary organisations and victim support agencies to research centres and local authorities.

Projects that specifically addressed violence against lesbians have also received funding under Daphne I (cf. *Newsletter # 1/02*, p. 7). For further information, see: http://europa.eu.int/comm/justice_home/project/daphne/en/index.htm

EU Directive on reception conditions for asylum applicants published

The *Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers* has finally been published in the Official Journal of the European Union (L 31/18 of 6 February 2003).

Not many of the recommendations ILGA-Europe initially had made were taken up. This is partly due to general changes in the instrument – e. g. the obligations on healthcare for all applicants became much less specific whereas ILGA-Europe wanted to build LGBT issues on top of the elements in the Commission proposal (COM (2001) 181). The proposed anti-discrimination clause from the Commission (for which we suggested adding gender identity) has been deleted by the Council altogether and instead there is a reference to the EU Charter of Fundamental Rights in the preamble. Unhelpfully, this places special attention on Articles 1-18 of the Charter whereas non-discrimination is covered by Article 21.

But there is recognition of unmarried couples as family members where the receiving state treats unmarried couples in a comparable way to married couples "in its law relating to aliens" (Art. 2(d)(i) of the directive). Although this is less than ILGA-Europe demanded, it is important because it recognises that unmarried couples can be family members and establishes a benchmark. It would be quite bizarre if the definition of the family members for asylum applicants was more extensive than that for legally-resident third country nationals or EU citizens. So this should be a minimum standard from which to progress.

A short history: In October 2001, ILGA-Europe had produced a position paper and proposed a number of amendments to the Commission proposal. They, or variants of them, were tabled by PES, ELDR, and Lista Bonino MEPs in February and March 2002 respectively, and also received the support of the Greens. The amendments were not taken up by the "LIBE" Committee, but those dealing with non-discrimination and special needs were adopted by the EP plenary in April 2002, following a lobbying campaign by ILGA-Europe. However, the EP had no co-decision power here and only played a consultative role. The amendments adopted by the EP were ignored by the Council when agreeing the final text in June 2002.

First national LGBT conference in Malta

Ever since the debate on EU membership began in Malta, the rights of sexual minorities have very conveniently been used by both sides of the debate as a political tool with which to reassure or scaremonger the voters that “traditional” Maltese Catholic values are, or are not, threatened by Malta’s membership in the EU. The anti-EU lobby has claimed, on several occasions, that should Malta join the EU, same-sex marriages would have to be introduced. The pro-EU lobby, on the other hand, often claimed that the EU has no competence in protecting gay and lesbian rights. As MGRM, the Malta Gay Rights Movement, has often pointed out, neither of these statements is correct.

In order to encourage a more factual debate MGRM organised a conference in collaboration with the Malta EU Information Centre (MIC) that also supported it financially. One of the aims of the conference was to give a fuller picture of the impact that Malta’s possible membership of the European Union might have on the rights of the Maltese LGBT community.

The conference was structured around two core themes. The first part focussed on the extent of discrimination, harassment and violence against gay men, lesbians and bisexuals in Malta. MGRM had conducted a survey in 2002, the findings of which were made public for the first time during the conference. The second part then looked at LGBT rights and the EU. Themes that were covered included the LGBT-relevant provisions of the European Convention on Human Rights, European Court of Human Rights rulings vis-à-vis the rights of sexual minorities as well as the EU Framework Directive on anti-discrimination.

MGRM was fortunate to be able to welcome MEP Michael Cashman who gave those present a strong message of support and also spoke about EU action so far in the candidate countries regarding LGBT rights, including a mention of opportunities for NGOs under EU programmes such as YOUTH and the Action Programme to combat discrimination.

Though joining the EU will not coerce Malta into introducing same-sex marriages, the EU does have the competence to ask for adequate anti-discrimination measures to be implemented prior to joining. The provisions currently in place have to be met. Even if progress on the implementation of the Framework Directive in Malta might be slow at present, the conference was encouraging in clearly spelling out the rights and obligations that EU membership entails.

CHRISTIAN ATTARD, MGRM

UK Government to comply with European Court ruling

The UK government has announced its intention to recognise transsexual people’s rights to marry in their adopted gender. The changes are expected to give transsexuals the right to change their birth certificate and be legally recognised in their new gender. The Lord Chancellor’s Department made this historic announcement in December following a landmark ruling by the European Court of Human Rights in July 2002 which held that the UK’s failure to recognise gender reassignment in law breached the person’s rights to privacy and marriage under the European Convention on Human Rights (see *Newsletter* # 3/02, p. 20).

At present the UK stands alongside Albania, Andorra and the Irish Republic as the only countries in the Council of Europe (44 mem-

ber states!) not to recognise a sex reassignment as legally valid.

Though this commitment to the full legal recognition of a change of gender is a welcome and long-awaited move, the concern of transsexuals’ campaign group *Press for Change* is that a clear timetable for legislation is missing. Since the Court’s judgment of July 2002, an area of considerable legal uncertainty has thus become even more uncertain. To overcome the distress caused by this ambiguous legal status, legislation should be introduced promptly, demands Claire McNab, vice-president of *Press for Change*, who added: “For nearly 33 years, since a court judgment took away our rights in 1970, we have been non-people.”

BH

Dublin to host 2nd European Bisexual Conference

In June 2001, the first European Bisexual Conference (EBC1) was held in Rotterdam, the Netherlands. At that conference, it was decided to make EBC a biennial event. The second European Bisexual Conference (EBC2) is to be held in Dublin from 4-6 July 2003, tying in with the Dublin Pride celebrations.

The conference is being organised by *Bi Irish*, a Dublin-based group founded in 1996 for bisexuals and any individuals interested in bisexuality or sexuality in general. EBC2 is open to all seeking to increase dialogue and discussion amongst members of the queer and straight communities. The conference will be a place to exchange information and experience in the areas of freedom of sexual preference and the position of bisexuality within societies across

Europe, and also aims to improve bisexual visibility at the European level.

The conference theme “Loving the Difference” stresses the diversity of sexuality in general and bisexuality in particular. The programme ranges from informal workshops through to discussion groups to more formal presentations. There is also a busy social programme.

Submissions for presentations at the conference are welcomed. Full details of presentation requirements can be found on the EBC2 web-site. The deadline for submissions is 12 April 2003. For more information: Post: EBC2, c/o Bi Irish, Outhouse, 105-106 Capel Street, Dublin 1; www.eurobicon.org; info@eurobicon.org

EU funding opportunities

European small anti-discrimination networks

A call for proposals aimed at “small networks” has been published on the Commission web-site. It is open to European level anti-discrimination NGOs made up of at least five national organisations established either in five member states of the EU or in Bulgaria or Romania. NGOs from other accession countries may participate but at their own expense. Deadline: 5 May 2003.

It is intended to provide operating costs to support such networks contributing to the fight against discrimination on the grounds of ethnic or racial origin, religion or beliefs, age and sexual orientation.

The support will be organised around five main topics, each of them covering a set of activities:

- advocacy work for developing anti-discrimination legislation at national level
- monitoring discrimination
- strategic litigation
- campaigning against discrimination
- setting up an efficient organisation.

Further information and all of the necessary documents can be found at: http://europa.eu.int/comm/employment_social/fundamental_rights/prog/calls_en.htm

RG

Mark this date in your calendar!



**ANNUAL CONFERENCE
AT GLASGOW, SCOTLAND
15-19 October 2003**