



Conference report

“Recognising Diversity, Promoting Equality”

**24th European Conference of the
International Lesbian and Gay Association
(6th Annual Conference of ILGA-Europe)**

**23-27 October 2002
Lisbon, Portugal**

**Hosted by:
OPUS GAY**

**Patron:
PETER SCHIEDER
President of the Parliamentary Assembly
of the Council of Europe**

The conference was held with the financial support of the European Community, the Open Society Institute (OSI; Budapest), the Heinrich Böll Foundation (Berlin), Pink Cross (Switzerland), and COC Haaglanden (Netherlands) and a series of local Portuguese sponsors.

TABLE OF CONTENT:

Provisional timetable	3
Brief introduction to the conference programme – panel sessions and workshop.....	8
Minutes of Opening Plenary	16
Minutes of Second Plenary Session	20
Minutes of Final Plenary – Part 1	24
Minutes of Final Plenary – Part 2	27
Plenary Panel 1: <i>The role of trades unions in implementing EU laws which prohibit sexual orientation and gender identity discrimination in the workplace</i>	30
Plenary Panel 2: Promoting the rights of LGBT people using the human rights policies and mechanisms of the Council of Europe and the European Union	35
Award Ceremony: Presentation to four individuals who took LGBT cases to the European Court of Human Rights	45
 <u>Minutes of workshops (including supporting documents):</u>	
WS 1: <i>Implementing protection from workplace discrimination at the national level</i>	47
WS 2: <i>Supporting the capacity development of LGBT movements in Central and Eastern Europe and the Caucasus</i>	51
WS 3: <i>Lesbian organising in the Iberian Peninsula</i>	53
WS 4: <i>Working to ensure maximum benefit for transgendered people from EU laws prohibiting discrimination based on gender</i>	54
WS 5: <i>EU Enlargement</i>	59
WS 6: <i>Organising within trades unions to work for LGBT rights</i>	66
WS 7: <i>Parenting rights under the European Convention on Human Rights</i>	68
WS 8: <i>From the Convention on the Future of Europe to the Intergovernmental Conference 2004</i>	81
WS 9: <i>Presentation of proposals on specific discrimination faced by bisexuals and discussion of ILGA-Europe policy initiatives on behalf of bisexuals</i>	83
WS 10: <i>Working within political parties for LGBT rights</i>	90
WS 11: <i>ILGA-Europe’s finances, the development of ILGA-Europe, and plans for fund-raising</i>	93
WS 12: <i>Transnational exchange projects</i>	99
WS 13: <i>Working for transgender rights at the European level</i>	101
WS 14: <i>Equal sexualities at work</i>	103
WS 15: <i>Improving your fund-raising skills</i>	104
WS 16: <i>Some perspectives on Islam and the experience of being lesbian, gay, bisexual or transgender and Muslim in a West European environment</i>	106
WS 17: <i>Developing legal protection in areas other than employment and training</i>	109
WS 18: <i>The situation in selected Central and East European countries</i>	110
WS 19: <i>Empowering LGBT Muslim communities in Europe</i>	115
WS 20: <i>Asylum and immigration</i>	119
WS 21: <i>The ILGA-Europe Work Programme</i>	122
ILGA-Europe press release of 28 October 2002	123
Conference evaluation	124

<h1>PROVISIONAL TIMETABLE</h1> <p>Sessions shown in bold will be interpreted Portuguese/Spanish/English.</p> <p>Workshops with * deal with aspects of ILGA-Europe's work programme or other formal business, and are able to make recommendations to the final plenary session.</p>	
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Wednesday, 23rd October: ARRIVAL AND REGISTRATION

14.00 - 22.00	Registration of participants
17.30 - 19.00	Welcome and information session about ILGA-Europe, the European Union and the Council of Europe (Ailsa Spindler, ILGA-Europe executive director, and Mette Vadstrup, information officer)
19.00 - 20.00	Women's caucus 1
20.00 - 20.30	Chairing Pool selection
20.30 - 22.00	Dinner at hotel

Thursday, 24th October: CONFERENCE DAY 1

08.00 - 09.30	Breakfast at hotel
09.30 - 11.00	<p>OPENING PLENARY</p> <ul style="list-style-type: none"> - Adoption of Chairing Pool - Annual Report - Accounts - Announcement of election arrangements - Other internal ILGA-Europe matters
11.00 - 11.30	Coffee
11.30 - 13.00	<p>OPENING KEYNOTE SPEECHES</p> <p>Isabel de Castro (Member of Parliament, and Leader of the Green Party, Portugal)</p> <p>Jamila Madeira (Member of Parliament, and Leader of the youth section of the Socialist Party, Portugal)</p> <p>Professor Miguel Vale de Almeida (Member of Parliament for the Bloco Esquerda, Portugal)</p> <p>Teresa Nogueira (President of Amnesty International, Portugal)</p> <p>Messages of support from: Mario Soares, MEP, and former Prime Minister and former President of Portugal</p>

13.00 - 15.00	Lunch
15.00 - 16.30	Workshop 1: <i>Implementing protection from workplace discrimination at the national level*</i> (speakers: Dr Mark Bell and Ailsa Spindler; chair: Kurt Krickler)
15.00 - 16.30	Workshop 2: <i>Supporting the capacity development of LGBT movements in Central and Eastern Europe and the Caucasus</i> (speakers: Dennis van der Veur (COC Netherlands) and Maxim Anmeghichean (GenderDoc-M, Moldova); chair: Adrian Coman)
15.00 - 16.30	Workshop 3: <i>Lesbian organising in the Iberian Peninsula</i> (speakers: Fabiola Neto (Clube Safo, Portugal) and Beatriz Gimeno (General Secretary of FELG, the Spanish Federation of Lesbians and Gays); chair: Ali Jarvis (Stonewall Scotland)
16.30 - 17.00	Tea
17.00 - 20.00	City Tour (places limited – reserve at registration)
20.30 - 21.30	Dinner at hotel
21.30 - 23.30	Film/video show at hotel
Friday 25th October: CONFERENCE DAY 2	
08.00 - 09.30	Breakfast at hotel
09.30 - 11.00	Workshop 4: <i>Working to ensure maximum benefit for transgendered people from EU laws prohibiting discrimination based on gender*</i> (speaker: Dr Mark Bell; chair: Dr Nico J. Beger)
09.30 - 11.00	Workshop 5: <i>EU Enlargement*</i> (speakers to be confirmed; chair: Tatjana Greif)
09.30 - 11.00	Workshop 6: <i>Organising within trades unions to work for LGBT rights</i> (speakers: Carola Towle, UNISON, others to be confirmed; chair: Jackie Lewis) Representatives of Portuguese trades unions are invited to this session
11.00 - 11.30	Coffee
11.30 - 13.00	PLENARY PANEL 1: <i>The role of trades unions in implementing EU laws which prohibit sexual orientation and gender identity discrimination in the workplace</i> (speakers: Carola Towle (UNISON), Cécile Le Clercq (European Commission, Employment and Social Affairs DG), Dr Maria Gigliola Toniollo (CGIL, Italy), Dr Barry Fitzpatrick (Equality Commission for Northern Ireland); chair: Jackie Lewis) Representatives of Portuguese trades unions, and the media, are

	invited to this session
13.00 - 15.00	Lunch
15.00 - 16.30	Workshop 7: <i>Parenting rights under the European Convention on Human Rights</i> (speakers: João Mouta (Portugal), Philippe Fretté (France), Dr Robert Wintemute; chair: Nigel Warner)
15.00 - 16.30	Workshop 8: <i>From the Convention on the Future of Europe to the Intergovernmental Conference 2004*</i> (speaker: Dr Mark Bell; chair: Jackie Lewis)
15.00 - 16.30	Workshop 9: <i>Presentation of proposals on specific discrimination faced by bisexuals and discussion of ILGA-Europe policy initiatives on behalf of bisexuals*</i> (speaker: Dr Katrina Roen; chair: Dr Nico J. Beger)
16.30 - 17.00	Tea
17.00 - 18.30	PLENARY PANEL 2: <i>Promoting the rights of LGBT people using the human rights policies and mechanisms of the Council of Europe and the European Union</i> (speakers: Peter Schieder, President of the Parliamentary Assembly of the Council of Europe; Joke Swiebel, Rapporteur for the European Parliament on Human Rights in the European Union; Dr Robert Wintemute, Reader in Law, School of Law, King's College, London; chair: Ailsa Spindler)
18.30 – 18.45	Award ceremony with Peter Schieder
18.45 – 20.00	Caucus time <i>Transgender caucus</i> <i>Meeting of representatives from EU national co-ordination network</i>
20.30 – 22.00	Dinner at restaurant in central Lisbon
22.00 – 01.00	Women's party hosted by Clube Safo at ILGA-Portugal LGBT community centre
22.00 – 01.00	Guided tour of Lisbon's LGBT district
Saturday, 26th October – CONFERENCE DAY 3	
08.00 - 09.30	Breakfast at hotel
9.30 – 11.00	Workshop 10: <i>Working within political parties for LGBT rights</i> (speakers: Sérgio Vitorino (Grupo de Trabalho Homossexual do Partido Socialista Revolucionário, Portugal) and Miquel A. Fernández García (PSOE LGBT group, Spain)
9.30 – 11.00	Workshop 11:

	<i>ILGA-Europe's finances, the development of ILGA-Europe, and plans for fund-raising*</i> (speaker: Nigel Warner; chair: Kurt Krickler)
9.30 – 11.00	Workshop 12: <i>Transnational exchange projects*</i> (speakers: Mette Vadstrup, plus other conference participants involved in these projects)
11.00 - 11.30	Coffee
11.30 – 13.00	Workshop 13: <i>Working for transgender rights at the European level*</i> (speakers: Dr Nico J. Beger and Armand Hotimsky (Caritig, France); chair: Tiia Aarnipuu)
11.30 – 13.00	Workshop 14: <i>Equal sexualities at work</i> (speakers: Anette Sjödin (“Homosexuals and Bisexuals in the Care System”/RFSL-Sweden), Rolf Tengbratt (“Normgiving Diversity”/Swedish police) and Arjos Vendrig (“Enabling Safety for LesBiGay Teachers”/COC Netherlands)
11.30 – 13.00	Workshop 15: <i>Improving your fund-raising skills</i> (speaker: Ailsa Spindler)
13.00 - 15.00	Lunch
15.00 – 16.30	Workshop 16: <i>Some perspectives on Islam and the experience of being lesbian, gay, bisexual or transgender and Muslim in a West European environment</i> (speakers: Suhraiya Jivraj of the Safra Project (UK), Adnan Ali of Al-Fatiha (UK); chair: Nigel Warner)
15.00 – 16.30	Workshop 17: <i>Developing legal protection in areas other than employment and training*</i> (speaker: Ailsa Spindler; chair: Jackie Lewis)
15.00 – 16.30	Workshop 18: <i>The situation in selected Central and East European countries</i> (speakers: to be confirmed; chair: Adrian Coman)
16.30 - 17.00	Tea
17.00 -- 18.30	Workshop 19: <i>Empowering LGBT Muslim communities in Europe</i> (speakers: Suhraiya Jivraj of the Safra Project (UK), Adnan Ali of Al-Fatiha (UK); chair: Nigel Warner)
17.00 -- 18.30	Workshop 20: <i>Asylum and immigration*</i> (speakers: Dr Mark Bell and Ailsa Spindler; chair: Kurt Krickler)
17.00 -- 18.30	Workshop 21: <i>The ILGA-Europe Work Programme*</i> (presenter: Jackie Lewis; chair: Tiia Aarnipuu)
18.30 – 19.30	Women's caucus 2

20.30 – 21.30		Dinner at restaurant in centre of Lisbon
22.00 – 01.00		Farewell party
Sunday 27th October: CLOSING DAY		
08.00 - 09.30		Breakfast
09.30 - 11.00		FINAL PLENARY
11.00 - 11.30		Coffee
11.30 - 12.45		FINAL PLENARY
12.45 - 13.00		CLOSING CEREMONY
13.00 - 14.00		Lunch

BRIEF INTRODUCTION TO THE CONFERENCE PROGRAMME

PANEL SESSIONS AND WORKSHOPS

PLENARY PANEL SESSIONS:

Panel 1: The role of trades unions in implementing EU laws which prohibit sexual orientation and gender identity discrimination in the workplace

Discrimination in the workplace on the basis of sexual orientation and gender identity is prohibited respectively by the Employment Directive and the Equal Treatment Directive for Women and Men. The Employment Directive must be implemented at national level by December 2003, while an amended Equal Treatment Directive is also due for implementation at national level.

The panel session will look at the role of trades unions at the different stages of implementation. The Employment Directive requires governments to take measures to promote social dialogue between the two sides of industry (i. e. employers and unions) to encourage equal treatment. Some unions are already experienced in addressing LGBT rights; others have no history of this and have a steep learning curve. The role of unions is crucial in:

- bringing groups of LGBT workers together to identify key discrimination issues
- lobbying government from the perspective of LGBT members to achieve the strongest transposition of the directive into national law
- raising the awareness of employers and employees of the new rights in this legislation, for protection from sexual orientation discrimination and gender identity discrimination and for promotion of equality in the workplace
- making use of the legislation, once in place, to renegotiate agreements to take proper account of LGBT workers, to promote good workplace policies and practices and – where these fail – to fight individual cases of discrimination.

The panel session will be timed to come after more detailed workshops dealing with the two directives.

Panel participants: Carola Towle (UNISON, UK), Cécile Le Clercq (European Commission, Employment and Social Affairs DG), Dr Maria Gigliola Toniollo (CGIL, Italy), Dr Barry Fitzpatrick (Equality Commission for Northern Ireland). Representatives of Portuguese trade unions will also be invited to the session.

Panel 2: Promoting the rights of LGBT people using the human rights policies and mechanisms of the Council of Europe and the European Union

The speakers will give their views on the ways in which the Council of Europe and the European Union can promote LGBT rights, and the actions, which the LGBT community can take to make the most of the opportunities presented by these institutions.

Speakers: Peter Schieder, President of the Parliamentary Assembly of the Council of Europe; Joke Swiebel, Rapporteur for the European Parliament on Human Rights in the European Union; Dr Robert Wintemute, Reader in Law, School of Law, King's College, London.

WORKSHOPS:

Workshop 1: Implementing protection from workplace discrimination at the national level*

The EU's Employment Directive is perhaps the most important single piece of legislation in the history of our movement, requiring more than 20 countries to bring in laws banning sexual orientation discrimination at the workplace. ILGA-Europe is working to ensure its effective implementation at national level. The workshop will review progress in both the Member States and accession countries since the Rotterdam conference, and discuss plans for further activity on this front.

This workshop will be given by Dr Mark Bell (Leicester University, UK) and Ailsa Spindler, ILGA-Europe executive director.

Workshop 2: Supporting the capacity development of the LGBT movements in Central and Eastern Europe and the Caucasus

In recent years there have been a number of successful co-operation programmes between member organisations in Western and Eastern Europe, supported by government funding. The workshop will:

- look at the recent experience in one such co-operation programme (COC/Netherlands and GenderDoc-M/Moldova)

- look at developing a strategy for involving more West European LGBT organisations and their governments in providing support for LGBT organisations in CEE and the Caucasus.

Speakers: Dennis van der Veur (COC) and Maxim Anmeghichean (GenderDoc-M).

Workshop 3: Lesbian organising in the Iberian Peninsula

Lesbian organising is at very different stages in Portugal and Spain: in the latter, there are many years of experience, while in the former it is a relatively new development. The workshop will look at the experiences in the two countries, and share learning points with workshop participants.

The workshop will be given by Fabiola Neto (Clube Safo, Portugal) and Beatriz Gimeno, general secretary of FELG, the Spanish Federation of Lesbians and Gays.

Workshop 4: Working to ensure maximum benefit for transgendered people from EU laws prohibiting discrimination based on gender*

Following a judgment of the European Court of Justice, gender identity discrimination counts as gender discrimination for the purposes of EU law.

* Workshops dealing with aspects of ILGA-Europe's work programme, or other formal business, and able to make recommendations to the final plenary session.

Gender discrimination in employment is illegal under the EU's Equal Treatment Directive (sex discrimination). A recently revised version of this Directive (the "Amended Equal Treatment Directive (sex discrimination)") must now be implemented at national level, giving the opportunity to campaign for specific reference to gender identity discrimination in national legislation. Gender discrimination in areas outside employment, such as goods and services, health, housing etc., is also to be prohibited under a draft Directive put forward by the Commission. The legislative process around this Directive gives the opportunity to campaign for the inclusion of a specific reference to gender identity discrimination in this Directive – if successful, a "first" in international law.

The workshop will:

- summarise the European Court of Justice case referred to above
- look at the important opportunities offered by these directives for enhancing the rights of transgendered persons throughout the European Union and the accession countries, and at ILGA-Europe's plans for making the most of these opportunities.

This workshop is to be given by Dr Mark Bell (Leicester University, UK).

Workshop 5: EU Enlargement*

ILGA-Europe and its member organisations in the accession countries have, for several years, been working to use the process of enlargement to fight against sexual orientation discrimination in the accession countries. A key part of this work has been documentation of discrimination. The workshop will:

- summarise developments so far, including initiatives taken by MEPs and the European Commission
- review the findings of discrimination surveys carried out in a number of countries, including the Baltic States, Poland, Malta and Slovakia during the last year
- consider lessons learnt so far, and
- look at future plans.

The workshop is to be given by Ivo Prochazka (Czech Republic), Christian Attard (Malta), Eduardas Platovas (Lithuania), and Nigel Warner (UK).

Workshop 6: Organising within trades unions to work for LGBT rights

This workshop will look at the ways in which trades unions can and should support their LGBT members by:

- adopting policies opposing sexual orientation and gender identity discrimination and promoting equality, both within the union and the workplace
- encouraging LGBT people to join and become active in their unions
- supporting the development of LGBT groups within trades unions
- negotiating for LGBT equality with employers
- monitoring both best and worst practice
- supporting and representing members' where their rights are breached.

The workshop is aimed primarily at those who are already union members, although others are welcome. It will be a practical workshop that will take participants through the following stages:

- How would our ideal trade union be organised, to effectively tackle LGBT issues?
- Where are we now? Mapping the current policies, organisation and practices of the unions we belong to, in terms of work for LGBT equality.
- Identifying targets for change – short, medium and long-term
- Identifying allies and opportunities
- Planning a strategy.

The workshop will be given by Carola Towle (UNISON, UK) and Antonio Poveda (CGT, Spain). Representatives of Portuguese trade unions will be invited to take part in the workshop.

Workshop 7: Parenting rights under the European Convention on Human Rights

Since 1999, the European Court of Human Rights has given important judgments on two key issues: custody and adoption rights. The applicants in these two cases, João Mouta (Portugal) and Philippe Fretté (France), will be joined by Dr Robert Wintemute (School of Law, King's College, London), who helped with the legal preparation of Philippe Fretté's case, in a discussion of the legal implications of the two cases, and of their personal experiences of fighting discrimination in the courts. Peter Schieder, President of the Parliamentary Assembly of the Council of Europe, will be present for the workshop.

Workshop 8: From the Convention on the Future of Europe to the Intergovernmental Conference 2004*

The Intergovernmental Conference 2004 is likely to result in profound changes to the Treaties of the European Union. Issues which may be addressed include new goals for the EU's future, ensuring fundamental rights for all citizens, finding a new balance between national and EU politics, and increasing democracy and openness in the EU. The process leading up to the adoption of the new Treaties will provide important opportunities for pressing for LGBT rights. The first stage of this process, the Convention on the Future of Europe, is already well underway.

The workshop will outline the complete process up to the finalisation of the Treaties, and describe the key objectives which ILGA-Europe has already set out in its submission to the Convention, followed by a discussion on how we can campaign for the achievement of these objectives.

The workshop will be given by Dr Mark Bell (Leicester University, UK).

Workshop 9: Presentation of proposals on specific discrimination faced by bisexuals and discussion of IE policy initiatives on behalf of bisexuals*

ILGA-Europe has commissioned a policy paper which will:
identify the specific ways that bisexuals may face sexual orientation discrimination in the context of the EU's programme to fight discrimination

highlight those that are not already being addressed through ILGA-Europe's work on sexual orientation discrimination
include recommendations to ILGA-Europe regarding its own procedures as well as possible future actions.

The workshop will receive a presentation of the findings, which will then be discussed, particularly with regard to the development of future actions by ILGA-Europe.

This workshop will be given by Dr Katrina Roen, author of the policy paper.

Workshop 10: Working within political parties for LGBT rights

This workshop will look at recent experiences of working for LGBT rights within political parties in Portugal and Spain, and will share learning points from these experiences for others interested in this field.

The workshop is to be given by Sérgio Vitorino (Grupo de Trabalho Homossexual do Partido Socialista Revolucionário, Portugal) and Miquel A. Fernández García (PSOE LGBT group, Spain).

Workshop 11: ILGA-Europe's finances, the development of ILGA-Europe, and plans for fund-raising*

This workshop will look at ILGA-Europe's finances and development as an organisation, and plans for fund-raising.

The workshop will be presented by ILGA-Europe's treasurer, Nigel Warner.

Workshop 12: Transnational exchange projects*

The EU's Community Action Programme to combat discrimination funds some € 4-5 million of transnational anti-discrimination projects each year. The workshop will:

- explain the background to transnational exchange projects
- share the experiences of participants in the first round of projects
- discuss participation in second round of transnational projects (which will be launched in early 2003)
- collect feed-back on the overall workings of the programme, for passing to the Commission.

The workshop will also provide information about other EU funding programmes, such as the Daphne programme. The EQUAL programme is dealt with in workshop 14 below.

This workshop will be given by Mette Vadstrup (ILGA-Europe information officer) and representatives of member organisations involved in transnational exchange projects.

Workshop 13: Working for transgender rights at the European level*

This workshop invites all trans activists and everybody interested in ILGA-Europe's work on transgender to come and discuss future directions of the transgender work already undertaken by ILGA-Europe. The workshop shall fulfil two aims: firstly, a skills workshop in identifying transgender issues and on LGBT joint work. Secondly, an introduction to what IE can potentially do in relation to transgender rights and the development of a plan to form an European transgender network under the umbrella of ILGA-Europe.

The workshop will be given by Dr Nico J. Beger (ILGA-Europe board member) and Armand Hotimsky (Caritig, France).

Workshop 14: Equal sexualities at work

In the European Community funded EQUAL programme there are just four projects out of 1,510 dealing exclusively with sexual minorities in the labour market. These four (one Finnish, two Swedish and one Dutch) have created a transnational partnership: "Equal Sexualities at Work", to work together against discrimination in the workplace.

The workshop will:

- outline the European Community's EQUAL programme
- describe the objectives of the Equal Sexualities at Work partnership and of its four constituent projects
- consider plans for a mainstreaming conference aimed at setting goals for lobbying at the EU level around combating sexual orientation discrimination in the workplace
- encourage other LGBT rights organisations to become active in the field of employment rights.

This workshop will be given by Anette Sjödin ("Homosexuals and Bisexuals in the Care System", RFSL, Sweden), Rolf Tengbratt ("Normgiving Diversity", Swedish police) and Arjos Vendrig ("Enabling Safety for LesBiGay Teachers", COC Netherlands).

Workshop 15: Improving your fund-raising skills

Fund-raising skills are of vital importance to the success of LGBT organisations. Ailsa Spindler, ILGA-Europe's executive director, will share her experience as a professional fundraiser, with conference participants.

Workshop 16: Some perspectives on Islam and the experience of being lesbian, gay, bisexual or transgender and Muslim in a West European environment

The objective of the workshop is to raise the understanding of non-Muslim participants as to what it is like to be lesbian/gay/bisexual and Muslim in a West European environment. There will be two presentations:

- by Suhraiya Jivraj, the joint co-ordinator of the Safra Project (UK), on the key findings of the Safra Project Social Policy Report on the experiences of lesbian,

bisexual and transgendered women who identify as Muslim culturally or religiously include recommendations to ILGA-Europe by Adnan Ali of Al-Fatiha UK on his experience as a gay man within the Muslim environment and as a Muslim within the LGBT/wider community.

Workshop 17: Developing legal protection in areas other than employment and training*

An important long-term objective for ILGA-Europe is to persuade the European Union to adopt legislation prohibiting sexual orientation discrimination in areas outside employment such as the provision of goods and services, health, housing, etc. In 2001 ILGA-Europe published a policy paper on this issue.

The workshop will:

- outline the findings of the policy paper
- discuss ILGA-Europe's plans for the campaigning for such a directive.

The workshop will be given by Ailsa Spindler, ILGA-Europe executive director.

Workshop 18: The situation in selected Central and East European countries

It is planned that speakers from Azerbaijan, Belarus, Croatia and the Russian Federation will give information on the situation in their countries, their work for LGBT rights, and the ways in which the European LGBT movement can support the development of their communities.

Workshop 19: Empowering LGBT Muslim communities in Europe

This workshop will look at ways in which LGBT Muslim communities in Europe can be empowered by the wider LGBT community both at national and European level.

The speakers will be Suhraiya Jivraj, the joint co-ordinator of the Safra Project, Adnan Ali of Al-Fatiha UK, Kenneth Mac Rooij, COC (Netherlands) and Nigel Warner (ILGA-Europe).

Workshop 20: Asylum and immigration*

The EU's plans to harmonise its asylum and immigration laws, through a whole series of new directives, present numerous opportunities to try to achieve equal rights for LGBT people in these fields. Particularly important are two directives, one governing the free movement of EU citizens, and the second proposing a common definition of refugee status. Both provide opportunities to work for the recognition of same-sex partners and their families in European asylum and immigration law, while the latter opens up the possibility of gaining specific recognition as refugees of people persecuted on the basis of sexual orientation or gender identity.

The workshop will:

summarise the EU's plans for harmonisation of asylum and immigration laws,
and the current state of play

review ILGA-Europe's and its member organisations' campaigns in this field so
far

look at the continuing campaigns which are still needed if we are to make the
most of the immense opportunities presented.

This workshop is to be given by Dr Mark Bell (Leicester University, UK) and Ailsa
Spindler, ILGA-Europe executive director.

Workshop 21: The ILGA-Europe Work Programme*

An important piece of conference business is the review and agreement of the Work
Programme put forward by the board. This workshop will review elements of the Work
Programme not covered in other workshops, and discuss any amendments proposed to
the draft Work Programme.

This workshop will be presented by ILGA-Europe co-chair Jackie Lewis.

Minutes of Opening Plenary

Thursday, 24 October 2002, 9.30-11.30

Chair: Jackie Lewis, co-chair of the ILGA-Europe executive board, for items 1 and 2; then Ali Jarvis and Coen van Gestel, members of the chairing pool

Minute-taker: Pierre Noël (Belgium)

(Interpretation was provided in English, Portuguese and Spanish.)

1. WELCOME

Jackie Lewis greeted the participants to the conference on behalf of ILGA-Europe and introduced Kurt Krickler, co-chair of the ILGA-Europe executive board, Ailsa Spindler, executive director of ILGA-Europe, and António Serzedelo, president of the host organisation, Opus Gay. She explained the photography policy and what space in the room was “photography free”.

2. PROCEDURAL ARRANGEMENTS

Election of chairing pool: Delegates had gathered on Wednesday, 23 October at 20:00 to proceed with the provisional selection of the members of the chairing pool, which takes charge of the running of the conference while it is in session. The Conference approved the recommendation received from this chairing pool selection meeting as follows: Tatjana Greif (SKUC-LL, Slovenia), Anabela Rocha (Opus Gay, Portugal), Ali Jarvis (Stonewall Scotland, UK), Armand Hotimsky (Caritig, France), Coen van Gestel (COC, Netherlands) and Renato Sabbadini (Arcigay, Italy); Louise Ashworth (Unison NGLC, UK) and Gerhard Grünh (Iglf Cologne, Germany) were elected as reserve members of the Chairing Pool.

Voting cards could be collected from the administrative officer, Olivier Collet, in the office of the conference.

3. ELECTION OF ELECTION OFFICERS AND TELLERS

The chair indicated that two nominations had been received for the positions of election officers: Miquel Fernández (FELG, Spain) and Inge-Lise Paulsen (LBL, Denmark). The conference approved the nominations.

Four people volunteered to be tellers: Yves de Matteis (360 degrés, Switzerland), Søren Baatrup (LBL, Denmark), Denia Yeshua (Union of Students in Ireland – LGB Rights) and Brian McDonnell (AI-UK). The Conference approved their designation as tellers.

4. PRESENTATION of the BOARD ACTIVITY REPORT 2001/2002

Kurt Krickler and Jackie Lewis introduced the report, which had been circulated with the third mailing prior to the conference, and indicated that there would be space in the various workshops to tackle issues related to background

information. Formal adoption of the report would take place at the final plenary session of the conference.

However, certain elements of the report deserved to be highlighted: since the last regional conference, ILGA-Europe had been able to recruit an executive director and a policy and research officer, which meant that a full team was now in place and could do work that lack of human resources had made impossible so far. One example was ILGA-Europe's web-site, which had been redesigned to serve better the needs of ILGA-Europe and its constituency, as well as outsiders, whether LGBT groups or other, looking for information on issues of interest to them. In the same line, the executive board would see to developing a resource centre on discrimination for ILGA-Europe and its member organisations, as well as to expanding its work in relation with third countries and other ILGA regional organisations.

Although this expansion had gone together with a considerable increase in funding by the European Commission (around 500,000 €), ILGA-Europe still needed to do fundraising in order to a) meet its obligations in terms of co-financing and b) expand its activity beyond the realm of the European Union. Another salient point was the reinforced co-operation with the Council of Europe, since Peter Schieder, an Austrian MP, had become President of the Parliamentary Assembly of the CoE; Peter Schieder had agreed to be the patron of the Lisbon Conference and would take part in a plenary panel on Friday, 25 October.

Jackie Lewis presented a supplementary report concerning a technical change to be made in the first section of the Constitution in order to complete the registration process of ILGA-Europe as a non profit international non governmental organisation under Belgian law (for the full text see p. 18 of this report). Queries could be put forward during workshop 21, dedicated to the ILGA-Europe work programme (Saturday, 26 October, 17:00). The conference would be asked to approve this with the annual report.

Jackie Lewis indicated that Mette Vadstrup, ILGA-Europe's information officer, was leaving her position as of 15 November. The conference thanked Mette for her work and wished her well in her future endeavours. The vacant position had been announced on the web-site, and applications could be sent until 15 November. As for board members, Adrian Coman (ACCEPT, Romania) was leaving after a number of years; the board wanted to pay tribute to him for his contribution to ILGA-Europe's development.

5. FINANCIAL MATTERS

Nigel Warner presented the audited accounts for 2001, which had been circulated in the third mailing prior to the conference and published in a shorter version in the Activity Report, as well as the current financial state of affairs. He expressed confidence that ILGA-Europe would break even in 2002. He also presented the draft budget for 2003; the amount of 500,000 € should be typical of the few years to come. These documents could be discussed in more details at workshop 11 (Saturday, 26 October, 9:30); this workshop would also tackle the

issue of fundraising. The conference would have to approve the financial reports during the last plenary session.

Nigel Warner introduced the formal proposal circulated by the executive board with the third mailing concerning the appointment of an auditor (see proposal 2 under "Conference proposals and amendments"). The conference approved the appointment of Ms van Begin as the auditor for ILGA-Europe for 2002.

6. ILGA-EUROPE BOARD AND WORLD BOARD ELECTIONS

The election officers reminded the delegates that the third mailing contained notice of the nominations for positions on the ILGA-Europe executive board and the ILGA(-World) executive board.

Since four nominations had been received for the four female positions on the ILGA-Europe executive board, the four nominees were deemed elected: Nico Beger (Lesbenbereich Bündnis '90/Die Grünen, Germany), Tatjana Greif (SKUC-LL, Slovenia), Tiia Aarnipuu (SETA, Finland), and Jackie Lewis (UNISON NLGC, UK).

Nominations could be made during the Conference for female reserve member.

Since five nominations had been received for the four male positions on the ILGA-Europe executive board, there would have to be an election at the plenary on Sunday. Details of the election process would be announced later.

For the ILGA(-World) executive board, both nominees (one man and one woman) were deemed elected, since one nomination per seat had been received. Nominations could be made during the conference for reserves.

Nomination forms would be distributed subsequently, along with details concerning the deadline for submission.

7. PROCESS FOR SELECTING THE VENUE FOR THE 2004 ANNUAL CONFERENCE

It was indicated that the chairing pool will allocate some space in a later session for presentation of the different venue proposals. Voting would take place in the final plenary session.

8. INTRODUCTION TO THE CONFERENCE PROGRAMME AND PRESENTATION OF PROPOSALS TO THE CONFERENCE

The executive director introduced proposals 1 and 3 circulated with the third mailing prior to the conference (See "Conference proposals and amendments"), as well as the conference programme. She introduced the conference programme, containing description of plenary panels and workshops. Workshops with an asterisk can make recommendations to the plenary for amendments to the work programme of ILGA-Europe for the year to come.

The session ended at 11:15.

ACTIVITY REPORT 2001/2002 (28 October 2001 – 23 October 2002)

Supplementary Report

As reported to the Regional Conference held in Rotterdam, October 2001, ILGA-Europe was registered as an international non profit non-governmental organisation in August 2001. In accordance with the mandate given to it by the founding Regional Conference of ILGA-Europe, held in Madrid in 1996, the Executive Board had made technical changes in the text of the Constitution, in order to meet the requirements of Belgian law and the Belgian authorities.¹ To complete registration, necessary documents, including the text of the Constitution, had still to be published in the official journal of Belgium, the *Moniteur belge*.

It became apparent, however, that the formulation of the first clause of Section A had been mistaken by the Belgian authorities as to mean that the acronym ILGA applied to the European Region of the International Lesbian and Gay Association. The Executive Board has therefore agreed that further minor technical changes should be made to section A in order to clarify the situation and complete for good the registration process of ILGA-Europe. These changes are as follows:

- paragraphs A.1 and A.2 of the Constitution, which read;

“1. Hereby a non profit international non governmental organisation called the European Region of the International Lesbian and Gay Association (ILGA), hereafter called ILGA-Europe, is established.

2. ILGA-Europe is the regional organisation for the European region of ILGA.”

should read;

“1. Hereby a non profit international non governmental organisation called the European Region of the International Lesbian and Gay Association, hereafter called ILGA-Europe, is established.

2. ILGA-Europe is the European regional organisation of ILGA, the International Lesbian and Gay Association.”

The Executive Board will notify the Belgian authorities of these changes following this Conference, together with any changes in the composition of the Board (as we are required to do by law).

The Conference is asked to approve this.

¹ Both linguistic versions of the Constitution, French and English, were published on ILGA-Europe's website. The French text is the text recognised under Belgian law.

Minutes of Second Plenary Session

Thursday, 24 October 2002, 11.30-13.00

Chair: Anabela Rocha and Renato Sabbadini

Minute-takers: Pierre Noël (Belgium) and Yves de Matteis (Switzerland)

(Interpretation was provided in English, Portuguese and Spanish.)

The Chair reminded the participants of the photography policy.

The Conference heard messages of support from Mario Soares (MEP, former Prime Minister and former President of Portugal), João Soares (MP, former mayor of Lisbon), Ilda Figueiredo (MEP, PCP) and Anke Hintjes (Federatie Werkgroepen Homoseksualiteit, Belgium).

The following people gave keynote speeches:

António Serzedelo (Opus Gay) greeted the participants to the conference. He noted that Portugal is moving on a modern path despite difficulties in everyday life and that the conference was a major event in terms of its political, social and media impact; it should also be a landmark in building democracy.

However, the status of human rights, including in particular LGBT rights, could be still greatly improved in Portugal. National legislation had indeed been reinforced thanks to support from left wing parties, but political leaders are still mostly unaware of the issue and the lack of a European political culture makes progress slower.

Moreover, Portugal has not started public consultations on the legislation deriving from the Framework Employment Directive adopted at the European level. The only existing governmental agency fighting discrimination is understaffed and only deals with racism. Discriminatory laws still exist in age of consent provisions. The present government, which was in power 10 years ago, does not seem to understand that Portugal and the European Union have changed in the meantime. Portuguese citizens do not want to have to be ashamed of their country.

Miguel Vale de Almeida (Bloco Esquerda) emphasised that Portugal is currently ruled by a right wing government hostile to LGBT rights. This situation is an added challenge for youth. The specificity of Portugal in Europe has to do with the fact that the country has gone through 50 years of dictatorship in the 20th century and has become a member of the European Communities in 1986 only. In recent years, it has changed enormously in terms of social movements and diversity, although Portugal remains a catholic country with strong family structures and citizenship is exercised way below the average known elsewhere in the European Union. This social development has gone together with economic growth and consumerism, which has created a twisted modernisation, rather than true development and consolidation of a democratic culture.

The LGBT movement plays a precious role in filling this gap. On the political arena, the left had traditionally organised around two parties, the socialists and the communists, which have not been able to deal with LGBT issues for political and ideological reasons. Bloco Esquerda is a new party on the scene, small but extremely active in the Parliament. It is part of the new left that recognises that sexuality is not just an issue of privacy or intimate life, but also a political issue, with gender being the basic structure of inequality.

In Portugal, actions taken at the European level have been helpful to set the agenda. However, national legislation still needs to be improved; with the support of the socialist party, Bloco Esquerda has been engaged in the drafting of laws fighting domestic violence, decriminalising abortion and instituting civil union for same sex couples. The Constitution also needs to be amended in order to ban discrimination based on sexual orientation. Other steps to be taken include the implementation of a non heterosexist and non religious education in schools.

The Portuguese LGBT movement is young. Moreover, it faces the hostility of a right wing government which focuses on neo-liberal policies, undermines the social security system, promotes nationalism, undermines the rights of migrants and women, brandishes the banner of morality and does not have an HIV/AIDS policy. However, if left and right can be criticised, the LGBT identity politics may be questioned. It has helped to provide a safe space for people confronted with patriarchy and homophobia, but it should not prevent the LGBT movement to pay attention to changes in political thought and practice and ally with the left to promote plurality of identities. Two movements here can meet: the LGBT movement and the political left, since neo-liberal policies go hand in hand with neo-conservative policies in the fields of gender, family and sexuality. The outcome of the Lisbon Conference will help sectors of the Portuguese society to understand that homophobia must be fought in minds, society and institutions.

Jamila Madeira (MP, Youth Section of the Socialist Party) indicated that considerable legislative developments had been registered in recent years, but a wide diversity of laws still needed to be consolidated and anti-discrimination legislation still needed to be implemented in everyday life. Given the current political situation in Portugal, the left opposition does not suffice to prevent steps backwards. Equality in work related matters, legislation on de facto unions and other legal provisions are not being promoted. There is even concern that there is currently a backlash in family and religious matters. Sexual education in schools is now on the back burner. What has been achieved in the last six years might be in peril.

This is why there is a need to work on anti-discrimination legislation and education. In the meantime, the Portuguese society has opened its eyes to the importance of equality of rights between all citizens. Its support is necessary in order to promote the steps and objectives explained above. This social space is a necessity for all European citizens, including Portuguese, even if they are far away from the centre of Europe.

The European directive on employment paves the way to further steps forward in civil rights and the idea of a mandatory Charter of Fundamental Rights is only temporarily postponed. The youth section of the Socialist Party will work with its partners to it, with the understanding that the key to changing behaviours in society is to mobilise the society.

Teresa Nogueira (President of Amnesty International Portugal) reminded the participants that AI was born because two citizens, during the dictatorship of Salazar, had made a toast to freedom, and were consequently arrested by the police. This prompted others citizens to react, and resulted in the creation of AI in London. Everywhere people are abused, discriminated against or vilified, due to their sexual orientation. In more than 70 countries, homosexuality is illegal, resulting in abuse, torture and even sometimes death. There is silence around these abuses, and the people guilty of such abuses remain often unpunished. Arbitrary arrest, detention and execution due to homophobic laws are noted in Saudi Arabia, Egypt and many other countries, as well as illegal executions in Latin America,

Brazil, etc., perpetrated by state or non-state actors. The work done around LGBT issues has, therefore, to be part of all the efforts made by AI to have human rights respected. The mandate of AI has been enlarged, in 2001, to social, political and economical rights, including LGBT issues, which remain controversial: not all members of AI committees do understand why AI has to work in the LGBT field. Nevertheless, AI has been working for a long time – since 1979 – recognising that incarcerating human rights defenders, including defenders of sexual minorities, was against human rights. Gradually AI has collected material and edited manuals and books relevant to LGBT rights, like “Breaking the Silence”.

In 1995, a new international board decided to specifically denounce torture based on sexual orientation. In 1998, the US campaign included LGBT issues. AI also takes into consideration asylum seekers who were persecuted solely on the ground of their sexual orientation, while this not true of the refugee policies of many countries.

As far as AI-Portugal is concerned, it published in 1999 a manual on how to organise campaigns around LGBT issues and made that same year LGBT issues a priority.

It also organised a conference during the gay pride, which resulted in the creation of new groups and networks. Concerning the Queen Boat case in Egypt, AI-Portugal went to the Portuguese foreign office, hoping to link the issue to the economical negotiations between the EU and Egypt.

Finally, AI-Portugal also thinks that LGBT issues should be addressed in schools, so as to give the possibility to people discovering their sexual orientation to deal with it.

Isabel de Castro (MP, leader of the Green Party) reiterated that nothing can justify discrimination or the violation of human rights, including those of LGBT people. Human rights are universal and are valid in China, Portugal, USA, Saudi Arabia or any other place. They are indivisible as well, and include not only civil and political rights, but also cultural, social and economical rights, even if this multiplicity has been ignored in many countries for many years.

The first important discussions about LGBT issues in Portugal were initiated by the Green Party around the idea of “family” in 1987. The notion of “family” as stated in the Portuguese Constitution is an extended one, and not limited to married couples with children. Attempts were made by the Greens to include LGBT families in this framework in 1987, and repeatedly thereafter in 1992, 1994 and 1996.

Still, in 1997, an anti-discriminatory provision was included in the Constitution (Article 26) to protect persons on grounds of their “identity”, which, as a result, protects LGBT people as well. A similar attempt was also successful at the level of the EU with the Treaty of Amsterdam, which includes specifically a provision to combat discrimination based on sexual orientation.

Since 1994, de facto unions are protected (family care, taxes, health insurance, housing, etc.). The first proposals, put forward by the Socialist Party, the Communist Party and the Green Party, were supposed to include same-sex couples, but the Socialist Party finally imposed a formula excluding homosexuals from the law. In 1999, however, two other specific laws were accepted to address the issues of common economical interests and same-sex couples.

The Greens also have addressed two issues. Firstly the conditions required for entering the police, which banned homosexuals, associating them with mentally unbalanced people. A similar disposition to enter the armed forces also banned homosexuals, considering them to fall under the definition of “immoral behaviour”. Both these conditions, after being criticised by the Greens in the frame of two draft bills, were withdrawn before any discussion could happen on the parliamentary level.

Kürsad Kahramanoglu (co-secretary general of ILGA) highlighted the role of trade unions, of which too few still are members of ILGA, in LGBT issues and the intensification of Islamophobia after 9/11, which the situation even more dire for gay Muslims campaigning actively for LGBT rights.

On its side, ILGA, which will celebrate its 25th anniversary in 2003, is accelerating its regionalisation process. ILGA-LAC, the Latin American and Caribbean region of ILGA, has benefited from a special programme funded by the European Commission and managed by Oasis (Guatemala); the project includes 10 Latin American and Caribbean countries. On another continent, Asia, the first ever ILGA regional conference was held in India this month of October. Asia will also host the next World Conference of ILGA, in Manila, the Philippines, from 6 to 13 November 2003.

Kürsad informed the conference that, after having served two consecutive mandates, he would not seek another mandate as co-secretary general of ILGA after Manila.

Minutes of Final Plenary – Part 1

Sunday, 27 October 2002, 10.00-11.00

Chair: Tatjana Greif, Armand Hotimsky

Minute-taker: Jim Mearns

(Interpretation was provided in English, Portuguese and Spanish.)

1. WELCOME

Tatjana welcomed everyone to the final plenary session of the conference. She reminded delegates that they would need their voting cards and ballot papers for this session and to collect them if they had not already done so. She stated that delegates should be aware of a mistake on the ballot papers. Rather than “select four candidates” the papers should have stated “select *up to* four candidates”.

2. ADOPTION OF REPORTS AND BUDGETS

Conference agreed to:

- adopt the Board Report for 2001/02 and the Supplementary Report presented at the first plenary
- approve the accounts for 2001
- approve the budget for 2003.

3. ELECTION OF BOARD MEMBERS

Miquel Fernández and Inge-Lise Paulsen formally presented the list of candidates seeking election as office bearers to the ILGA-Europe board. Conference noted that it had already received the names of nominees and nomination papers. The uncontested election for the women’s places (only four candidates for four places) was noted and the successful candidates (Nico Beger, Tatjana Greif, Tiia Aarnipuu and Jackie Lewis) were approved.

There being five men seeking four places (Maxim Anmeghichean, Moldova; Riccardo Gottardi, Italy; Kurt Krickler, Austria; Pierre Noël, Belgium; and Nigel Warner, UK) an election was necessary. Those candidates present (Maxim, Kurt and Nigel) gave short presentations on why they wished to be elected. As Pierre had had to leave early and Riccardo was ill and unable to attend, their election addresses were read by others. Delegates were asked to complete their ballot papers and tellers were requested to be ready to collect and start the count. The meeting continued while the papers were taken to be counted.

The meeting agreed to elect the two women (Ali Jarvis, UK; and Sonja Casha, Malta) who had volunteered for the positions of reserve members to the ILGA-

Europe and ILGA-World board respectively, and thanked them for coming forward. No one sought the nomination for male reserve member to the ILGA-World board.

4. PROPOSALS TO CONFERENCE

Tatjana reminded delegates that the proposals to the conference had been issued earlier. She then read out the first proposal, "Equality for All", which had been put forward by the UNISON National Lesbian and Gay Committee. The Conference agreed the proposal without further discussion.

The second proposal, "Work Programme for 2002-03", put forward by the board, was read out. Jackie Lewis was asked to present any additional recommendations made at workshop 21 which had been specifically held to discuss this work plan. Jackie pointed out that relevant minutes were available and delegates were asked to collect these from a side table. Jackie reported that the workshop had agreed to recommend the approval of the work programme without amendment but had felt that it should be pointed out that the work programme was not simply a "to-do list" but a mandate for the board to oversee and implement the work it referred to. She further explained that the workshop had felt that the board should review the format of the work programme in order to make the whole process more transparent and clear to people.

Jackie reported that the workshop had highlighted two specific areas of work for the coming year:

- Member groups should work hard to ensure LGBT issues were on the agenda for the 2004 European Parliament elections
- The board should give a higher priority to working with Peter Schieder's office.

The workshop had also discussed proposal 1, "Equality for All", and the board Supplementary Report and had no comment to make.

The conference accepted the Work Programme proposal and the recommendations of the workshop reported by Jackie Lewis.

5. AUDIENCE PROPOSALS

Ali Jarvis presented the conference with three proposals from the floor:

- that Conference send a letter to the Portuguese Government expressing concern over the delays in implementing the European Court of Human Rights' decision to allow Mr João Salgueiro da Silva Mouta access to his daughter and urging the Government to implement this ruling immediately;
- that Conference write to the European Disability Forum, expressing ILGA-Europe's support for EDF's Madrid Declaration.

- that Conference write to the Croatian Government expressing support for its proposed recognition of same-sex partnerships (due to be discussed in the Croatian Parliament on 1 November) and acknowledging the work done by the Ministry of Social Welfare and local LGBT groups on this issue.

Conference agreed to each of these proposals.

6. APPROVAL OF MINUTES

The conference formally approved the minutes of the opening and later plenary sessions which had been distributed.

The conference then broke for tea. Ailsa Spindler reminded delegates to complete the conference evaluation sheet and to return their badges before leaving.

Minutes of Final Plenary – Part 2

Sunday, 27 October 2002, 11.30-13.00

Chair: Tatjana Greif, Armand Hotimsky

Minute-taker: Maxim van Ooijen (COC Nederland, Netherlands)

1. ANNOUNCEMENT OF THE ELECTION RESULTS

Number of ballots: 66

Number of votes cast on each of the candidates:

Nigel Warner (Stonewall Immigration Group, United Kingdom)	57
Kurt Krickler (HOSI Wien, Austria)	54
Maxim Anmeghichean (GenderDoc-M, Moldova)	47
Riccardo Gottardi (Arcigay Pride!, Italy)	39
Pierre Noël (Tels Quels, Belgium)	37

As a result the candidates Nigel Warner, Kurt Krickler, Maxim Anmeghichean and Riccardo Gottardi are elected as member of the board of ILGA-Europe. Pierre Noël is elected as the reserve member.

2. CONFIRMATION OF THE ELECTION OF EUROPEAN MEMBERS ON THE BOARD OF ILGA-WORLD

The conference approves the candidature of Jackie Lewis (UNISON National Lesbian and Gay Committee, United Kingdom) and Yves de Matteis (360°, Switzerland) as the European representatives on the ILGA-World executive board.

3. ELECTION OF THE HOST ORGANISATION FOR THE 2004 REGIONAL CONFERENCE

The four candidates each put their bid forward:

Barcelona The candidature will be withdrawn in favour of the other candidates. In the period April to July 2004 a number of conferences will be held in the city as a part of the UNESCO-sponsored "Conference of Cultures". As the ILGA-Europe year goes from October to October, Coordinadora Gai-Lesbiana proposes a special human rights conference to take place within this period. Further information on this conference will follow. All ILGA members are invited to attend the conference.

Budapest The city is a candidate as a result of the accession of Hungary to the EU in 2004. The conference will be held in the European Youth Centre in Buda. Háttér Társaság a Melegekért is looking forward to welcoming ILGA-Europe in their city.

Copenhagen Landsforeningen for bøsser og lesbiske (LBL) is withdrawing the candidature of Copenhagen in favour of Budapest. This is a result of a lengthy discussion within the Danish delegation: they did not want to lose another election and they were convinced of the fact that the conference (after three years in Western Europe) should take place in Central or Eastern Europe.

Vienna HOSI Wien decided to be a candidate because it was thought it would be important to have the conference in Central or Eastern Europe after three years in Western Europe, but was not aware of Háttér putting forward a bid. With Budapest being a candidate, HOSI Wien is happy to withdraw its bid in favour of Budapest and offers to be the back up in the case Hungary was not a member of the EU in 2004.

At this point a discussion arose on the difficulties to host the conference in a non-EU country. The European Commission will apparently not support financially a conference held outside the EU. This will make it very difficult for LGBT organisations in countries like Ukraine, Moldova and Croatia to organise the conference and be an equal part of the broader LGBT movement in Europe. A number of delegates urged the board to make looking for other sources of funding a priority and also asked the European Commission if the EU would be willing to support a conference outside the EU.

A next discussion concerned the “lack of democracy” within the conference. Some delegates questioned the fact that there were no real elections, because three of the four candidate cities withdrew. Also there were practically no motions and amendments and no elections for the charring pool. They had a problem with the decision-making process in ILGA-Europe.

It was stated that the withdrawal of the candidates was a choice made by the member organisations themselves. It was also stated that amendments and motions were a responsibility of the member organisations. The board would welcome the discussion but concluded at this moment that the members and the board agreed upon the major subjects and on the direction that ILGA-Europe should follow.

A further point made by some delegates was that they felt that the conference seemed more to be a training course than a conference. As a result of the EU enlargement there are a lot of legal issues to discuss. As a result of that there is no attention being paid to the interaction between the European level and the local level.

A board member stated that all comments were heard. For the first time at a conference, evaluation papers have been issued. The board urges all participants to give their opinion on the conference as a whole and on the separate parts of the conference.

Furthermore the board would very much welcome membership participation in selecting topics for the future conferences and in reviewing the ILGA-Europe activities and policies.

The final discussion concerned the choice of the host city for 2004, since there only remained one candidate. A proposal to first vote on the proposal (Budapest with Vienna

as back up), and then take the opportunity to vote for making no choice at all, was not agreed.

Finally the proposal was that the conference be held in Budapest (with Vienna as back up). This was decided with 53 votes in favour and no votes against.

4. CLOSING CEREMONY AND THANK YOUS

The board thanked the speakers to the conference (Prof. Miguel Vale de Almeida, Jamila Madeira, Teresa Nogueiro, Isabel de Castro, Kürsad Kahramanoglu, Cécile Le Clercq, Maria Gigliola Toniollo, Carola Towle, Barry Fitzpatrick, Peter Schieder, Joke Swibel and Robert Wintemute), the members of the chairing pool, the interpreters, the sponsors, and the host organisation Opus Gay and its volunteers.

As a thank you to Opus Gay the conference members presented the host with a new printer/fax/photo copier.

Opus Gay thanked ILGA-Europe and the member organisations for their support and stated that this conference had been and will be a great boost to LGBT emancipation in Portugal.

The conference thanked the outgoing board members and welcomed the newly elected board members.

By tradition the ILGA-Europe flag with the logos of the previous host organisations was handed over by Opus Gay to the host organisation, Stonewall Scotland, for the 2003 conference in Glasgow.

Also keeping in line with tradition the conference ended with a song, this time with the Italian resistance song "Bella ciao".

See you all next year in Glasgow!

Minutes of Plenary Panel 1

Friday, 25 October 2002, 11.30-13.00

THE ROLE OF TRADES UNIONS IN IMPLEMENTING EU LAWS WHICH PROHIBIT SEXUAL ORIENTATION AND GENDER IDENTITY DISCRIMINATION IN THE WORKPLACE

Chair: Jackie Lewis

Minute-taker: Pierre Noël

(Interpretation was provided in English, Portuguese and Spanish.)

Jackie Lewis reminded the audience of the framework directive adopted by the European Union to ban discrimination based on the grounds listed in Article 13 of the Amsterdam Treaty in employment matters and introduced the speakers: Cécile Le Clercq (Anti-discrimination Unit, Employment and Social Affairs DG, European Commission), Maria Gigliola Toniollo (Confederazione Generale Italiana del Lavoro - CGIL), Carola Towle (National Lesbian and Gay Officer at UNISON), Barry Fitzpatrick (Head of Legal Policy and Advice, Equality Commission for Northern Ireland).

This panel should serve as an encouragement for trade unions to pick up LGBT issues. The letter received from the general secretary of the European Trade Union Confederation (ETUC), Emilio Gabaglio, and circulated to participants is a landmark in that it commits ETUC to the fight against all forms of discrimination, including discrimination on grounds of sexual orientation and gender identity.

Cécile Le Clercq explained that the priority of the Commission was to ensure full and efficient transposition of the two EU directives addressing discrimination (employment/racism) and valued the contribution of civil society, NGOs and trade unions. They have all to take part in the consultations requested by the directives with regard to their transposition into national legislation, to lobby with governments for full transposition and, for trade unions more specifically, to ensure that provisions contrary to the principle of equal treatment in collective agreements between employees and employers are declared nil and void.

After transposition is done, the focus will shift to enforcement. In this field, NGOs and trade unions can also make alliances, in terms of assistance to victims (by setting up an independent monitoring agency) and social dialogue (the directive encourages social partners to go beyond the requirements in the directive). There are (still too few) examples of such co-operation: in June 2001, a code of conduct was agreed by social partners in the sector of hairdressing services, which is the most comprehensive agreement so far at European level. This agreement is not binding, but it goes beyond Article 13 and, while gender identity is not explicitly covered, it bans discrimination on "any ground". In June 2002, Volkswagen also agreed a code of conduct at world wide level; another recent development is the collective agreement made by Norske Skog (paper industry), which explicitly commits both parties to the respect of human rights and contains an equal opportunity clause.

In order to monitor the efficiency of anti-discrimination legislation on the workplace, the Commission is thinking of personal data collection. The issue is sensitive and very

controversial, which is why the contribution of the trade unions to the discussion is crucial. If this way is abandoned, alternatives should be sought.

Also, it is important that affiliates of (inter)national trade union federation have the lgbt issues on their agenda in order to make them visible at national level.

Maria Gigliola Toniollo explained that CGIL began 10 years ago to fight lgbt discrimination and cater to transgender people who had no place to go for support. The idea was not to work for a “minority”, but to help people to reach self-determination and be able to make choices.

CGIL’s statutes were amended to include sexual orientation and gender identity, and other official documents of the trade union address the issue of recognition of same-sex couples and transsexual/transgender issues. Still, her experience is that she needs to explain again and again to fellow trade unionists that her office (Ufficio Nuovi Diritti [New Rights Office] actually serves the interests of all. As for other trade unions, CGIL is the only one to tackle lgbt issues.

Her office succeeded in supporting transgender people, through combating cultural biases (in the eyes of media and public opinion, transgender and prostitution go hand in hand), providing assistance to those seeking hormone treatment or surgery (the increasing privatisation of health care in Italy makes treatment less accessible) and working at better legislation on name change.

Carola Towle² recalled the basic principles of trade unionism, i.e. solidarity, justice and equality, collective action and effective organisation, and underlined that they all apply to lgbt work. However, trade unions tend to be bureaucratic, slow to change; they reflect a cross section of society and are thus not immune to prejudice. Their work on equality is sometimes limited to gender and race issues. In that context, the employment directive has been a major breakthrough, since it specifically calls for collective agreements; it provides the right to bring cases and it imposes a duty on trade unions not to discriminate themselves.

The path that UNISON has followed in lgbt issues has been to obtain a commitment of the whole union to tackle discrimination, to write the right to organise along lgbt lines into union rules, to give resources for lesbians and gay men at national, regional and branch level, to confer lgbt instances the right to be consulted by other parts of the union, to recognise the diversity of lesbians and gay men, to network with other unions, union bodies and lgbt groups and... to affiliate to ILGA. The underlying aim was not only to defend workers but also, no less importantly, to prevent discrimination.

Carola underlined that after years of lonely struggle, two thirds of unions, including all the big unions, sent delegations to the TUC lgbt conference. An important event to come was the “Workers Out!” conference in Sydney.

Barry Fitzpatrick³ elaborated on external and internal factors relevant for collective bargaining and equal opportunities, as well as on direct and indirect discrimination. The bargaining process includes a pre-agreement stage, where awareness has to be promoted inside the trade union, an agreement stage, which is where lgbt rights are integrated into the equality agenda, and a post-agreement stage, where more training, monitoring and co-ordination with other equality interest groups or equality agencies is necessary. It is important to remember always that there must not be a hierarchy in discrimination grounds. There must be equality of the inequalities!

² A copy of the slides used for this presentation was distributed to all participants, see also p. 33.

³ A copy of the slides used for this presentation was distributed to all participants.

The audience raised a few issues. The panellists responded with the following comments:

The European Commission is not ready yet to draft new directives expanding the European anti-discrimination legislation because the two current directives were such an achievement and such a piece to “digest” still that it would take some time before going further. However, the lgbt movement can push for more through provisions of the EC and EU Treaties relating to freedom of movement for people.

A suggestion from Kürsad Kahramanoglu to record the work of ILGA-Europe in trade union matters, including this panel, and make it available to e. g. the Sydney Conference was well noted.

Indirect discrimination is indeed a major issue and most probably the most frequent manifestation of discrimination. It makes it difficult to monitor and fight. Also, very often, victims of such discrimination come too late to their trade unions for support.

Concern was expressed over the religious exemption provided for in article 4 of the framework directive. However, this provision does not mean that direct discrimination is legitimate, and it only applies to existing law, not to new laws being enacted. Also, it is not invoked by all member states. Altogether, it is a difficult issue to be monitored closely by the lgbt movement.

PLENARY PANEL 1 – PRESENTATION BY CAROLA TOWLE:

ILGA-Europe Conference
Lisbon 2002

Trade unions and the EU Employment Directive
UNISON

Trade unions and the Employment Directive

Presentation by Carola Towle
UNISON Lesbian and Gay Officer



What is a trade union?

Trade unions and the EU Employment Directive
UNISON

A trade union is a collective of workers who organise to protect and promote their rights

Key principles of trade unionism are:

- Solidarity, between workers and between unions
- justice and equality : an injury to one is an injury to all
- collective action : together, we can move mountains
- effective organisation : from the individual workplace to our labour movement internationals



What is a trade union?

Trade unions and the EU Employment Directive
UNISON

But also:

- bureaucratic organisations
- slow to change and adapt
- reflecting their members views : a cross section of society
- historically macho image
- understanding of equalities sometimes limited to gender issues or gender and race issues



What do some trade unions say about LGBT rights?

Trade unions and the EU Employment Directive
UNISON

We don't work in that area

LGBT rights not a trade union issue

We're concentrating on other priorities

It's a matter for the bedroom, not for the workplace

We've none of that sort here ...



What does the Employment Directive say about trade unions?

Trade unions and the EU Employment Directive
UNISON

All EU member states and accession countries must implement legislation to protect workers from discrimination on grounds of sexual orientation

Trade unions have a defined role set out in Article 13 of the Directive



What does the Employment Directive say about trade unions?

Trade unions and the EU Employment Directive
UNISON

Foster equal treatment in dialogue with employers through

- monitoring of workplace practices
- collective agreements
- codes of conduct
- research or exchange of experiences and good practices

Right to bring cases on behalf of our members

Duty on unions not to discriminate themselves



Effective organisation for LGBT equality

Trade unions and the EU Employment Directive
UNISON

What would the ideal union organisation look like?

To tackle discrimination effectively

- must include those workers directly affected
- ie lesbian, gay and bisexual workers
- these workers must be informed, active, and involved
- all representatives must be confident and competent



How UNISON organises

Trade unions and the EU Employment Directive
UNISON

- commitment of whole union to tackling discrimination
- right to organise written into union rules
- resourced organisation for lesbians and gay men at national, regional and branch level
- policy making powers
- right to be consulted by other parts of the union
- recognition of the diversity of lesbians and gay men
- linked to other unions, union bodies and LGBT groups
- affiliated to ILGA!



How UNISON organises

Trade unions and the EU Employment Directive
UNISON

We have resources to call on
Members, policy, links, expertise

Respond from day one :

- lobbying at UK and EU level for strongest Directive
- active involvement in consultation on transposition
- coordination of responses with other unions, lgbt groups
- ability to speak with authority from our knowledge
eg members working for religious employers



Approaching implementation

Trade unions and the EU Employment Directive
UNISON

Awareness of our directly affected members
Awareness of all members:
Lesbian and gay rights – an issue for us all
Training of representatives
Negotiation with employers
Monitoring of policies
Spreading best practice
And if necessary
taking cases



And if we have a different starting point?

Trade unions and the EU Employment Directive
UNISON

Both unions and employers have hidden behind fact that no legal requirement

Those days are over

This is the mother of all opportunities to organise

- fabulous recruitment opportunity
- enormous untapped pool of activists
- familiar territory – defending workers rights, fighting for equality



Different Starting Point?

Trade unions and the EU Employment Directive
UNISON

No union has to invent the wheel

Experience of UK unions – years of lonely struggle

But now two thirds of unions, including all the big unions, send delegations to the TUC lgbt conference

Unions have very different levels of experience and resourcing – can support each other



Where to go for help

Trade unions and the EU Employment Directive
UNISON

- Public Services International and Education International joint 1999 publication – *Working for lesbian and gay rights* translated and reprinted
- Message of support to this conference from ETUC, pledging to urge affiliate unions to take up sexual orientation issues
- 16 trade union sponsors of Workers Out! Conference, including international union bodies for public sector workers, education workers, metal workers, textile, garment and leather workers, journalists....



SO....

Trade unions and the EU Employment Directive
UNISON

Unions have a duty to their lgbt members to protect and defend their rights
They have the potential – the expertise and the organisation
Now unions in the EU and EU accession countries have the legal obligation
We need our unions
Our unions need us
This **IS** the right time.



Plenary Panel 2

Friday, 25 October 2002, 17.00-18.30

PROMOTING THE RIGHTS OF LGBT PEOPLE USING THE HUMAN RIGHTS POLICIES AND MECHANISMS OF THE COUNCIL OF EUROPE AND THE EUROPEAN UNION

Chair: Ailsa Spindler

No minutes were taken. However, the speech by Peter Schieder and the presentation by Robert Wintemute are reproduced here.

(Interpretation was provided in English, Portuguese and Spanish.)

Speech by Peter Schieder, President of the Parliamentary Assembly of the Council of Europe

When I was elected President of the Parliamentary Assembly of the Council of Europe nine months ago, I declared that the protection of lesbian and gay rights would be one of my priorities in office. There were two simple reasons for such a decision.

Firstly, while Europe as a whole has seen some improvement in the treatment of lesbians, gays, bisexuals and transgendered people in recent years, progress has been uneven and in some countries it is still practically non-existent. It is a sad truth that, even today in Europe, people continue to be discriminated against on the ground of their sexual orientation.

Secondly, in their struggle to defend and expand their rights, lesbians and gays have had to rely almost exclusively on themselves. There has been a persistent, and almost generalised, lack of commitment, to recognise and defend their rights as an integral part of human rights. I believe it is high time that Europe's lesbians and gays receive greater support from institutions mandated to protect equality and human rights at national and European level. I certainly intend to do my utmost to make sure that the Parliamentary Assembly and the Council of Europe as a whole meet their responsibilities in this regard.

This being said, one must not forget that rhetoric alone is not enough – it is long on the feel-good factor, but short on any practical effect. I came here to Lisbon with a simple and clear objective: to express my strong support for the protection of the rights of lesbians, gays, bisexuals and transgendered people, to inform you of the recent work of the Assembly and the Council in this regard, but also, and most importantly, to discuss with you concrete proposals for the future – who shall do what, and when.

The record of the Council of Europe in the past two decades is a mixed one. On one hand, it was the first international body to speak up and act to protect the rights of lesbians and gays. On the other hand, this progress – crucially important though it is – was built through a succession of small and timid steps, which did not always apply principles to the full, and which often sought to placate persistent homophobic attitudes within some member states.

In spite of this, the progress made has been considerable, and it should largely be attributed to the European Court of Human Rights and the Parliamentary Assembly.

The Court and, in the past, also the European Commission for Human Rights, handed down a series of ground-breaking judgments, recognising that discrimination on the basis of sexual orientation was a violation of fundamental rights, and gradually expanding this general principle to areas such as employment and child custody.

The decisions of the Court are of the greatest importance because they oblige changes in national legislation which is found to be incompatible with the European Convention on Human Rights.

In the Parliamentary Assembly we do not only aim to change laws, we also try to change attitudes. The Assembly brings together parliamentarians from different backgrounds and of different political persuasions. Their views reflect the predominant opinions within their part of the electorate, be they progressive or conservative, tolerant or marred with prejudice. In the debating chamber in Strasbourg they express themselves freely, but they do so against the background of the principles that our Organisation was set up to defend. This is our best chance to move things forward, but one should not expect miracles. It is always difficult to change people's views, and it takes time.

Yet the Assembly has made steady progress. In 1981 it adopted its ground-breaking Recommendation 924 on discrimination against homosexuals, which condemned the continuous discrimination against and oppression of homosexuals and recommended that Council of Europe of governments take a number of concrete steps, including applying the same age of consent as for heterosexuals and ensuring equal treatment with regard to custody rights for children.

While from today's point of view the language and objectives of the recommendation may seem outdated and inadequate, its importance at the time should not be underestimated.

More recently, in year 2000, the Assembly adopted two texts – the first one on the general situation of lesbians and gays in the Council of Europe and the second one on their and their partners' situation in respect of asylum and immigration in our member states.

Both recommendations are openly critical of the insufficient legal protection given to gay and lesbian rights in many Council of Europe member states, and they clearly state a number of principles revealing the extent of the change in the Assembly's thinking since 1981.

To fully appreciate the importance of this change one must recall that in 1981 the Council of Europe had twenty-one member states, all from the western part of the continent. In the year 2000, it had twenty more. Our unequivocal condemnation of any form of discrimination, our calls for an equal age of consent, for the formal recognition of homosexual partnerships, for an explicit reference to sexual orientation as a ground for discrimination prohibited by the European Convention on Human Rights – these were messages which were sent to the Europe as a whole.

The educational role of the Assembly in this field may be oriented towards the long term, but it is important.

We are consistently expanding the boundaries of human rights and paving the way for further progress achieved through the decisions of the European Court of Human Rights and the actions of member states' governments.

In addition, the Assembly has imposed a number of legislative changes on countries acceding to the Council of Europe. Respect for these obligations is closely scrutinised through the Assembly's monitoring procedure. Romania is an example of the concrete and positive results of the Assembly's action.

On the other hand, I personally regret the fact that in our September debate on the accession of Yugoslavia, an amendment calling to repeal from the internal legislation all provisions discriminating against homosexuals, failed to obtain the necessary majority. However, the reason for the failed vote should not be attributed to homophobia – even if some comments made in the hemicycle were absolutely unacceptable – but rather to the lack of information.

I am certain that a proper and early briefing on the situation in the country could have helped to avoid this situation. The absence of a specific reference does not mean that we shall accept the presence of discriminatory provisions in the legislation in our 45th member state. This issue will be dealt with through Protocol 12 to the European Convention on Human Rights which the Belgrade authorities are obliged to sign upon accession and ratify within a year after.

Turning to the future, there are two major issues that have not yet been covered by Assembly texts: full legal recognition of same-sex couples by the state, including the right to marry, and the right to be considered for the adoption of children.

I personally see no reason why people of the same sex should not be allowed to marry. I also believe that what children awaiting adoption really need is love, care and protection from responsible adults.

In the world today, some are lucky to find new parents, many do not. They become victims of prejudice and hypocrisy paraded as concern.

This being said, I will not conceal from you that the Assembly remains divided on the issue of same-sex marriages and adoptions by gays and lesbians. The opponents of a more liberal approach to adoption would certainly bring up the Court decision in *Fretté versus France* of February this year. You will recall that the Court ruled that discrimination on the grounds of sexual orientation in the access to adoption of children by unmarried individuals did not violate Article 14, combined with Article 8. The former is a general clause on non-discrimination, the latter guarantees respect for private and family life.

It must be made absolutely clear that the Assembly is free to make recommendations which go beyond the Court's decisions, but holding an Assembly debate on this issue too quickly could bring about a vote which freezes the issue at the level of the lowest common denominator, hampering future efforts to change the status quo.

What I suggest is that we proceed steadily, by disseminating information and building support. ILGA should make a particular effort to be present in Strasbourg and use its consultative status with the Council of Europe to the full. Together with other structures representing gays, lesbians and transgendered people it should provide information and advice to rapporteurs and other members of the Assembly. I am ready to offer any assistance in facilitating such contacts and co-operation.

Finally, I believe we should pursue our efforts concerning Protocol No. 12 to the European Convention on Human Rights.

I strongly regret that, against the opinion of the Assembly, the Committee of Ministers did not include sexual orientation as a ground for discrimination prohibited by the protocol. I must also admit that I was disappointed with the governments' explanation of the decision. In my view, they have, once again, shunned their responsibilities by generating a cloud of ambiguous platitudes.

In the given circumstances we need to ensure that Protocol No. 12 enters into force as soon as possible. Our objective must be its full application in all Council of Europe member states. As of today, almost two years since the opening for signature, only two countries – Cyprus and Georgia – have ratified the protocol. Eight more ratifications are necessary before the protocol can enter into force. Fifteen Council of Europe member states – Albania, Andorra, Armenia, Azerbaijan, Bulgaria, Denmark, France, Lithuania, Malta, Norway, Poland, Spain, Sweden, Switzerland and the United Kingdom – have not yet even signed it!

The second task will be to ensure that the general prohibition of discrimination contained in Protocol No. 12 is applied to all forms of discrimination against gays and lesbians, be it a discriminatory age of consent, discrimination in employment, social rights, custody rights or others.

We have our work cut out. We cannot be satisfied with our governments' proclaimed support for general principles of human rights, equality, tolerance and justice. We need to ensure they translate this support into explicit, specific, comprehensive and unequivocal commitments to protect the rights of gays and lesbians in Europe.

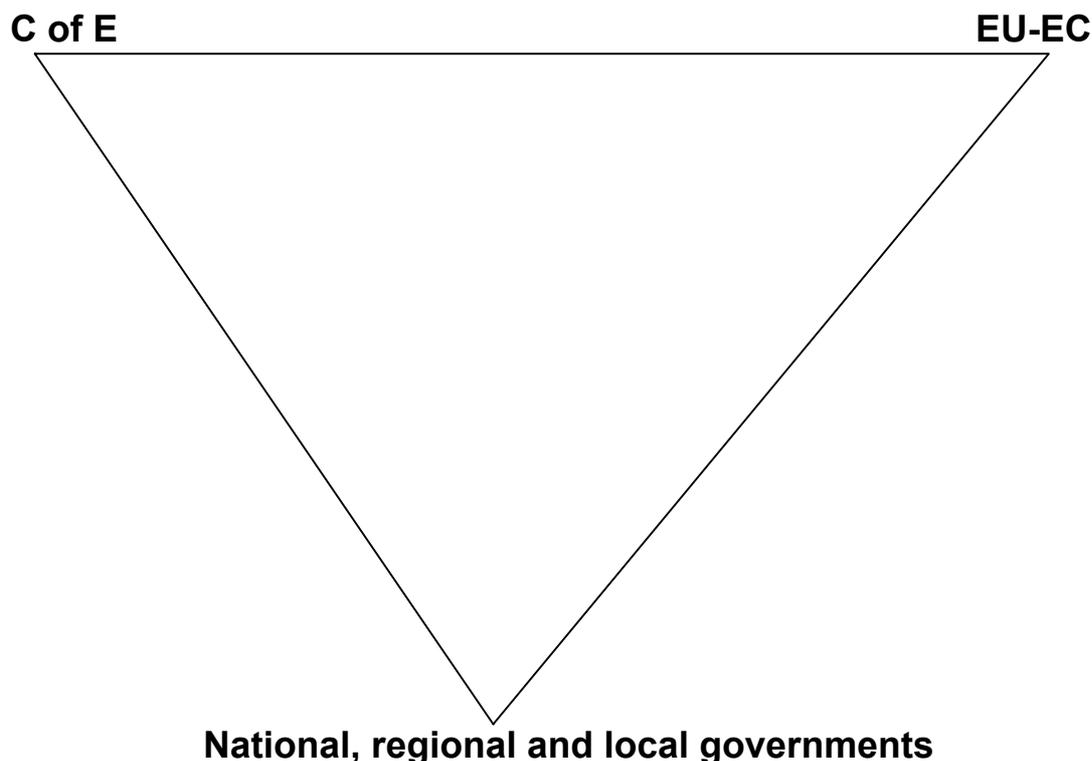
Presentation of Dr Robert Wintemute
Reader in Human Rights Law, King's College, University of London
robert.wintemute@kcl.ac.uk

I. The Two Europes

- Council of Europe (C of E), www.coe.int = 44 (soon-to-be 45) Member States = “Human Rights Europe” (has primary responsibility for protection of human rights at the European level, which supplements protection at the national level)

- European Union-European Community (EU-EC), <http://europa.eu.int> = 15 (soon-to-be 25?) Member States = “Economic, Monetary and Political Europe” (plays an important role in protecting human rights at the European level, but protection of human rights is not its main objective)

 - enlargement of the EU-EC means that membership of the C of E and the EU-EC will overlap more and more; possible merger negotiations at some point in future?
 - for now, they are two separate international organisations with different strengths
 - together with national, regional and local governments, they form a large pink triangle:



How can each of the three points on this pink triangle help achieve LGBT equality in Europe?

II. Council of Europe

A. European Court of Human Rights (Strasbourg)

- the Court interprets the European Convention on Human Rights (see www.echr.coe.int)

– judgments of the Court have been extremely important in the struggle for LGBT equality, because they have established the following principles (see <http://hudoc.echr.coe.int/hudoc>, Access HUDOC, Title = family name of applicant, tick “Reports” at top for the *Sutherland* case):

- Article 8 (respect for private life) does not permit a total ban on all male-male or female-female sexual activity: *Jeffrey Dudgeon v. United Kingdom* (1981), *David Norris v. Ireland* (1988), *Alec Modinos v. Cyprus* (1993)

- Article 8 (respect for private life) and Article 12 (right to marry) guarantee the rights of transsexual men and women to have the legal sex on their birth certificates amended and to marry a person whose sex is different to their reassigned sex: *Ms. B. v. France* (1992), *Christine Goodwin v. United Kingdom*, *Ms. I. v. United Kingdom* (2002)

- Articles 8 and 14 (right to be free from discrimination) guarantee the right to equal treatment in the criminal law without discrimination based sex or sexual orientation (and probably gender identity): *Euan Sutherland v. United Kingdom* (1997, European Commission of Human Rights report) (age of consent to sexual activity), *Mr. A.D.T. v. United Kingdom* (2000) (private group sexual activity)

- Articles 8 and 14 prohibit all discrimination by public authorities (including the armed forces) that is based on sex or sexual orientation (and probably gender identity), in such areas as employment and services, as well as decisions about custody of children of LGB (and probably T) individuals who are genetic parents: *Jeanette Smith & Graeme Grady v. United Kingdom* (1999), *Duncan Lustig-Prean & John Beckett v. United Kingdom* (1999), *João Mouta v. Portugal* (1999)

– the European Convention tends to be forgotten in all the excitement about Article 21 of the Charter of Fundamental Rights of the European Union and the discussions in the EU-EC’s Convention on the Future of Europe about making the Charter legally binding

– the inclusion of “sexual orientation” in the general prohibition of discrimination in Article 21 of the EU Charter is a tremendous accomplishment, and it would help greatly to make the EU Charter legally binding (unfortunately, the Committee of Ministers of the C of E rejected Opinion No. 216 of the Parliamentary Assembly of the Council of Europe of 26 January 2000 that “sexual orientation” should be included in new Protocol No. 12 to the European Convention on Human Rights; see <http://conventions.coe.int>, ETS No. = 005 for the Convention and 177 for Protocol No. 12; but the *Mouta* case, see above, makes it clear that it is implicitly included in existing Article 14 of the Convention and in Protocol No. 12)

– however, Article 51 of the EU Charter limits the application of the Charter to acts or omissions of EU-EC institutions, and acts or omissions of Member State governments only when they are implementing EU-EC law

– many areas of law (e.g., criminal law and family law) are generally outside the scope of EU-EC law and therefore not covered by the EU Charter; it must be remembered that only the C of E’s European Convention on Human Rights provides general protection; it applies to all acts or omissions of public authorities in C of E Member States in any area of the law

– how can the member organisations of ILGA-Europe help the European Court of Human Rights?

1. you can propose test cases that would establish new legal precedents under the Convention to ILGA-Europe;
2. you can lobby your national government to provide extra financial resources to the Court (the Court is currently drowning in cases – 800,000,000 individuals who live in the C of E Member States can potentially bring cases before the Court);
3. you can check on whether your national government is complying with judgments of the Court or whether repeated similar cases are going to the Court and wasting the Court's time (e.g., from Italy and Turkey);
4. you can lobby your national government to sign and ratify Protocol No. 12 to the Convention (general prohibition of discrimination) as soon as possible (only Georgia and Cyprus have ratified as of 25 October 2002; the Protocol will not come into force until 10 Member States ratify).

B. Parliamentary Assembly of the Council of Europe (Strasbourg)

– the PACE is the voice of the peoples of 44 countries in Europe

– its reports and recommendations (e.g., those in 1981 and 2000 on eliminating sexual orientation discrimination) have provided strong evidence of “European consensus” on LGBT rights questions which can be presented to the European Court of Human Rights, the EU-EC, national governments and national courts; see most recently Recommendation 1470 (2000) on the “Situation of gays and lesbians and their partners in respect of asylum and immigration in the member states of the Council of Europe”, <http://stars.coe.fr/Main.asp?Link=/asp/doc/ATMenu.asp?Language=E> (30 June 2000); Recommendation 1474 (2000) on the “Situation of lesbians and gays in Council of Europe member states”, same URL (26 Sept. 2000)

– what new LGBT issues should be presented for debate in the PACE?

- one possibility is the C of E's European Convention on the Adoption of Children (see <http://conventions.coe.int>, ETS No. = 58); Article 6(1) of this Convention states that “The law shall not permit a child to be adopted except by either of two persons married to each other, whether they adopt simultaneously or successively, or by one person.”

- this treaty is an obstacle for Member States that want to open up joint adoption to unmarried couples, both different-sex and same-sex; it is not a problem in the Netherlands, France and Spain (which never ratified it) or Denmark (which entered a reservation); but Sweden must denounce (withdraw from) this treaty in order to allow registered same-sex partners to adopt jointly; the United Kingdom will have to do the same if the pending bill for England and Wales is adopted

- it is undesirable for C of E Member States to have to denounce a C of E treaty in order to expand LGBT equality; the PACE should review this treaty and propose changes to the Committee of Ministers.

III. European Union-European Community

– although the C of E provides the strongest, most general protection of human rights in Europe through the European Convention on Human Rights, it cannot produce binding legislation which Member States must implement in their national legal systems

- only the EU-EC can do this (usually, in the area of LGBT rights issues, under the EC Treaty).

A. Adoption of New EC Legislation

1. Areas where EC competence is legally or politically controversial

– the Council (of Ministers) acting alone (after consulting the European Parliament), or in some cases acting together with the European Parliament (meaning that the EP has a veto), can adopt new legislation such as Council Directive 2000/78/EC, which bans discrimination based on sexual orientation in employment and vocational training (see http://europa.eu.int/eur-lex/en/search/search_lif.html, Directives, Year = 2000, Number = 78)

– but there are limits on the competence of the EC; in my opinion, these limits are more political than legal, in that there are very broad provisions in the EC Treaty (e.g., Article 308) that could be used if the 15 Member States were unanimous

- in theory, the Commission could propose a Marriage and Adoption Directive to the Council, providing that all Member States must open up marriage and joint adoption of children to same-sex couples

- in practice, whether or not the European Court of Justice would agree that the EC had legal competence, it would be politically impossible (in 2002) to get the 15 Member States to agree; some would be opposed to LGBT equality in these areas; others might be sympathetic but would argue that family law has generally been left to Member States and that the EC should not “invade” this area

- it therefore does not make sense for member organisations to pressure ILGA-Europe to lobby the Commission for EC legislation on marriage and adoption.

2. Areas where the EC clearly has competence

(a) anti-discrimination legislation

– member organisations can support ILGA-Europe’s efforts to extend Council Directive 2000/78/EC (see above) to all the areas covered by Council Directive 2000/43/EC (see

URL above) on discrimination based on racial or ethnic origin: social protection, social security, healthcare, social advantages, education, goods and services, housing.

(b) free movement of persons

– member organisations can support ILGA-Europe’s efforts to ensure the free movement of the same-sex partners of EU citizens between Member States, and the free movement of any legal recognition of their partnership in their home Member State

– there is a tension in EC law between a “uniform EC rule” and “mutual recognition” of diverse national rules; at the moment, “mutual recognition” is probably the preferred option; a “uniform EC rule” would probably reflect the lowest common denominator; “mutual recognition” would require Member States to recognise the partnerships of same-sex partners who are from other Member States (or who are returning from other Member States); this kind of recognition (e.g., of a married same-sex couple from the Netherlands or a registered same-sex couple from Finland) could require the host Member State to explain to its own nationals why they cannot enjoy the same rights.

B. Interpretation of Existing EC Legislation

– test cases on the interpretation of existing EC legislation (including Council Directive 2000/78/EC once the implementation period expires on 2 December 2003) can be taken to national courts and then referred to the European Court of Justice in Luxembourg, or (in the case of employees of EC institutions) can be taken to the European Court of First Instance in Luxembourg

- member organisations could propose suitable test cases to ILGA-Europe

- *P. v. S. & Cornwall County Council* was a successful case in 1996, in which the European Court of Justice interpreted Council Directive 76/207/EEC (banning sex discrimination in employment) as covering the dismissal of a transsexual woman for a reason related to her gender reassignment; see http://europa.eu.int/eur-lex/en/search/search_case.html, Year = 1994 (year it started), Case = 13.

C. Accession of New Member States to the EU-EC

– the European Parliament’s power to veto accession of new Member States to the EU-EC is one of its most important powers; in fact, EU membership is probably the biggest “carrot” for inducing improvements in the human rights records of applicant countries (it probably has a greater influence than the threat of judgments of the European Court of Human Rights finding violations of the European Convention on Human Rights)

- we have seen how successful this is with regard to unequal ages of consent in applicant countries such as Cyprus and Hungary (see also Turkey’s abolition of the death penalty)

- but we should remember that this ability to induce improvements is temporary, and that maximum benefit should be derived from it; once the applicant countries accede to the EU, other methods will have to be used

- this is true with regard to issues such as access for women without male partners to donor insemination, which has not yet been established as a human rights violation under the case-law of the European Court and Commission of Human Rights (unlike unequal ages of consent to sexual activity), and which is also an issue in several existing Member States.

IV. National Level

– in addition to supporting ILGA-Europe's efforts with the C of E and EU-EC institutions (by lobbying their own government's ministers, their members of the PACE, and their members of the EP), member organisations will have their own national campaigns involving lobbying of ministers and members of parliament, and bringing test cases in national courts

– member organisations should remember:

(a) the C of E cannot do everything; they will often act only if there has already been some progress at the national level; the European Court of Human Rights often only finds a violation of the Convention after a majority of Member States have already changed the challenged law or practice; the same is true for the EU: when Council Directive 2000/78/EC was adopted, 8 of 15 Member States had already adopted similar legislation

(b) your success at the national level will help LGBT people in other Member States by providing persuasive precedents (e.g., the opening up of marriage and joint adoption to same-sex partners in the Netherlands), and by encouraging action by the C of E and EU-EC institutions.

Award Ceremony:
**Presentation to four individuals who took LGBT cases
to the European Court of Human Rights**

Friday, 25 October 2002, 18.30-18.45

Presentation: Dr Nico J. Beger and Dr Robert Wintemute

1.

LGBT equality in Europe can be achieved, not only by lobbying the political institutions of the Council of Europe and the EU, but also by taking test cases to the European court of Human Rights in Strasbourg, and the European Court of Justice in Luxembourg. These test cases can establish extremely important legal precedents, which can require all Member States that still have the challenged law or practice to change it, and can make it easier to lobby for reforms in other cases.

But these test cases cannot happen without courageous individuals, who are willing to take the role of the applicant and stick with it for as long as ten years (the time it can take for a case to work its way through the national and European courts). Most of these individuals have chosen to waive their right to anonymity and subject themselves to the pressure of intense media scrutiny. All of these individuals are winners, regardless of the outcomes in their cases. If the European court finds a violation, they establish a legal precedent that benefits millions of LGBT people in Europe. If the European court does not find a violation, they still succeed in education the European court, political bodies and the general public about injustice and they pave the way for a future applicant. For example, it took five cases by transgendered men and women over a period of 22 years to persuade the European Court of Human Rights (in July of this year) that they have the right to a different sex marriage.

2.

We are taking the opportunity of the presence of Mr Peter Schieder, President of the PACE, to honour the achievements of all those who have taken cases dealing with LGBT rights issues to the European court of Human Rights, whether or not the Court found a violation in their individual cases. The following is a list of the 22 individuals we are honouring, their cases, and the injustices they challenged:

- 1980 Daniel van Oosterwijck vs Belgium
non/recognition of gender reassignment
- 1981 Jeffrey Dudgeon vs United Kingdom
criminalisation of all sexual activity between men
- 1986 Mark Rees vs United Kingdom
non/recognition of gender reassignment
- 1988 David Norris vs Ireland
criminalisation of all sexual activity between men
- 1990 Caroline Cassey vs United Kingdom
non/recognition of gender reassignment
- 1992 Ms B vs France
non/recognition of gender reassignment

- 1993 Alecos Mondinos vs Cyprus
criminalisation of all sexual activity between men
- 1997 XYZ (Stephen Whittle, his female partner and their child by donor insemination) vs United Kingdom
Non/recognition of transsexual men as legal fathers
- 1997 Euan Sutherland vs United Kingdom
unequal ages of consent to sexual activity (Euan won before the European Commission of Human Rights, but his case was settled and therefore not heard by the court. Having started his case at 17 he is the youngest applicant)
- 1998 Kristina Sheffield and Rachel Horsham vs United Kingdom
non/recognition of gender reassignment
- 1999 John Beckett, Graeme Grady, Duncan Lustig-Prean and Jeanette Smith vs United Kingdom
dismissal from the armed forces
- 2000 João Manuel Salgueiro da Silva Mouta vs Portugal
Transfer of custody of a child from her gay father to her heterosexual mother
- 2001 Mr ADT vs United Kingdom
unequal rules on private group sexual activity
- 2002 Philippe Fretté vs. France
blanket ban on LGBT individuals adopting children
- 2002 Christine Goodwin and Ms I. vs United Kingdom
non/recognition of gender reassignment

3.

It was not practical for all 22 applicants to come to Lisbon. But we are fortunate in having 4 of them here and will now recognise their achievements, without in any way minimising the contributions of the others. I will ask Robert Wintemute, who represented on the applicants before the European Court of Human Rights last year, to say a few words about the significance of the each of their cases.

4.

Robert gave a short description of the cases.

5.

Nico asked each of the 4 applicants to come up to the platform after I call your name

- A) Jeffrey Dudgeon
- B) Alecos Modinos
- C) João Mouta
- D) Philippe Fretté.

Minutes of workshop 1

Implementing protection from workplace discrimination at national level

Thursday, 24 October 2002, 15.00-16.30

Presenters: Mark Bell, Ailsa Spindler

Chair and minute-taker: Kurt Krickler

Handouts distributed: Copies of the overhead sheets prepared by Mark Bell for his presentation (attached to these minutes), and the "Guide for LGBT organisations in the EU member states and the accession countries: implementing the framework directive".

After Mark Bell had presented the details of the EU Framework Directive for equal treatment in employment and occupation, questions were asked, e.g., concerning the requirement for accession countries to implement the directive, and sanctions for member states for not or inaccurately implementing the directive.

Ailsa Spindler then made a tour d'horizon of the member states to up-date the workshop on the state of play of the implementation process at national level, inviting representatives from the various countries to report on recent developments.

No concrete news could be obtained on this from Finland, Greece, Italy and Luxembourg.

No proposals have been put out in Austria, Portugal and Spain yet.

In Denmark, the process is well underway; two bills have been proposed already that would fully implement the directive.

In the UK, the various bills have just been published the day before the conference started. The UK plans to have a specific law for each of the grounds, i.e. also one on sexual orientation. The bill covers the directive more or less accurately; the only missing part is the legal standing of NGOs wanting to bring forward cases. These laws will cover England, Wales, and Scotland while Northern Ireland is supposed to have its own legislation proposed at a later stage. The consultation process leading to a final bill will last till spring. The law is scheduled to come into force on 1 December 2003.

From Belgium, no representative was attending. However from a message read out in the opening plenary from FWH we learned that the Parliamentary debate on adopting anti-discrimination legislation is going on at this very moment.

In Ireland, the ball is at the relevant Ministry at the moment, a great part of the directive's scope, however, is already covered by existing anti-discrimination legislation. The main issue is the legal standing of NGOs wanting to take cases to court. The Irish Equality Authority has made a representation to the Ministry proposing to also mention explicitly "gender identity" in the legislation.

In Sweden, implementation is also well underway, but the process was interrupted by the recent general elections. It is planned to use this opportunity to also implement anti-discrimination measures in schools and the whole education system. There is also a debate to expressly include “gender identity”.

In France, new legislation came into force in November 2001, however not completely implementing the directive. 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. The definition of harassment seems to be a problem, too.

In Germany, there were attempts to put through Parliament a draft bill for a comprehensive anti-discrimination law in May/June 2002. These plans were abandoned before the general legislation in September after the Catholic Church, which also is one of the largest employers in Germany, has shown strong opposition to parts of the bill. However, the new coalition government has included the adoption of such a law in its government agreement.

Also representatives from three accession countries gave an up-date on the developments in their countries:

In Romania, legislation already exists but does not fully cover all the requirements of the directive, such as harassment or the shift in the burden of proof.

In Lithuania, the new labour code will come into force on 1 January 2003, and the new criminal code in May 2003, both will cover sexual orientation discrimination. In addition, the mandate of the Ombudsman will be extended to cover sexual orientation.

In the Czech Republic, there was broad support for the anti-discrimination legislation, even the Christian-Democrats voted for it because it was a “European” requirement.

Before concluding, a couple of observations and recommendations were made: The Irish Equality Authority is concerned that so few cases of discrimination that are brought to its attention are finally taken to court as the people concerned obviously are inhibited to do so. It was proposed that ILGA-Europe should look into whether this is the case in other countries and, if so, why.

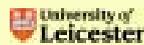
It was also stressed that it is important to continue the social dialogue and building alliances with trade unions both at national and European level.

No formal proposal to put to the plenary was adopted.

WORKSHOP 1 – PRESENTATION:

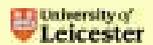
Framework directive

- Entry into force: 2 December 2003
- Forbids discrimination on grounds of religion or belief, disability, age or sexual orientation



Discrimination

- Direct
- Indirect
- Harassment
- Instruction to discriminate



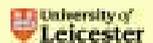
Harassment

- Harassment shall be deemed to be a form of discrimination ... when unwanted conduct ... takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.



Material scope

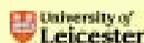
- All aspects of employment and self-employment
- Vocational guidance & training (includes some university courses)
- Trade unions, employer associations, professional bodies (eg. Law societies, medical councils)



Recognition of same-sex partners

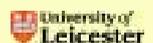
The directive:

- does not cover payments of any kind made by state schemes or similar, including state social security ...
- is without prejudice to national laws on marital status and the benefits dependent thereon.



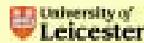
Religious employment exception

- Access to employment in bodies with a religious ethos, where belief is a genuine, legitimate and justified occupational requirement
- Good faith and loyalty requirement for those working for religious bodies



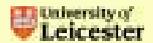
Remedies & enforcement

- NGO legal standing
- Burden of proof
- Victimisation
- Effective sanctions
- Periodic review



Implementation

- Duty to encourage dialogue between social partners
- May choose to use collective agreements to further implementation
- Duty to encourage dialogue with non-governmental organisations



Implementation

- ‘The protection of individuals require an unequivocal wording which would give the person concerned a clear and precise understanding of their rights and obligations ...’
- C-187/98 Commission v Greece [1999] ECR I-7713



Minutes of workshop 2

Supporting the capacity development of the LGBT movements in Central and Eastern Europe and the Caucasus

Thursday, 24 October 2002, 15.00-16.30

Panel: Stig-Åke Petersson (Sweden), Arjos Vendrig (Netherlands), Claudia-Maria Manta (Romania), Nigel Warner (UK), Maxim Anmeghichean (Moldova)

Chair: Adrian Coman

Minute-taker: Nigel Warner

The workshop looked at:

- the recent experience in co-operation programmes involving COC/Netherlands and GenderDoc-M/Moldova, ACCEPT/Romania, and Sweden/Moldova.
- developing a strategy for involving more West European LGBT organisations and their governments in providing support for LGBT organisations in CEE and the Caucasus.

Arjos Vendrig gave the background to COC's involvement. This had started many years ago with persuading the Dutch government to adopt a foreign policy involving active support of LGBT rights. Their experience of these projects was that it was best to start with a small project. This would be followed by a COC staff member making a fact-finding mission to the country in question, to gain an understanding of the LGBT organisation, and the situation in society generally, before making a proposal for a larger project.

Claudia-Maria Manta described a three-way project being undertaken by ACCEPT, BGO Gemini (Bulgaria), and COC. This had 2 sub-projects: 1 supported the development of BGO Gemini, while the other involved helping small groups of activists in Romania to found their own organisations, and become legally registered NGOs.

Maxim Anmeghichean outlined the history of his organisation's co-operation with COC. The first meeting had taken place at the ILGA-Europe Bucharest conference. This had been followed by a visit by a COC staff member to Moldova to prepare a report on the situation in the country. This revealed a very negative state of development, with only a handful of gay men (and no lesbians) willing to meet the staff member, and only one politician willing to do so, albeit anonymously. The report became the basis of a funding application, whose main objective was the building of a strong, democratically organised NGO working for LGBT rights. There were four sub-projects, covering organisational development (including setting up an office, equipment, training, including training visits to the Netherlands), information (seminars, magazine, a web-site), juridical work, and psychological counselling. After one year the organisation had three hundred members, including 30 lesbians. It has held its first pride demonstration, politicians are now more willing to address LGBT issues, discriminatory laws have been eliminated, and there is work on anti-discrimination measures.

Stig-Åke Petersson referred to three projects RFSL is involved with (RFSL-Piteå with a group in Murmansk, the Stockholm branch working with Forum Lambda in Belarus, and pride celebrations with GenderDoc-M, Moldova). Swedish government support is provided by the International Development Agency, rather than through the foreign office and embassies, as in the case of the Netherlands. Expenditure is limited to “transferring of knowledge”, so money cannot be spent on investment in assets, for example. In some ways this complements the Dutch policy, which would not, for example, allow funding of a pride celebration.

Nigel Warner explained that part of the purpose of workshop was to explore whether other West European governments would provide funding. Dennis van der Veur (who could not be present at the workshop) had put forward the idea of a meeting perhaps sponsored by the Dutch foreign office, involving representatives of other interested governments, and LGBT NGOs, to promote the idea. Nigel had had a meeting with the UK foreign office. This has a human rights fund, which could in principle provide some kind of funding. Other countries worth exploring further were Belgium, Denmark and Germany.

Those with experience of these projects were asked to give examples of some of the problems which can arise. Vera Cîmpeanu (ACCEPT) explained that it was very difficult for people from Western Europe to understand that what had taken eighty years to achieve in their own countries could not be achieved in five years. This could lead to much frustration on both sides. The reality was that where governments had made positive changes, this was not because they wished to, but because of a combination of internal and international pressure. Miha Lobnik (Slovenia) pointed to the difficulty of motivating governments in the older democracies to continue helping, particularly as the more obvious manifestations of discrimination were eliminated.

Other comments included the possibility of links at local government level, and the need to accept that LGBT organisations receiving support have to be allowed to function in their own way, consistent with their own environment. West European models cannot simply be imported. There was also discussion of how far the East European partner organisation was able to act with autonomy. This was a matter of negotiation, learning to compromise, and building trust.

There was some discussion of “East/East” co-operation. There is an active mailing list of former USSR countries. GenderDoc-M is planning an East Europe conference in 2003, although whether this will cover the whole of East Europe, or be limited to the former USSR countries is not decided. The area of the former Yugoslavia has a lesbian network, which has recently completed its fourth seminar.

Finally, the issue of how far bisexuality was being addressed in the context of the development of movements in Eastern Europe was raised.

Minutes of workshop 3

Lesbian organising in the Iberian Peninsula

Thursday, 24 October 2002, 15.00-16.30

Presenters: Beatriz Gimeno (FELG, Spain) and Fabiola Neto Cardoso (Clube Safo, Portugal)

Chair and minute-taker: Ali Jarvis (Stonewall Scotland)

Two key speakers, Beatriz Gimeno from Spain and Fabiola Neto Cardoso from Portugal, initiated this workshop. Both gave approximately 30 minutes' input to the group on the historical and current situation they both face in their respective countries. The areas covered included their perspectives in relation to social, political in both aspects and socio-economic issues for lesbians in Spain and Portugal.

In terms of political history both countries have very similar histories in that they were both run by dictatorships until very recently, Spain emerged as a democracy in 1980 and Portugal some 6 years earlier, in 1974.

The situation for lesbians in Spain is fairly contrasting from other European countries and also the USA, lesbians have little visibility and that situation seems to be indirectly promoted by the government bodies of that country. Lesbians first came to the fore via the feminist movement of the 1980s although this led to women's groups fracturing and lesbians moving forward as one grouping. At this point to be a lesbian or to be associated with lesbianism was strongly discouraged and in many ways lesbians were treated as a joke and offensive names and phrases regularly used against them.

From this gay women still were being denied opportunities in employment and career progression and didn't not hold any significant positions in Spanish democracy or in the media, where gay men had higher profiles, still there was no partnership work in practice.

The situation in Spain is further complicated by the relaxed maternity and insemination laws, many lesbians from other countries access these services but do not remain in Spain, and this appears to cause some insular conflict.

Additionally there was still the issue of gay men and women not appearing to work together to promote positive values and working practices for homosexuals in general. This appeared to apply to both Portugal and Spain.

At this stage participants offered their experiences of working in partnership with their gay male colleagues and discussed the benefits and rewards that this can bring.

In terms of the future both speakers expressed enthusiasm and keenness to enter into more working partnerships with gay men in their respective organisations.

Workshop 4

Working to ensure maximum benefit for transgendered people from EU laws prohibiting discrimination based on gender

Friday, 25 October 2002, 09.30-11.00

Speaker: Mark Bell

Chair: Nico Beger

No minutes seem to have been produced in this workshop. The following draft guidelines by Mark Bell were distributed. The overhead sheets he presented are also attached.

THE 2002 EU GENDER EQUALITY DIRECTIVE

Initial Guidance on National Implementation [DRAFT]

Introduction

In June 2002, the European Parliament and Council agreed a series of amendments to the 1976 Equal Treatment Directive.⁴ This Directive sought to provide for equal treatment between women and men in the workplace.⁵ The 2002 amendments maintain this focus, but seek to make the Directive's provisions stronger and more effective. The 2002 Directive must be implemented in national law by 5 October 2005.

The importance of the new Directive for lesbian, gay, bisexual and transgender people is twofold. First, and most crucially, discrimination based on *gender identity* – that is, discrimination linked to a transgender person's identity or the process of gender reassignment – will be in breach of the Directive. It is essential that this is clearly and explicitly included in national implementing legislation. Secondly, the Directive establishes new standards and methods that could be applied to other forms of discrimination, such as that based on sexual orientation. Therefore, implementation of this Directive in national law will present opportunities to improve protection against sexual orientation discrimination.

These guidelines highlight specific aspects of the 2002 Directive that should be considered by organisations at the national level when developing campaigns around the implementation of this Directive.

Gender identity and the Equal Treatment Directive

EU law regards discrimination against transgender persons on grounds of their gender identity as a form of sexual discrimination. This principle was established by the Court of Justice in the 1996 case of *P v S and Cornwall County Council*, where it was held that the dismissal of an individual following gender reassignment was unlawful discrimination on the grounds of her sex.⁶ Regarding a difference of treatment due to gender reassignment, the Court decided that:

⁴ Directive 2002/73/EC 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, [2002] OJ L269/15.

⁵ Directive 76/207/EEC, [1976] OJ L39/40.

⁶ Case C-13/94 *P v S and Cornwall County Council* [1996] ECR I-2143.

‘such discrimination is based, essentially if not exclusively, on the sex of the person concerned. ... To tolerate such discrimination would be tantamount, as regards such a person, to a failure to respect the dignity and freedom to which he or she is entitled, and which the Court has a duty to safeguard.’⁷

1. Mainstreaming equality obligation

Article 1a:⁸ ‘Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in paragraph 1’.

This article creates a new duty on Member States to integrate equality considerations into all aspects of law and policy-making in the field of employment, vocational training and social security. This approach is often referred to as ‘mainstreaming’ and it is relevant to all forms of discrimination.

Recommendation:

- ensure that states must also take into account of gender identity in laws and procedures adopted to implement this article.

2. The definition of discrimination

Article 2(1): ‘For the purposes of the following provisions, the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status.’

As mentioned earlier, the Court of Justice has interpreted this to include protection against any discrimination linked to gender reassignment. Unfortunately, in revising the Directive, the Parliament and Council have not taken the opportunity to insert explicit reference to this case-law. Nonetheless, it binds all Member States and must be complied with in national law.

Recommendation:

- ensure that national implementing rules specify that any discrimination based on gender identity is unlawful.

3. Harassment

The 2002 Directive inserts new definitions of unlawful harassment.

Article 2(2)(a):

- ‘harassment: where an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment
- sexual harassment: where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.’

‘Harassment’ covers a wide range of conduct: for example, persistent emailing, bullying, unfair allocation of responsibilities or working hours, etc. The conduct may not be sexual in nature, but it is unlawful if it is due to the person’s gender identity.

⁷ Paras. 21-22, *ibid*.

⁸ All references are to Directive 76/207 as amended by the 2002 Directive.

‘Sexual harassment’ covers actions such as sexually suggestive comments or sexual advances. In particular, this often manifests itself in ‘quid pro quo’ harassment, where an individual is placed under pressure to perform sexual favours in exchange for promotion, etc. It is essential that national legislation forbids sexual harassment where it is linked to the person’s gender identity, as well as sexual harassment where this occurs between two persons of the same-sex. National legislation in the past has sometimes assumed that sexual harassment only occurs between persons of a different sex.

Preventative Duty on Employers

Article 2(5): ‘Member States shall encourage, in accordance with national law, collective agreements or practice, employers and those responsible for access to vocational training to take measures to prevent all forms of discrimination on grounds of sex, in particular harassment and sexual harassment at the workplace’.

This provision moves in the direction of placing a positive duty on employers to take all reasonable steps to prevent harassment and discrimination occurring within the workplace. This duty is not found in the 2000 Framework Directive on Equal Treatment in Employment, which forbids sexual orientation discrimination.⁹ Therefore, organisations should seek to ensure that national implementing laws cover both gender identity and sexual orientation in this area.

Recommendations:

- ensure harassment and sexual harassment based on gender identity are forbidden;
- ensure sexual harassment between persons of the same-sex is forbidden;
- ensure employers are under a duty to take reasonable steps to prevent discrimination and harassment occurring on grounds of gender identity and sexual orientation.

4. Assisting victims of discrimination

Article 6(3): ‘Member States shall ensure that associations, organisations or other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.’

Bringing a discrimination case involves many costs, both financial and emotional. As a result, individual victims frequently decline to pursue such cases. One means of reducing these barriers is to allow organisations to act on behalf of individuals. It is essential that national implementing rules permit organisations working for transgender persons to support litigants, or to bring cases on their behalf. Although it is not required by the Directive, it would be even more effective if organisations were able to bring cases in their own name – for example, to challenge a general policy by an employer not to recruit transgender people.

The risk of adverse publicity and general disclosure of an individual’s gender identity is a special obstacle to bringing cases of gender identity discrimination. Therefore, arrangements should be established in order to permit litigants to remain anonymous if they desire.

Recommendations:

- organisations promoting the rights of transgender people should be entitled to bring cases on behalf of individuals, or in their own name;
- individuals bringing cases of gender identity discrimination should be entitled to measures ensuring that their identity is not disclosed as a consequence of proceedings.

⁹ Directive 2000/78/EC, [2000] OJ L 303/16.

5. Equal Treatment Bodies

Article 8a(1): ‘Member States shall designate and make the necessary arrangements for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex’.

This obligation is similar to that found in the Race Equality Directive,¹⁰ which forbids discrimination on grounds of racial or ethnic origin. It is clear from the terms of reference of the equal treatment body that such organisations must also address gender identity discrimination, including providing assistance for victims of this form of discrimination (Article 8a(2)(a)). Some Member States have chosen to create general equality bodies, covering many grounds of discrimination. For example, in Ireland, the Equality Authority deals with nine grounds of discrimination and in the Netherlands the Equal Treatment Commission has a remit covering eight grounds of discrimination. Both bodies have the responsibility to combat discrimination based on gender or sexual orientation. Whether a state chooses to create separate or integrated equal treatment bodies, it is essential that they adopt an inclusive and co-ordinated approach in order to deal effectively with cases of multiple discrimination.

Recommendation:

- ensure that the equal treatment body or bodies include gender identity discrimination within their remit.

6. Positive duties on employers

Article 8b(3): ‘Member States shall, in accordance with national law, collective agreements or practice, encourage employers to promote equal treatment for men and women in the workplace in a planned and systematic way.’

Article 8b(4): ‘To this end, employers should be encouraged to provide at appropriate intervals employees and/or their representatives with appropriate information on equal treatment for men and women in the undertaking.’

These provisions move in the direction of a duty on employers to take positive steps to promote equal treatment at work. This duty is potentially more useful than the negative requirement simply not to discriminate. This is a new development not found in either the Race Equality or Framework Directives, yet it has the potential to enhance the fight against all forms of discrimination.

Recommendation:

- ensure that national implementing laws oblige employers to take into account gender identity issues in promoting equality in the workplace;
- encourage national authorities to oblige employers to promote equal treatment for all persons, irrespective of any ground of discrimination.

7. Non-governmental organisations

Article 8c: ‘Member States shall encourage dialogue with appropriate non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of sex with a view to promoting the principle of equal treatment’.

Recommendation

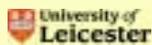
- Organisations working to promote the rights of transgender people should refer to this requirement in seeking to establish consultation on implementation of the Directive with the relevant national authorities.

¹⁰ Directive 2000/43, [2000] OJ L180/22.

WORKSHOP 4 – PRESENTATION:

Implementing Gender Equality

- Equal Treatment Directive forbids discrimination on ground of gender identity
- P v S case, 1996
- 2002 amendment of ET Directive
- Entry into force: October 2005
- Opportunity to reform national laws



Harassment

- ‘unwanted conduct related to the sex of the person’
- ‘unwanted verbal, non-verbal or physical conduct of a sexual nature’
- Duty to encourage employers & training providers to take measures to prevent harassment



Enforcement

- NGO legal standing
- Equal treatment bodies – must provide independent assistance to victims of discrimination + independent surveys and reports



Positive duties

- Member States must take into account the objective of equality in all actions in employment/training
- Employers should provide information on equal treatment at work for employees
- States must encourage dialogue with NGOs



Minutes of workshop 5

EU Enlargement

Friday, 25 October 2002, 09.30-11.00

Speakers: Ivo Prochazka (Czech Republic), Christian Attard (Malta), Eduardas Platovas (Lithuania) and Nigel Warner (ILGA-Europe)

Minute-taker: Dr Bernard Baks, representative of the Dutch Government

Nigel Warner (ILGA-Europe Board) summarised the developments so far of the EU enlargement process, including the initiatives taken by MEPs and the European Commission. Copies of the overheads used were distributed (and are also attached).

The findings of discrimination surveys in the Czech Republic and Malta were presented. Surveys on Latvia and Lithuania, Slovakia and Estonia were distributed in the workshop. A printed version of the Malta survey is not available yet. A standard questionnaire – set up by ILGA-Europe – has been used for these national surveys.

In addition to these surveys, the International Lesbian, Gay, Bisexuals and Transgender Youth and Student Organisations (IGLYO) presented their report of the IGLYO hearing on discrimination of LGBT youth in the accession countries. A printed version was handed out at the workshop as well.

The following action points resulted from the workshop:

1. ILGA-EUROPE should make an overall summary in one report to be used at European level.
2. In the overall report and the surveys, special attention should be given to the needs of LGBT youth and specific women issues.
3. Monitoring of the situation in the countries for instance by repeating the survey after the accession is essential for the European integration process.

WORKSHOP 5 – PRESENTATION:

EU ENLARGEMENT – Agenda

- Summarise developments so far, including initiatives taken by MEPs and the European Commission
- Review the findings of discrimination surveys carried out in a number of countries, including the Baltic states, Poland, Malta and Slovakia during the last year.
- Consider lessons learnt so far, and look at possible future plans (Bulgaria, Romania, Turkey)

FIRST OBJECTIVE OF CAMPAIGN (1998)

- Use the accession criteria on human rights (“Copenhagen criteria”) to force candidate countries to abolish all discriminatory laws
(Bulgaria, Cyprus, Estonia, Hungary, Lithuania, Romania)
- Establish that sexual orientation discrimination falls within Copenhagen criteria
 - Convince accession countries that they would not gain membership unless a change their laws (political pressure – EP and Commission)

SECOND OBJECTIVE OF CAMPAIGN (2000)

Push governments into taking positive actions to fight sexual orientation discrimination in society generally by:

- Carrying out detailed research to document the extent of discrimination
(example of the campaign for Roma rights)

Developments: European Parliament

- 1998 resolution:
EP would not “give its consent to the accession of any country that, through its legislation or policies, violates the human rights of lesbians and gay men”.
- Further resolutions:
March 2000, September 2001 and June 2002

Developments: ILGA- Europe/members documentation

1. "Equality for Lesbians and Gay Men -- a Relevant Issue in the EU Accession Process"
 - Legal bases for action under Copenhagen criteria
 - Discriminatory laws + overview of discrimination (13 countries)
2. EU Enlargement project: detailed research in (a) Hungary, Poland, Romania and Slovenia (2001) (b) Estonia, Latvia, Lithuania, Slovakia, Malta, Poland (2002).

DEVELOPMENTS – EUROPEAN PARLIAMENT HEARING – JUNE 2001

- Presented ILGA-Europe evidence on discrimination
- Brought together delegates from LGBT organisations in candidate countries
- Brought together friendly MEPs
- Confronted Commission with need to act (Commissioner on Equality present in person, plus representative of Enlargement Commissioner)

DEVELOPMENTS – COMMISSION RESPONSE

- At EP hearing: Enlargement Commission rep: "no flexibility in negotiations regarding equal opportunities and minorities".
- The Commissioner, in a letter in July 2001 to ILGA-Europe: "the principle of elimination of discriminations due to sexual orientation" was among "the principles that new Member States will be expected to accept upon accession".
- Remaining discriminatory laws referred to in Enlargement Directorate annual report 2001

THE RESULTS

All six countries have repealed their laws:

- Lithuania (September 2000) (the new legislation is not yet in force),
- Estonia (with effect from September 2001)
- Romania (December 2001)
- Cyprus (July 2002)
- Hungary/Bulgaria (September 2002)

Non-legal discrimination:

- Enlargement Directorate refers to behaviour of Bulgarian police (2001 report)

CONCLUSIONS

- HISTORIC SUCCESS!
- EU's anti-discrimination policies really mean something
- The European Commission CAN be persuaded to take action
- The European Parliament CAN achieve a lot for us
- An effective European LGBT network CAN ACHIEVE A LOT WORKING WITH THE COMMISSION AND THE PARLIAMENT

FUTURE ACTION

- ? RESEARCH NON-LEGAL DISCRIMINATION IN BULGARIA, ROMANIA, TURKEY?
(Example of the Roma rights campaign)

WORKSHOP 5:

Report on discrimination of Czech lesbians, gays and bisexuals (summary)

This survey was conducted in the year 2002 and the sample consists of 177 respondents.

Demographic data: 140 of respondents were men and 37 women. The filled questionnaires have been collected by snow ball system in g/l organisations (71 percent) and by mail (25%). Nine percents identified themselves as bisexuals (more women). The most frequented group according to the age was the group between 26-40 years, forming almost half of the sample. 42 percents of respondents lived in Prague, 45 percents in other cities, the rest in villages. 124 respondents were from Bohemia and 45 from Moravia, eight respondents from the other nations. 80 respondents completed high school and other 60 of them achieved university degree (together 81%).

Partnership: 59 respondents lived in stable partnership and 18 lived in short relation (44 percents). Women lived in partnership more often than men. People living in partnership were more open about their lifestyle.

Openness: 46% of respondents were fully open about their sexual orientation in their families. Only 15% of them kept their sexuality completely in secret within their families. 33 respondents stated that all their friends know about their lifestyle and 69 that it is more than five friends or relatives (together 58%). Nine respondents discovered his/her sexuality to nobody (5%). More educated respondents were more open.

Experience with violent attacks: Twenty-five respondents (14%), 20 men and five women, experienced violent attack related to their sexual orientation. Ten respondents were attacked repeatedly. Most aggressors were unknown, in two cases they were schoolmate and neighbour. The most common form of attack was unique slipping or kicking (15 cases). Four cases were reported to the police only (16%).

Harassment and homophobic behaviour: 69 respondents (39%) reported experiences with homophobic behaviour, most of them repeatedly. The higher proportion of it was among women than men. The most common form were verbal attacks and the most common perpetrator unknown person (39 cases) and schoolmate (17 cases). Six cases were reported to the police, two of their reactions were evaluated as hostile.

Discrimination at work: Altogether 16 respondents (9%, 10 men and six women) have met with any discrimination at their work. The mixed experience with discrimination was common (discrimination in hiring, refusal of job advancement or being fired from job). 41 persons (23%) have met with homophobic behaviour in their job. The most common forms were homophobic jokes and comments. 24 persons (14%) hidden all time their sexual orientation at work, while 50 respondents (28%) were fully open at work.

Discrimination at army: 41 men and two women said they were/are at army forces. Nine of them (22%) perceived discrimination, while most of them kept their orientation in secret.

Discrimination at health care and housing: 59 respondents (34%) are not open about their lifestyle at the health care provider. 12 respondents (7%) perceived discrimination in health services. Similar results were in discrimination during housing. One third of sample are not open and 14 respondents perceived discrimination.

Rejecting behaviour in families: 42 respondents (24%) perceived discrimination in families (it is one third of the sample without them who are not open), The most common was aggressive behaviour (24 cases), monitored behaviour (16 cases) and eviction from home (15 cases).

Conclusions: The discrimination of lesbians, gays and bisexuals is not common, but existing and often undetected. The higher proportion of women reporting these experiences can reflect their higher sensitivity. Very common are mixed experiences from different fields of social life. The younger women and men are much more open about their sexuality and lifestyle and their experiences of discrimination are not higher.

WORKSHOP 5:

Sexual orientation discrimination in Estonia

By Lilian Kotter (eluell@satum.zzz.ee),
Estonian Association for Lesbians and Bisexual Women

In September 2002 a questionnaire on discrimination of lesbian, gay and bisexual people in Estonia was distributed in Tallinn gay bars, clubs, saunas and two lesbian and two gay Internet web-sites and posted to a lesbian mailing list. The survey is based on a standard questionnaire and is one of the surveys carried out in 2001- 2002 in Slovenia, Romania, Poland, Hungary, Slovakia, Latvia, Lithuania, the Czech Republic and Malta.

437 questionnaires were filled in (49% in the Internet). The survey is very representative: with a population of 1.4 millions, we have 312 questionnaires per 1 million inhabitants. 68% (295) of respondents are male and 32% (142) female. 72% of male respondents are gay, 28% bisexual. 62% of female respondents are lesbian, 38% bisexual. (In total, 31% of respondents were bisexual.) 4% were under 18, 39% of age 18-25, 44% 26-40, 10% 41-50, 2% 51-60 and 1% over 60. 23% serve or have served in the armed forces, 26% of respondents are religious.

Respondents concealed their sexual orientation from their parents (55%), from their siblings (64%), from other relatives (53%), from their heterosexual friends (18%), using health services (49%), from neighbours and landlords (57%). Respondents were totally open about their sexual orientation at their work (19%) and in their current job (22%), in the armed forces (2%), in bars, clubs, hotels, etc. (35%) and among people in their religion (7%). They avoid kissing or holding hands in public with same-sex partners (55%) and avoid telling people who are not friends or family about your sexual orientation (55%).

Respondents have experienced violent attacks (12%) and harassment (72%). They have reported to the police cases of violence (22%), meeting neutral reaction (75%).

Because of their sexual orientation they have been denied a job (2-8%), a promotion (2-9%), they have been dismissed or forced to resign (1-6%). They have been harassed at work (14%), been discriminated in the armed forces (14%), in bars, clubs, hotels, etc. (7%), in religious institutions (12%), in family (23%), they have had problems over accommodation (6%). They have never experienced discrimination while using health services.

52% of respondents have considered emigration, 58-60% of those see sexual orientation discrimination as a key factor in their considerations (28%).

WORKSHOP 5:

Sexual orientation discrimination in Lithuania and Latvia

By Eduardas Platovas,
LGL, Lithuania

Discrimination on grounds of sexual orientation amounts to unacceptable exclusion of lesbians, gays and bisexuals in Lithuania and Latvia. The findings of the survey in Lithuania show, that majority of the respondents are afraid of being singled out for different treatment merely because of their sexual orientation. 67% of all respondents hide their sexual orientation from their parents. Concealment of sexual orientation is even higher in the public life of lesbian, gay and bisexual individuals (89% of respondents) and in their workplace (88% of respondents).

The findings of the survey have left us in no doubt that violence and harassment are particularly important issues for lesbians, gays and bisexuals. One of every two respondents had experienced some form of violence or harassment because of their sexual orientation, and one in three had suffered harassment in the workplace.

The victims of serious violent attacks or harassment are afraid to disclose their orientation to the police to avoid discrimination. Only 15% of harassed respondents reported the incidents to the police officers. This fact raises great concern about the prevailing mistrust of the police institution by sexual minorities and strongly suggests the emerging need for more sensitive human rights protection body.

Results of the survey in Latvia demonstrate that 19% have been victims of a violent attack once or more than once. 40.2% have experienced harassment because of their sexual orientation and 17% have experienced harassment because of their sexual orientation at the work place.

Discriminatory treatment in the workplace, various spheres of service, religious institutions and even in the family have lead as many as 63% of respondents in Lithuania and 52% of respondents in Latvia to consider emigration as the main option to improve their lives as lesbian, gay and bisexual individuals. This result alone illustrates the scope of the negative impact of discrimination. Only practical action of the Governments on equality and diversity can help to reduce the costs of this damaging effect on lesbian, gay and bisexual citizens.

Attempts by public organisations to achieve changes in the law so as to improve the legal rights of gay, lesbian and bisexual people in Latvia have been unsuccessful. One argument that has been presented by opponents in this area is that there have been no studies about the way in which gay and bisexual people face discrimination, how often such discrimination takes place and whether discrimination exists at all.

In Lithuania, the office of the Ombudsman for Equal Opportunities is in the process of addition to the mandate of new grounds of discrimination, including sexual orientation. New draft legislation for equal opportunities will be drawn up till the end of 2002. The Ombudsman plays a key role in supporting LGL's proposals for introduction of comprehensive legislation designed to prohibit discrimination on the ground of sexual orientation in employment and other spheres of life. The new Labour Code (adopted by the Parliament in June 2002, to be enforced from 1 Jan 2003) sets out the legal principles of equality in employment and includes sexual orientation as a ground for prohibited discrimination. Article 129 mentions sexual orientation among the prohibited grounds for dismissal. Finally, the new Criminal Code, which is to enter into force in January 2003, eliminates the difference in the age of consent depending on *sexual orientation*, and includes provisions banning discrimination on that basis.

Minutes of workshop 6

Organising within trades unions for LGBT rights

Friday, 25 October 2002, 9.30-11.00

Presenters: Louise Ashworth and Beverly Miller, UNISON National Lesbian and Gay Committee

Chair: Jackie Lewis, ILGA-Europe

Minute-taker: Neil MacInnes, UNISON Scotland

The workshop was well attended with delegates in attendance from the following countries: Ireland, United Kingdom (including Scotland, England and Northern Ireland), Netherlands, France, Portugal, Sweden, Malta, Italy, Spain and Cyprus. All participants introduced themselves providing details about any links or involvement with trades unions in their country.

Louise and Beverly introduced the aims and objectives of the workshop which would look at all the ways in which trades unions can and should support their lgbt members:

- By adopting policies opposing sexual orientation and gender identity discrimination and promoting equality in the union, the workplace and society
- By encouraging lgbt people to join and become active in their unions
- By supporting the development of lgbt groups within trades unions
- By negotiating for lgbt equality with employers
- By monitoring both best and worst practice
- By supporting and representing members' where their right are breached.

The workshop was aimed primarily at those who were already union members, although everyone was welcomed and encouraged to participate. Breakout groups were identified with all groups asked to consider a number of key stages which would stimulate and encourage debate and discussion with all groups reporting back to the larger group at the end of the session. The development stages identified were:

1. How would our ideal trade union be organised in order to effectively target lgbt issues
2. What is the current position – mapping the current policies, organisation and practices of the unions we belong to in relation to work surrounding lgbt equality
3. Identifying targets for change – short, medium and long term
4. Identifying allies and opportunities
5. Planning a strategy.

The end result would identify ways in which lgbt trade unions can work with other groups and the wider LGBT community and to plan strategies to move forward.

Each breakout group enjoyed a lively discussion sharing and learning from details of successes and failures from each other's experiences.

The feedback session noted the following recommendations and actions which would provide a way forward:

- ✓ A trade union meeting at every ILGA Conference
- ✓ A facility for activists to keep in touch with each other between conferences to allow the ongoing opportunity to share from each others experiences – establishment of an mail list / issuing a list of email addresses
- ✓ Create a list of possible partners in order to work in partnership with other groups – developing a coalition of interest groups
- ✓ Use the appropriate EU directives as a lever to move forward and as a tool to negotiate within your trade union and with other appropriate bodies
- ✓ Ensure that LGBT issues are put on the agenda in all countries
- ✓ Ensure that an inequality of equality does not exist
- ✓ Provide safe environment and opportunities for lgbt members and potential members to meet
- ✓ Expand communication and sharing of best practice
- ✓ Look at PSI handbook for developing lgbt groups within trade unions, published 1999
- ✓ Develop a shopping list of items to be considered – and prioritise – identifying aims and recording goals and achievements
- ✓ Determination and patience – things do not happen overnight

Finally anyone wishing further information on UNISON structures and achievements can contact Carola Towle, UNISON's National Lesbian and Gay Officer.

Email: c.towle@unison.co.uk

Workshop 7

Friday, 25 October 2002, 15.00-16.30

Parenting rights under the European Convention on Human Rights

No minutes seem to have been produced. Three presentations have been given to the workshop:

Presentation by Dr Robert Wintemute

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

I. Custody of children from prior different-sex relationships (existing genetic parents)

João Salgueiro da Silva Mouta v. Portugal (No. 33290/96), Eur. Court H.R., Judgment,¹¹ 21 Dec. 1999 (violation of Article 14, “non-discrimination”, combined with Article 8, “family life”; first violation of Article 14 in an LGBT case that reached the Court)

- extremely important general principles for all 44 Council of Europe member states =
 - (1) sexual orientation “is undoubtedly covered by Article 14 of the Convention”, and therefore by Protocol No. 12 to the Convention, even though it is not expressly mentioned (para. 28) (the same is probably true of gender identity);
 - (2) sexual orientation cannot be the decisive factor in a decision about custody of a child because “[such] a distinction is not acceptable under the Convention” (paras. 35-36) (the same is probably true of gender identity)
- Court drew an implicit analogy between sexual orientation and religion (para. 36), because it cited *Hoffmann v. Austria*, a 23 June 1993 judgment of Court in a similar case involving a denial of custody to a mother because she was a Jehovah's Witness
- result would have seemed unlikely in Feb. 1996, when application filed (only case-law then was on blanket criminalisation of same-sex sexual activity), but much had changed by the time of the Court's judgment in Dec. 1999: new full-time Eur. Court H.R. from 1 Nov. 1998, with some new judges; *Smith & Grady v. United Kingdom* and *Lustig-Prean & Beckett v. United Kingdom* (27 Sept. 1999 judgments of Court finding that a ban on LGB military personnel violated Article 8)
- all 7 judges (from Croatia, Finland, Germany, Liechtenstein, Poland, Portugal and Spain) found a violation
- the *Mouta* case establishes a wonderful principle; the problem is the lack of respect for the judgment by the Portuguese courts; possibility of pressure on Government of Portugal through Committee of Ministers? (cf. *Alecos Modinos v. Cyprus*, 22 April 1993; Committee of Ministers rejected the initial law passed by Cyprus in 1998, and a second amendment was passed in 2000; see Resolution ResDH(2001)152, (http://cm.coe.int/stat/E/Public/2001/adopted_texts/resDH/2001resdh_152.htm).

¹¹ All judgments and admissibility decisions of the European Court of Human Rights are available at <http://hudoc.echr.coe.int/hudoc> (Access HUDOC), as are many reports and admissibility decisions of the former European Commission of Human Rights. Type the applicant's name after “Title”, or type in the application number, and tick “Reports” or “Admissibility decisions” at the top if you are looking for one of these rather than a judgment of the Court (it is safer to tick both English and French at the top; some decisions are published only in one language).

Helen Craig v. United Kingdom (No. 45396/99), Eur. Ct. H.R., Decision, 21 March 2000 (inadmissible)

- court-approved agreement by a lesbian mother (L), settling custody litigation with her former husband, that their four children would spend alternate weeks with each parent, and that “she would not permit the children to come into contact with ... the applicant [C, her female partner] or ... any other person known to L to be lesbian”; inadmissible because C (the female partner) challenged the discriminatory conditions attached to joint custody, not L (the genetic mother).

II. Adoption of children (prospective and existing non-genetic parents)

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

<u>no adoption</u>	<u>individual adoption</u> ¹²	<u>second-parent adoption</u>	<u>domestic joint adoption</u>	<u>international joint adoption</u>
France (highest administrative court has imposed blanket ban on LGB individuals) Croatia Cyprus Luxembourg (married couples only; heterosexual individuals + unmarried different-sex couples also excluded)	at least 35 of 44 Council of Europe member states ¹³	Denmark* Iceland* Netherlands Spain (Navarra) ¹⁴ Sweden* (proposed in England and Wales) ¹⁵ (proposed in Norway*) ¹⁶ *registration or marriage required, cohabitation not sufficient	Netherlands Spain (Navarra) Sweden* (proposed in England and Wales)	Spain (Navarra) Sweden* (proposed in England and Wales)

¹² Even if only in exceptional cases.

¹³ Insufficient information to determine whether Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia and Macedonia permit adoption by unmarried individuals. If they do, they do not appear to have a blanket ban on lesbian, gay and bisexual individuals, imposed by the legislature or the courts.

¹⁴ The legislation in Navarra has been challenged before the *Tribunal Constitucional*.

¹⁵ See Adoption and Children Bill, <http://www.parliament.the-stationery-office.co.uk/pa/ld200102/ldbills/082/2002082.htm>, clauses 48(1), 139(4) (passed by House of Commons on 20 May 2002 by 301-174; rejected by House of Lords on 16 October 2002 by 196-162; still pending.)

¹⁶ See <http://odin.dep.no/bfd/norsk/aktuelt/nyheter/004051-990242/index-dok000-b-n-a.html> (20 April 2001).

A. Individual adoption

Philippe Fretté v. France (No. 36515/97), Eur. Court H.R., Judgment, 26 Feb. 2002 (no violation of Article 14 combined with Article 8, “private life” or “family life”)

France, Civil Code, Article 343 – “Adoption may be requested by two spouses who are not separated, and who have been married for more than two years or who are both aged 28 or more.”

Article 343-1 – “Adoption may also be requested by any person aged 28 or more...”

- case sought a small extension of the “no discrimination based on sexual orientation” principle of *Mouta* from custody of children of existing genetic parents to individual adoption of children by prospective non-genetic parents

- **Issue 1:** 7-0 – The difference in treatment was based on the applicant’s sexual orientation. The Government of France had argued that it was based on his individual circumstances (including the layout of his apartment).

- **Issue 2:** 4-3 – Article 14 applies, combined with Article 8, because “the right guaranteed to the applicant by Article 343-1 of the Civil Code falls within the ambit of Article 82. Not clear whether “private life” or “family life”.

- for application of Article 14: judges from Austria, Belgium, Lithuania, United Kingdom

- against application of Article 14: judges from Albania, Czech Republic, France (absence of existing “family life” with a specific, identified child a major factor)

- **Issue 3:** 1-3-3 – The difference in treatment had an objective and reasonable justification and therefore was not “discrimination” contrary to Article 14 combined with Article 8.

- 1 Yes - difference in treatment justified: judge from Lithuania

- 3 No - difference in treatment not justified: judges from Austria, Belgium, United Kingdom (very strong dissenting opinion)

- 3 Abstain (because Article 14 does not apply): judges from Albania, Czech Republic, France (but their votes on Issue 2 have the same effect as the Lithuanian judge’s vote on Issue 3)

- **Net Result:** 4-3 – no violation of Article 14 combined with Article 8; Judge Kuris from Lithuania effectively has the deciding vote; denial of “approval” to adopt justified because:

(a) absence of “European consensus” on adoption by LGB individuals (true of second-parent and joint adoption, but not individual adoption; see table above)

(b) “[T]he scientific community ... is divided on the consequences of placing a child with a homosexual parent or parents” (the Government of France cited no study showing negative consequences; the Court said that the number of studies is “limited”)

(c) “[T]he profound divergences in national and international public opinion” (public opinion decisive on human rights questions?)

(d) “[T]he insufficiency of the number of adoptable children in relation to the demand” (true of developing countries?)

- the dissenting opinion in *Fretté* is a major breakthrough; the majority judgment is very weak, and could be overruled by the Court in a few years.

B. Second-parent adoption or joint adoption

only case-law is on joint parental authority for second, non-genetic parent (only married different-sex couples could adopt in the Netherlands at the time)

Catharina Kerkhoven, Anna Hinke & Stijn Hinke v. Netherlands (No. 15666/89), Eur. Commission H.R., Admissibility decision, 19 May 1992 (inadmissible)

- the Commission found no violation of the Convention where the female partner of a woman who had received donor insemination was denied joint parental authority over their child, even though the unmarried male partner of a woman in the same situation would have been granted joint parental authority

- would a second-parent adoption case be decided differently today? More sympathetic for the Court because there is existing “family life” and no potential competition for the child from a heterosexual third party? Sufficient European consensus (see table above)?

- a suitable “test case” might be from Spain (or Belgium), where joint and second-parent adoption has been (or could soon be) extended to unmarried different-sex couples but not to same-sex couples, depending on the Court’s judgment in *Siegmund Karner v. Austria* (declared admissible on 11 Sept. 2001; do Articles 8 and 14 require equal treatment of unmarried different-sex couples and unmarried same-sex couples in relation to housing?).

III. Access to donor insemination and surrogacy (prospective genetic and non-genetic parents)

A. Access to donor insemination

No case-law as yet.

- women without male partners have access in, e.g., the United Kingdom, Netherlands, Belgium, Spain
- no access in, e.g., France, Denmark, Norway, Sweden (reform expected soon in Sweden).

France, Public Health Code, Article L2141-2 (inserted by Law No. 94-654 of 29 July 1994) (access only for married and unmarried different-sex couples; possible “test case” for unmarried same-sex couple depending on Court’s judgment in *Karner*, above):

“Medical assistance with procreation is intended to respond to the parental need of a couple. Its object is to remedy an infertility the pathological character of which has been medically diagnosed. Its object may also be to avoid transmission to a child of a particularly serious disease.

The man and the woman making up the couple must be alive, of an age suitable for procreation, married or able to provide proof of having lived together for at least two years and consenting in advance to the transfer of the embryos or the insemination.”

United Kingdom, Human Fertilisation and Embryology Act 1990, s. 13 (access possible for women without male partners)

Conditions of
licences for
treatment.

13.—(1) The following shall be conditions of every licence under paragraph 1 of Schedule 2 to this Act.

...

(5) A woman shall not be provided with treatment services unless account has been taken of the welfare of any child who may be born as a result of the treatment (including the need of that child for a father), and of any other child who may be affected by the birth.

B. Rights of sperm donor

J.R.M. v. Netherlands (No. 16944/90), Eur. Commission H.R., Admissibility decision, 8 Feb. 1993 (inadmissible)

- known sperm donor denied right to visit child of two lesbian women.

C. Legal parenthood for partner of woman receiving donor insemination

United Kingdom, Human Fertilisation and Embryology Act 1990, s. 28

Meaning of
“father”.

28.—(1) This section applies in the case of a child who is being or has been carried by a woman as the result of the placing in her of an embryo or of sperm and eggs or her artificial insemination.

...

(3) If no man is treated, by virtue of subsection (2) above [married couples], as the father of the child but—

(a) the embryo or the sperm and eggs were placed in the woman, or she was artificially inseminated, in the course of treatment services provided for her and a man together by a person to whom a licence applies, and

(b) the creation of the embryo carried by her was not brought about with the sperm of that man,
then ... that man shall be treated as the father of the child.

...

X, Y & Z v. United Kingdom (No. 21830/93), Eur. Court H.R., Judgment, 22 April 1997 (no violation of Article 8, “family life”; the Commission had found a violation in its Report of 27 June 1995) (X is Stephen Whittle of Press for Change, United Kingdom)

- transsexual father not considered legal father of his child by donor insemination of his non-transsexual female partner because he was legally considered a woman in the United Kingdom

- para. 52: “transsexuality raises complex scientific, legal, moral and social issues, in respect of which there is no generally shared approach among the Contracting States, ... Article 8 cannot ... be taken to imply an obligation for the respondent State formally to recognise as the father of a child a person who is not the biological father”

- transsexual cases should be resolved for the future by *Christine Goodwin v. United Kingdom* (No. 28957/95) and *I. v. United Kingdom* (No. 25680/94), Eur. Ct. H.R., Judgments, 11 July 2002 (refusal to allow transsexual individuals to change the sex on their birth certificates after gender reassignment violated Article 8)

- possible “test case” for unmarried female-female couple depending on Court's judgment in *Karner*, above

- compare Québec (Canada), Civil Code, as amended by Bill 84 in 2002, see <http://publicationsduquebec.gouv.qc.ca/en/frame/index.html>, Laws and Regulations, Bills (English), 36th legislature, 2nd session, Bill 84:

Article 538.3 - “If a child is born of a parental project involving assisted procreation between married [different-sex] or civil union [different-sex or same-sex] spouses during the marriage or the civil union or

within three hundred days after its dissolution or annulment, the spouse of the woman who gave birth to the child is presumed to be the child's other parent. ...”

Article 539.1 - “If both parents are women, the rights and obligations assigned by law to the father, insofar as they differ from the mother's, are assigned to the mother who did not give birth to the child.”

D. Legal parenthood for partner of man providing sperm to surrogate mother

No case-law yet.

- surrogacy permitted in the United Kingdom as long as there is no payment to the surrogate mother, other than for reasonable expenses; in the case of a married different-sex couple only, the court can make an order declaring that the wife is the legal mother rather than the surrogate mother; this does not apply to unmarried different-sex couples or unmarried male-male couples (see Human Fertilisation and Embryology Act 1990, s. 30)

Parental orders in favour of gamete donors. **30.**—(1) The court may make an order providing for a child to be treated in law as the child of the parties to a marriage (referred to in this section as “the husband” and “the wife”) if—

- (a) the child has been carried by a woman other than the wife as the result of the placing in her of an embryo or sperm and eggs or her artificial insemination,
- (b) the gametes of the husband or the wife, or both, were used to bring about the creation of the embryo, and
- (c) the conditions in subsections (2) to (7) below are satisfied.

(2) The husband and the wife must apply for the order within six months of the birth of the child ...

(3) At the time of the application and of the making of the order—

- (a) the child's home must be with the husband and the wife, ...

(5) The court must be satisfied that both the father of the child ..., where he is not the husband, and the woman who carried the child have freely, and with full understanding of what is involved, agreed unconditionally to the making of the order. ...

(7) The court must be satisfied that no money or other benefit (other than for expenses reasonably incurred) has been given or received by the husband or the wife for or in consideration of—

- (a) the making of the order,
- (b) any agreement required by subsection (5) above,
- (c) the handing over of the child to the husband and the wife,

or

- (d) the making of any arrangements with a view to the making of the order,

unless authorised by the court.

...

WORKSHOP 7:

Presentation of Philippe Fretté

This is for me an honour and a great pleasure to bear witness to the legal difficulties that gay men and lesbian women have when they try to adopt a child in France.

a) My attempt to adopt in France

I remember my first feeling about having a child: it was in San Francisco, during the Gay Pride in 1984 – two guys were pushing a baby carriage... I realised that there was no contradiction between being gay and being a parent, except one's own psychological barrier. Two years later, I became friends with a gay man who had married a heterosexual woman, and had two girls and a boy with her. He married her because his wish to have children was very strong and because she loved him as he was. ...

Personally, I never considered marrying a heterosexual woman. It seemed to me to be something unnatural for a gay man. I did have some opportunities to have a child with a lesbian woman. But even if she is a very good friend, it is not very easy because it starts necessarily with compromises: child custody, in which parent's home will the child live, the status of the partner of each parent, etc...

In 1986, a discussion took place at the *Association des parents gays* about adoption. A young man explained to us that many orphans were not adopted because nobody wanted them: they were "too old" or they had a disability. I started thinking about adoption.

In France, it is possible for an unmarried individual to adopt, but in fact, few men apply for the administrative "approval" (*agrément*) that is essential if you have not already identified a specific child you want to adopt. This "approval", granted by the local government, allows you either to adopt a French orphan, or to apply for international adoption. Without this "approval", no association involved in adoption would agree to help you find a child.

I decided to apply for an "approval" to adopt in 1991. As is their usual practice, the local authorities planned an investigation or "home study" to decide whether I would provide the requisite safeguards – from a child-rearing, psychological and family perspective – for adopting a child. The interviews were run by a psychologist and two social workers. It was not very easy for me: in such a position, you have to explain why you can't have a child by other means... I was first questioned about the "girlfriend" they assumed I had, and I was asked to explain why "we" couldn't have children...

After ten minutes I said: It is not "she" but "he". At the time, my male partner was living with me. Then I was told that if I were to be adopted, the child would be completely neurotic, and that it would be better for me to withdraw my application right then and there, because there was no chance that I would be granted the "approval". I was very upset and felt that I had been very stupid to "tell the truth".

But I decided to pursue my application, hoping that it would be easier with the social workers. Their investigations went better and their reports were rather positive: only the psychologist remained opposed, because of her personal opinion; the psychiatrist that I was asked to consult wrote that he had no objection to my plan to adopt.

In 1993, more than eighteen months later, the head of the local government (at the time, it was M. Jacques Chirac, mayor of the Department de Paris), twice rejected my application for an "approval" with the following main arguments:

- there would be no permanent "maternal reference" for the child in my household
- my "choice of way of life" would cause extra difficulties for a child, whose past would already have been strongly disturbed...

Having been rejected, I decided to bring legal proceedings against the French administration. I went to the Administrative Court of Paris, because I felt that I had been the victim of discrimination as a gay man.

Finally, in 1995, the Administrative Court agreed with my arguments and declared invalid the Administration's two refusals to grant me an "approval". At last, I thought that I would receive my "approval" and be able to start looking for a child. But instead of giving me the "approval", the local government appealed to the highest administrative court in France, the *Conseil d'État* or Council of State, to reverse the judgment of the Administrative Court and reinstate the rejection of my application.

Then, I had to wait for another eighteen months... In October 1996, the *Conseil d'État* took its decision: It was a very short decision, with very little reasoning; it just said that: "From the information in the case-file ... it emerges that [Mr. Fretté], having regard to his lifestyle and despite his undoubted personal qualities and aptitude for bringing up children, did not provide the requisite safeguards – from a child-rearing, psychological and family perspective – for adopting a child." The word "homosexuality" was not mentioned, but the *Conseil d'État* referred to my "conditions de vie" or "choix de vie" – "conditions of life", "choice of way of life" or "lifestyle" in English.

The decision was preceded by the conclusions of the *Commissaire du Gouvernement*, written by a judge who gave her independent opinion on the case and proposed a legal solution to the *Conseil d'État*: that they uphold the appeal of the local government and reinstate the refusal of my application. The *Conseil d'État* adopted her solution. Her arguments were more political than legal. She said for example: "The question whether a child is in danger of being psychologically disturbed by his relationship with an adult who cannot offer him or her the reference point of a distinct father and mother, in other words a model of sexual difference, is a very difficult one which divides psychiatrists and psycho-analysts. ... Moreover, public opinion seems to me in fact also to be divided on this question. ... [S]ociety does not seem to me to be ready to accept that a child can be entrusted to certain persons."

The *Commissaire du Gouvernement* proposed that the "approval" should not be given to me, not because I was gay but because of the "risks for the child" of my choice to live as a gay person... (This is very strange reasoning.) Many academic and practising lawyers in France approved of the *Conseil d'État*'s decision. I realised that I would never receive an "approval" and would never become an adoptive parent. Also, I felt responsible for a new situation: A positive decision from the *Conseil d'État* might have helped other gay and lesbian people in France to adopt. But this negative decision would have a negative impact.

That is what happened: Many local governments became more reluctant to grant an "approval" when they guessed that the applicant might be gay or lesbian. As for the administrative courts, most of them (except the one of Besançon, two years later) followed the new case-law of the *Conseil d'État*. I felt that my failure before the *Conseil d'État* would prejudice the applications of other gay and lesbian people in the future.

b) Going to Strasbourg

As a member (and co-founder) of the French association APGL (Association of lesbian and gay parents and prospective parents), I was told that my case could be submitted to the former European Commission of Human Rights. I knew that, even if I succeeded, it would not automatically give me the "approval" to adopt. I would have to apply again, and I would be 10 years older. But some aspects of the case were favourable: The legal reasoning in the judgment of the *Conseil d'État* was minimal and weak, and there had been procedural errors: I was not notified of the date of the hearing before the *Conseil d'État*.

I started reading the text of the Convention and some case-law. But the connection between the discrimination I suffered and the rights protected by the Convention was not so easy to establish.

I had the feeling that the European Court of Human Rights was embarrassed by this case. I had to wait for over four years from the time I made my application to the Commission until the Court decided to declare most of my application admissible and scheduled a hearing.

During this time, and despite the influence of APGL in France, the struggle for the right of gay or lesbian people to adopt was not really supported by other gay and lesbian associations, which mostly feared that

this struggle might compromise the vote on the PaCS law, which was then before Parliament. The Socialist government of M. Lionel Jospin tried to reassure people by saying that the PaCS law would not lead to adoption for gay and lesbian people. After the Court declared my case admissible, in June 2001, the Jospin government could have proposed a settlement in order to avoid a possible condemnation of France by the Court. But they didn't do that. I wonder why they later – during the April 2002 presidential campaign – proposed, after the Court's judgment, to ban discrimination based on sexual orientation in applications for "approval" to adopt?

On 2 October 2001, nearly 10 years after I first submitted my application for an "approval", I went to the hearing at the Court in Strasbourg with my friend Steuart. M. Robert Wintemute, assisted by M. Stéphane Garneri and M. Thomas Formond, volunteered to represent me. After the hearing, we were very optimistic about a favourable judgment.

The arguments of the French Government's representative were not very offensive. M. Abraham tried to minimise the fact that the refusal was founded on my homosexuality. He also asserted that many abandoned children were not suitable for adoption, even in developing countries!

The day of the Court's judgment, the 26 February 2002, was very tense. At first, I was very disappointed, as I was expecting justice from the Court. But the good side of the day was the media interest in the case: many journalists tried to get in touch with me (or Robert, or Martine Gross from the APGL). I received great support from my family, also from some colleagues at the school where I work. Many TV channels programmed panels about gay parenting, and a lot of information was given to the general public, who are mostly ignorant of the reality of children who grow up in gay families.

The decision itself is not too bad, especially the fact that there was no majority among the judges about the question of whether the discrimination was justified or not. But I leave it to M. Wintemute to comment on the legal significance of the case. Obviously, the Court was extremely divided and showed a lot of hesitation in this decision.

c) The situation in France now

It is very sad to observe that there have been no positive developments yet. On the contrary, many local authorities continue to be careful and try to discover whether unmarried applicants are gay or not. Most of the time, the applicants are obliged to hide their homosexuality. Sincerity doesn't pay! There are a few local governments (départements) that are not against adoption by gays and lesbians. It is the case for Paris, since the election of the openly gay Socialist mayor, Bertrand Delanoë. But if the local government is opposed, and the individual begins legal proceedings, the local government always wins, and the "approval" is ultimately not given.

On 5 June 2002, the Conseil d'État decided a case very similar to mine concerning a lesbian woman applying for an "approval" to adopt. It had a chance to change its case-law voluntarily, without being required to do so by the European Court of Human Rights. Unfortunately, it refused. The result was the same as in my case, but the reasoning was more detailed. The Conseil d'État said that the local government could consider "whether [a female] candidate for adoption could offer in her family or circle of friends a paternal 'image or reference'" and whether the "behaviour or personality" of the candidate's female partner would be such as to support the reception of the child, even though the partner is legally unable to adopt the child jointly. Thus, the absence of a "paternal reference" and the "ambiguity" of the partner's role in the adoption justified the refusal of an "approval".

The Commissaire du Gouvernement argued that there had been no discrimination based on sexual orientation, contrary to the European Convention or French law, because of the Strasbourg Court's decision in my case, and because the refusal of the "approval" had been based, not solely on the applicant's homosexuality, but on "the incidence that her way of life [her choice to live with a same-sex partner] has on the conditions for reception of an adopted child". The Commissaire du Gouvernement also dismissed the many scientific studies that have found that being raised by a lesbian mother has no

negative effect on a child's development. Because of their methodological problems, they do not constitute "proof".

As more and more European countries are trying to pass laws allowing gay and lesbian people to adopt, as individuals or as couples, France is instead insisting on a very restrictive policy.

The APGL applied to join the *UNAF (Union nationale des associations familiales* or National Union of Family Associations), but was rejected.

Both the existence and possibility of gay and lesbian families are denied.

The biggest fear is that one day gay or lesbian couples might be allowed to adopt as couples, as if it were a threat for traditional families.

The UNAF, the Conseil d'État and other opponents in France are ignoring reality: in big cities such as Paris, the majority of children are living in single-parent families.

I am convinced that the position of the Court will improve very soon, taking more into account the evolution of gay rights in Europe and also the reality of children who would prefer to be adopted than to remain in the poor orphanages of the third world.

That is why people who are the victims of discrimination in relation to adoption should know that they may submit an individual complaint to the European Court of Human Rights, even if it may take a long time.

With regard to my personal plans, having a child is not for me an obsession. I have thirteen nephews and nieces at present. On the other hand, I recognise that I would be happy if I could become a father one day by another means.

One thing I do know is that I am not ready to undergo the same type of investigations that I experienced ten years ago when I tried to adopt.

Presentation of João Salgueiro da Silva Mouta

Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11 (Rome, 4.XI.1950):

Article 1 – Obligation to respect human rights

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention

Article 8 – Right to respect for private and family life

- 1 Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 14 – Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other

opinion, national or social origin, association with a national minority, property, birth or other status.

The European Convention on Human Rights requires the governments of all 44 member states of the Council of Europe to secure to everyone, in their infinite diversity, the same rights and freedoms. To be different, usually, means to be inferior, abnormal and a sinner. To enjoy the same rights is not easy; it is very difficult to be different.

To be homosexual is, still, to be different. That is why it is so hard to be a homosexual parent. Not because your sexual orientation prevents you from being a good parent, but because society assumes that your sexual orientation represents a danger for your children. To want to perform your duties as a parent is, for a homosexual, a fight against everything, against almost everybody.

Western societies, in general, consider the mother to be the best parent to raise children. So, for a father to have access to his children – the so-called right to visit – is a fight; for a father to want to have custody of his children, instead of their mother, is a tremendous battle. If the father seeking custody is a homosexual, it is even worse.

In my case, to be a father and to be a gay was normal. The way that my ex-wife, some experts, the press, and TV channels used my sexual orientation was not normal.

When a father wants custody of his child, he usually has to prove that he is a good man, that he has excellent conditions in which he can raise the child, that members of his family are willing to help him raise the child, and that the mother is an unfit parent. As you can imagine, this is incredibly hard! If the mother and the father are in an equal position with regard to raising the child, the judges will decide in favour of the mother.

As I have already said, when a father is a gay man seeking custody of his child, it will be even harder. He also has to prove that his sexual orientation is not a bad thing for the child. As you may know, in Europe, when I began my struggle in 1990, scientific studies were not very conclusive, and the scientific community did not have a clear, single position about the possible harm to which a child raised by a homosexual couple would be exposed.

So, as you can appreciate, it was not easy for me to obtain a decision from the Lisbon Family Affairs Court that awarded me parental responsibility (or custody) of my daughter, who was then six and half years old.

My struggle began in 1990, when my ex-wife and I separated. We eventually agreed that she would have custody of my daughter, and that I would have a right to visit. But my ex-wife did not comply with the agreement and refused to allow me to visit. Therefore, in 1992, I applied to the Lisbon Family Affairs Court to have custody transferred from my ex-wife to me. The Court granted my application on 15 July 1994, and gave the following reasons:

- Lisbon Family Affairs Court Decision (15 July 1994)
 - *“The mother continues to be most uncooperative and it is wholly improbable that her attitude will change. She has repeatedly failed to comply with the Court’s decisions. The finding is inescapable that [the mother] has not shown herself capable at present of providing M. [the child] with conditions conducive to the balanced and calm life she needs. The father is at present better able to do so. In addition to providing the economic and living conditions necessary to have the child with him, he has shown himself capable of providing her with the balanced conditions she needs and of respecting her right to maintain regular and sustained contact with her mother and maternal grandparents.”*
 - *“Custody and care of the child is awarded to the father, in whom parental responsibility shall be vested.”*

Portuguese society was astonished! A father had won the battle. And they could not believe that he had been open to the Court about his homosexuality and his loving relationship with another man.

In 1995, my daughter finally moved into my home and lived with me and my partner Luís Gomes da Costa for 6 and 1/2 months. But my ex-wife then abducted my daughter. In spite of this illegal abduction, her appeal to the Lisbon Court of Appeal was successful. On 9 January 1996, the Court of Appeal transferred custody from me to my ex-wife and granted me a right to visit, for the following reasons:

- Lisbon Court of Appeal (*Tribunal da Relação*) Decision (9 January 1996)
 - *“The fact that the child’s father, who has come to terms with his homosexuality, wishes to live with another man is a reality which has to be accepted. ...*
 - *However, it cannot be argued that an environment of this kind is the healthiest and best suited to a child’s psychological, social and mental development, especially given the dominant model in our society. ...*
 - *The child should live in a family environment, a traditional Portuguese family, which is certainly not the set-up her father has decided to enter into, since he is living with another man as if they were man and wife.*
 - *It is not our task here to determine whether homosexuality is or is not an illness or whether it is a sexual orientation towards persons of the same sex. In both cases it is an abnormality and children should not grow up in the shadow of abnormal situations; such are the dictates of human nature.”*

In my opinion, the Court of Appeal’s decision was discriminatory, violating my daughter’s right and my own right, specifically our right to respect for our family life without discrimination based on sexual orientation. The Court of Appeal was the final stage in the Portuguese judicial system. So to continue my fight, I made an application to the European Commission of Human Rights. During this process of nearly four years, from February 1996 to December 1999, in which I had all the support of my loving partner, my lawyer Mrs. Teresa Coutinho, the Advice on Individual Rights in Europe (AIRE) Centre in London, and the administrative staff of the European Court of Human Rights, I couldn’t imagine what the seven judges of the Court would think about the right of a homosexual father to have custody of his daughter.

The reason for my being here today with you, making this – I hope, not boring – talk is due to the opinion of the woman and six men who delivered the unanimous judgment of the Court on 21 December 1999:

- The European Court of Human Rights Decision (21 December 1999)
Application number 33290/96 – HUDOC reference REF00001264

THE COURT UNANIMOUSLY HELD

- *“that there has been a violation of Article 8 of the Convention [right to respect for family life] taken in conjunction with Article 14 [right to be free from discrimination].”*
- *“...that the applicant’s homosexuality was a factor which was decisive in the final decision. That conclusion is supported by the fact that the Court of Appeal, when ruling on the applicant’s right to contact, warned him not to adopt conduct which might make the child realise that her father was living with another man ‘in conditions resembling those of man and wife’...”*
- *“The [European] Court [of Human Rights] is therefore forced to find, in the light of the foregoing, that the Court of Appeal made a distinction based on considerations regarding the applicant’s sexual orientation, a distinction which is not acceptable under the Convention.”*
- *“The Court cannot therefore find that a reasonable relationship of proportionality existed between the means employed and the aim pursued; there has accordingly been a violation of Article 8 taken in conjunction with Article 14.”*

Was the decision a victory? In terms of its practical effect on my life, the decision made no difference. The European Court of Human Rights can only declare that there has been a violation of the European Convention on Human Rights, and award financial compensation to the applicant. In my case, it did make a declaration, but it did not award any compensation, holding that the judgment constituted in itself sufficient just satisfaction for the damage that I had alleged. And the Court did not have the power to change the decision of the Lisbon Court of Appeal and transfer custody from my ex-wife to me.

The Court's judgment was transmitted to the Committee of Ministers of the Council of Europe, which supervises its execution. This means that the Committee of Ministers is supposed to make sure that the Government of Portugal takes steps to ensure that the kind of violation that occurred in my case does not happen again. As of today, the Committee of Ministers does not seem to have taken a decision on whether the Government of Portugal has done enough to comply with the judgment.

By the time the European Court of Human Rights issued its judgment on 21 December 1999, I had not seen my daughter for more almost 3 years. The judgment of the Court did not change the situation. Not only have the Portuguese courts neither reversed nor reconsidered the decision on custody, they have continued, because of their prejudice and malfunctioning, to refuse to enforce my right to visit my daughter. This has contributed to the Parental Alienation Syndrome that my ex-wife has induced in my daughter. Eight days from today, on 2 November, my daughter will be 15 years old. Yet, because of the failures of the Portuguese judicial system, including its failure to respect the judgment of the European Court of Human Rights, I have not been allowed to see my daughter for the last 5 and 1/2 years, and I have not been allowed to spend a weekend with her for nearly 6 years.

Even though the decision of the European Court of Human Rights has not yet been of practical use to me, it was a huge victory for the LGBT community in Europe. It set an extremely important precedent that will be useful for all LGBT parents who have been part of a different-sex marriage and are seeking custody of their children after a divorce. And it establishes clearly that all children have a right to contact with both their parents, no matter what their parents' sexual orientations may be.

The European Court of Human Rights decision significantly and strongly condemns discrimination on the basis of sexual orientation with respect to the right to enjoy family life. Moreover, it specifically condemns denial of custody on the basis of sexual orientation. The decision identifies such discrimination in the Lisbon Court of Appeal's preference for what it called "traditional" or "normal" family life. It thus appears to foreclose one of the forms in which prejudice against homosexuality masquerades in both judicial and policy determinations. The argument that a positive bias in favour of the advantages of traditional family forms, rather than a negative bias against homosexuality, can justify a decision against a homosexual parent, is disallowed as discriminatory by the Court's findings.

I am glad that Europe has done its best to make the protection of human rights and fundamental freedoms a reality. As for me, I have not done much. Believe me, I am no more than an ordinary man who was born gay and who has a daughter whom he loves.

Minutes of workshop 8

From the Convention on the Future of Europe to the Intergovernmental Conference 2004

Friday, 25 October 2002, 15.00-16.30

Presenter: Mark Bell

Chair: Jackie Lewis

Minute-taker: Mark Bell

Handouts distributed: Copies of the slides prepared by Mark Bell for his presentation (attached to these minutes), and the "ILGA-Europe submission to the Convention on the Future of Europe".

Mark Bell gave a presentation describing the work and role of the Convention on the Future of Europe and how this related to the rights of LGBT people. Particular priorities include ensuring that the EU Charter of Fundamental Rights becomes legally binding; changing the decision-making procedure for Article 13 EC so that no single state can block future anti-discrimination legislation.

A good discussion followed the presentation. The urgency of making our views known was highlighted. Many of the key decisions will be taken in the next month or two. Various people asked how they could influence the work of the Convention. Each EU state and candidate country has three delegates to the Convention, and it was suggested that individuals should contact their national delegates and ask them to support the submission from ILGA-Europe.

The list of national delegates, the members of the different working groups of the Convention and all the Convention documents and reports are available from the Convention web-site. This can be found through the Europa web-site www.europa.eu.int. There is also information on the Convention available on the ILGA-Europe web-site (including ILGA-Europe's submission) and the web-site of the Social Platform (www.socialplatform.org).

After the Convention reports in spring 2003, it was noted that it will be important to co-ordinate efforts to lobby national governments to implement any changes recommended that are consistent with ILGA-Europe's objectives. It was pointed out that it is likely the Convention will recommend making the EU Charter legally binding. This would be very important because it contains a requirement for non-discrimination on any ground, including explicitly sexual orientation, throughout EU law.

There was a discussion about whether there was a risk that Article 13 could be made weaker by governments after enlargement. It was clarified that ILGA-Europe is seeking to make it easier to adopt anti-discrimination laws on the basis of Article 13, but not to make it easier to change Article 13 itself. There was also a discussion about what was meant by the recommendation to "strengthen" Article 13. It was clarified that this meant a variety of changes, for example making Article 13 a directly enforceable right to non-discrimination for individuals as well as ensuring that equal opportunities is taken into account in all EU laws and policies.

WORKSHOP 8 – PRESENTATION:

Background

- Treaties set the founding rules of the European Union: e.g. Treaty of Amsterdam added Article 13 on non-discrimination
- 2002-2004: substantial process of reviewing and rewriting the Treaties of the European Union.
- 2004 – EU Constitution?



Convention on the Future of Europe

- Established to explore the options for reforming the EU
- Composed of national and European parliamentarians / government members
- Linked with NGOs through Civil Society 'Contact Groups' – includes ILGA-Europe



The Convention process

- 'Listening Phase' – spring 2002
- 'Working Group' phase – autumn 2002
- e.g. fundamental rights, free movement
- Draft report (and Treaty?) by spring 2003



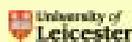
After the Convention

- IGC 2003-2004
- Governments of all EU states will negotiate the terms of a new Treaty
- After signature, it must be ratified by each country: e.g. Parliament vote or referendum



Issues for ILGA-Europe

- Strengthening Art 13
- The status and content of the Charter of Fundamental Rights
- The role for civil society
- Improving the way the EU works



Minutes of workshop 9

Presentation of proposals on specific discrimination faced by bisexuals and discussion of ILGA-Europe policy initiatives on behalf of bisexuals

Friday, 25 October 2002, 15.00-17.30

Presenter: Katrina Roen

Chair: Nico Beger

Minute-takers: Hilde Vossen and Katrina Roen

Number of attendees: 18.

Nico Beger introduced Katrina Roen, a bisexual woman who has published articles on transgender issues for the last three years and who has been writing the bisexuality report for ILGA-Europe.

The handouts that are distributed are (1) copies of the slides prepared by Katrina Roen for her presentation and (2) a summary of recommendations to ILGA-Europe as written in Katrina Roen's bisexuality report.

The workshop looked at investigating what practical steps can be taken by ILGA-Europe to promote the rights of bisexual people, beyond those issues already being addressed by the work of ILGA-Europe to eliminate sexual orientation discrimination. The workshop deals with aspects of ILGA-Europe's work programme and therefore the attendees are able to make recommendations to the final plenary session.

Katrina Roen gives a description of bisexual people. Bisexuals may be understood to be "men and women that feel emotionally and/or sexually attracted to both sexes, regardless of their actual behaviour". She says she is not representing bisexuals, but the concerns of bisexuals at a European level. For bisexuals make up a very diverse group.

Roen outlines some myths about and prejudices against bisexuals. Then she invites the bisexual attendees to write their ideas about working relationships with gay, lesbian and transgender organisations. She also asks other participants to write their ideas about working relationships with bisexual organisations. When people read the comments written by bisexuals, they said: "it is sad to hear the amount of hurt" and: "there is a lot of personal, emotional stuff there". Others' comments seemed to be more academic or intellectualised than emotional. When the two different sections of ideas about partnerships were being compared, they said: "bi-people say "them" while talking about gays, lesbian and transgender people, and "us" while talking about themselves". Working with heterosexuals was not specifically included in the discussion because the focus was on creating a genuine, working GLBT partnership within ILGA-Europe.

Roen invites the attendees to write down what they think ILGA-Europe and membership organisations can do to better address bisexuals' concerns, particularly around issues of anti-discrimination.

Recommendations from the bisexuality workshop were made by a process of group discussion. Workshop participants recommend that ILGA-Europe carries out the following work:

Taking clear steps towards developing a meaningful and mutually beneficial working partnership among the lesbian, gay, bisexual, and trans parties within ILGA-Europe.

Taking seriously the concern that current trends in anti-discrimination policy are aimed only at monosexuals. It is recommended that ILGA-Europe make a commitment to challenging this and seeking changes that better reflect bisexuals' concerns and experiences of discrimination.

Lobbying for specific funding for research into bisexual discrimination and visibility issues.

Putting on the table the issue, not only of bisexuality, but of multiple identities (transgender bisexual, transgender lesbian etc), and of non-identification (the fact that even including the focus from GL to GLBT leaves many people falling through the cracks and demands that people 'fit within' prescribed sexuality and gender categories in order to be directly served by ILGA-Europe).

Setting up a European bisexual work group. This work group would be made up of bisexuals who may produce a report on bisexual issues to ILGA-Europe. The group will also be an agent for networking among bisexuals in Europe. The group will identify ways of including bisexuals in the wider ILGA-Europe movement. The Board will adopt the interests of the work group, and be available to inform and support the group. Documents about bisexuality that are written by the bi work group will be published by ILGA-Europe.

Ensuring that the inclusion of bisexuals and bisexual issues in the work of ILGA-Europe is not only a matter of bisexuals feeding the ILGA-Europe process, but also ILGA-Europe supporting bisexuals in this work.

Ensuring that bisexuals are visible as ILGA-Europe Board members and/or as ILGA-Europe staff. Developing a way for there to be specific representation of bisexuality on the ILGA-Europe Board.

Ensuring that there is a bisexual caucus for all ILGA-Europe conferences and other relevant events.

Ensuring that ILGA-Europe Board members, staff, contractors (particularly those producing ILGA-Europe publications and policy documents), and volunteers have training on how to best represent the interests of bisexuals and developing not only their "gay-dar" but also their "bi-dar" (i.e. developing sensitivity to and awareness of biphobia, bi-invisibility and other bisexual concerns). This will be aimed to alter the overall flavour and focus of ILGA-Europe documents, work, and events to be more explicitly inclusive of sexuality diversity. It will also be aimed to address the threat that the inclusion of bisexuals may present for some existing stakeholders in ILGA-Europe (i.e. the threat of having to "share the cake" with bisexuals when there has been so much struggle to get any cake at all). It will also be aimed at tackling puritanism (i.e. the tendency to construct the gay/lesbian struggle for human rights as a worthy cause in relation to other more marginalised and more stigmatised "queer" struggles.)

Ensuring that "bisexual concerns" become seen as GLBT concerns and adopted and put forward not only by bisexuals but by ILGA-Europe broadly.

Ensuring that bisexuality is not “added into the agenda” in a tokenistic way in ILGA-Europe documents and policies. Rather, bisexuality must be included as a valid identity on an equitable footing with gay and lesbian identities. The avoidance of tokenism may be achieved by qualifying the use of the word “bisexual” in documents by distinguishing (1) instances when the word bisexual is being newly included to combat invisibility and (2) instances when bisexuality is discussed in documents in relation to specific work/research that is being followed up.

Working to develop a bisexual framework for analysing instances where bisexual discrimination may be occurring and may be inadequately detected by the frameworks of analysis used to identify and address homophobic discrimination. This means developing a method for putting a meaningful “b” in “glt”. Such a method would act as a useful guideline for gay, lesbian and transgender organisations wanting to include bisexuals.

Collecting evidence on cases of discrimination that do not clearly fall into discrimination against gay and lesbian people, or discrimination against same-sex couples, or discrimination on the grounds of sexual orientation. A broader perspective on discrimination will highlight instances where sexuality may be a hidden issue, perhaps because the person concerned is not clearly gay or lesbian, and is not clearly in a same-sex relationship. They may be bisexual, they may not identify themselves with any sexuality label, they may be even more likely than gay men and lesbians to fall through the cracks of existing discrimination legislation because they are not visible within gay/lesbian frameworks of analysis.

Addressing the discrimination and vulnerability of bisexuals and of other sexuality minorities who do not fit within the gay/lesbian framework. These concerns particularly need to be recognised, and given a priority equitable with gay and lesbian concerns, because of their invisibility and the subsequent high level of vulnerability faced by the people concerned.

Member groups and ILGA-Europe as a whole need to work systematically together to address the issues being raised by bisexuals through the workshop.

Member groups need to provide more information, documentation, and feedback on the forms of discrimination against bisexuals as this work is taken on.

To ask any questions about this workshop and its recommendations, please contact Hilde Vossen (European bisexual affairs officer, hilde@lnbi.demon.nl) or Katrina Roen (workshop facilitator, katravel@yahoo.com).

The workshop suggests no amendments to the work programme.

WORKSHOP 9:

Summary of Recommendations

The suggestions made by bisexuality report may be understood to fall under the following three headings:

Attention to language and concepts

- * Include concepts of biphobia and monosexuality in ILGA-Europe documents in such a way that they make a meaningful contribution, challenging readers and authors alike to think about what these inclusions mean for how ILGA-Europe frames its work and what it fights for.
- * Fully include bisexuals/bisexuality in all ILGA-Europe documents in its own right, and on an equitable footing with lesbians, gay men, and transpeople, not just as a third or fourth term in the GLBT conglomerate.

Redressing the balance inside and outside GLBT communities

- * Develop a programme of work specifically aimed at redressing the balance of resources within GLBT communities, ensuring that bisexuals and bisexual groups are well represented and appropriately consulted in contexts where their human rights are at stake, and challenging the biphobia that operates within GLBT communities.
- * Develop a programme of work specifically aimed at challenging prejudices and stereotypes that are damaging for bisexuals and that limit the usefulness to bisexuals of current anti-discrimination work.
- * Be proactive regarding the representation of bisexuals and bisexual organisations within ILGA-Europe, both as board members and as member organisations.

Future research

- * Initiate research into the legal standing of bisexuals, examining incidences where bisexuals may effectively “fall through the cracks” of measures intended to protect human rights.
- * Undertake a substantial project, involving consultation and research, to ascertain what human rights issues may be specific to bisexuals that are not adequately addressed.
- * Initiate legal research: (i) into how bisexuals fare in legal cases where they may face biphobic discrimination and (ii) identifying any precedents there may be for the protection of bisexuals from biphobic discrimination.

WORKSHOP 9:

Presentation of Katrina Roen

Bisexuals may be understood to be “men and women that feel emotionally and/or sexually attracted to both sexes, regardless of their actual behaviour”. (Dutch Bisexual Network)

The focus of this workshop is on identifying and addressing bisexuals’ concerns with particular regard to:
anti-discrimination legislation and policy measures
the work of ILGA-Europe

Negative stereotypes about bisexuals feed into and maintain biphobic discrimination:

Bisexuality is just a myth.

Bisexuality is just a phase.

People who say they are bisexual are just seeking attention.

Bisexuality is not an identity in its own right: people who say they are bisexual just can’t make up their minds.

People who say they are bisexual are really gay men or lesbians in denial. They should just come out of the closet!

People say they are bisexual because they want to avoid commitment.

People say they are bisexual because they think it is trendy.

Bisexuals are promiscuous, will sleep with anything that moves, and spread sexually transmitted diseases.

1. Negative stereotypes of bisexuals must be specifically and explicitly countered in order for discrimination against bisexuals to be addressed.
 2. The stereotypes faced by bisexuals are not the same as those faced by lesbians or gay men.
 3. The form that biphobic discrimination takes may be different from that of the discrimination faced by gay men or by lesbians. Each case of discrimination must be analysed from a bisexual framework if discrimination against bisexuals is to be reliably detected and addressed.
 4. Bisexuals may sometimes be forced to pass as monosexual in order that:
 - they may avoid discrimination,
 - they may be protected by existing anti-discrimination measures,
 - they may avoid anti-bisexual stereotypes, and
 - any discrimination that occurs may be recognised as discrimination.
- ♦ The first steps are being taken to include bisexuals explicitly on the ILGA-Europe agenda. This is evidenced by conference events such as this workshop and the bisexual workshop at the previous annual conference.
 - ♦ By far the greatest focus of ILGA-Europe’s work continues to be on lesbian and gay issues with bisexuality only being mentioned occasionally in ILGA-Europe documents.
 - ♦ While there is clearly willingness to make moves to address bisexuals’ concerns, there is an absence of clear changes at the structural level (such as recruiting more bisexual member groups and mentoring bisexual candidates for board membership).
 - ♦ While there is an understanding that there might be bisexual concerns regarding discrimination, there still needs to be work done to understand how or whether such concerns could be addressed by existing strategies to prevent discrimination on the basis of sexual orientation.

- ♦ While there is a generic concern that bisexuals face discrimination, there isn't the explicit work done on what biphobic discrimination is, and how it may be different from or similar to homophobic discrimination.
- ♦ What is also needed is research specifically focused on instances where bisexuals are involved in cases of discrimination.

Group Discussion Process

- Allow time for each person in the group to speak
- Listen with respect and patience
- Keep an ear open for biphobic assumptions that may emerge and be ready to gently but firmly challenge them
- Bisexual-only discussion group?
- Any other ground rules?

Discussion Question:

What issues or concerns may bisexuals have in terms of anti-discrimination legislation and policy in the area of:

1. the workplace
2. health care
3. immigration
4. marriage and partnership
5. adoption
6. create your own topic

Choose only ONE of the above topics!

The focus of much anti-discrimination work is on:

1. attaining rights for people in same-sex relationships
- OR
2. preventing discrimination on the grounds of sexual orientation

Discussion Activity:

In groups of 3-4 people, think of instances where bisexuals may not be served well by #1 or #2.

- ➔ These are instances where bisexuals risk falling through the cracks.
 - ➔ If we assume that there are instances where #1 and #2 do not adequately address the needs of bisexuals, what information do we need in order to take action?
1. Collect information about legal cases where one of the parties' bisexuality may have become an issue
 2. Collect information about instances of discrimination specifically affecting bisexuals
 3. Give evidence of repeated instances of injustice or breaches of human rights
 4. Document the issue, particularly showing that it recurs in various contexts, various countries etc.

5. Persistently put the issue on the agenda, lobbying decision-makers, seeking funding to work on the issue
6. Develop goals and strategies for addressing the issue
7. Develop a public face and a message that people can understand in order to encourage wider debate and discussion about the issue
8. Get funding and carry out community-based research to help clearly identify the issue and develop steps towards addressing it
9. Develop ways of bringing about change, such as legislative and policy change.

What can ILGA-Europe do to better address bisexuals' concerns, particularly around issues of anti-discrimination?

What can member groups within ILGA-Europe do to better identify and address bisexuals' concerns?

Minutes of workshop 10

Working within political parties for LGBT rights

Saturday, 26 October 2002, 9.30-11.00

Presenters: Miquel A. Fernández, Federal co-ordinator of the LGBT group within PSOE (Spain). Sérgio Vitorino, Grupo de Trabalho Homossexual do Partido Socialista Revolucionário (Portugal)

Chair: Yves de Matteis, 360° (Switzerland)

Minute-taker: Gloria Careaga, El Closet de Sor Juana, Mexico, and ILGA Women's Secretariat

It began with a short presentation of two participants with their experience in political parties or as candidates, while the presenters arrive.

Miquel Fernández talked about the functions and the challenges of the political parties. He thinks that even the progressive and democratic parties are in doubt with the LGBT communities in the struggle for their rights. He presented a synthesis of the statement of the LGBT group of the PSOE that was developed to define the policy of the party and to combat the homophobia within its members. He also talked about the necessity of a "no partidización" of the movement, but the necessity of a political position of the movement and the importance of showing out from the LGBT people within the parties to combat the homophobia within them. He presented some of the risks of the relation between LGBT movement and the political parties, but the importance to deal with these relations as one of the challenges in the political work the LGBT movement has to do.

The participants questioned directly the distance between the words and actions of the parties, including the socialists, and asked for concrete examples of the commitment of the PSOE. The presenter, recognising the culture of homophobia and patriarchy that remains even in the progressive groups, gave them.

Sérgio Vitorino identified a strong link between LGBT oppression and women oppression and how close these are related with sexuality. He affirmed that the sexual oppression and sexual discrimination are political matters and the subversive position of LGBT in this ideological structure. He identifies the LGBT people as one of the discriminated groups, victim of the political orientation of the globalisation process that has been developed, because of its subversive position and how this process focus the discrimination in the services and social benefits these groups should receive. The political parties have to respond seriously to the demands of discriminated groups, including LGBT groups, if they want LGBT people to believe in them.

Finally he related his experience in the PSR. In Portugal no political party had a position on LGBT issues until the 1990s. Now only this small party have a LGBT group, but he recognises the lack of consistency between the words and the actions among the members of the party, but the steps they are doing around sexualities for a change. He highlighted the dilemma of being part of the LGBT movement and a political party representative and the necessity of the recognition that the LGBT struggle is not only against the homophobia, but against the heterosexual hierarchy.

Because of the limit of the time, there were no comments or questions.

WORKSHOP 10:

Draft resume by Sérgio Vitorino

Grupo de Trabalho Homossexual do Partido Socialista Revolucionário Portugal

LGBT organising in political parties: why we do it, how can we do it, what resistances.

- Homosexuality and gender issues, political subjects. Sexuality: field of pleasure but also of danger and use/abuse of power.
- Sexual discrimination's political origins and political purposes. Tight link to women's struggles.
- Homophobia does not work alone, nor can it fall alone: links to each and every other inequalities and political subjects.
- Invisibility by omission, our first enemy as LGBT militants.
- Recognising of the right to self-organisation, a pre-condition for LGBT work in political parties.
- Political parties, actors of social change, in what must they change from a LGBT perspective.
- The Portuguese case, how can a political party contribute for the appearance of LGBT movements where they do not exist. The incapacity of evolution in most Portuguese political parties.
- Transversal resistances against LGBT work and universality of prejudice.
- Conditions for LGBT work to freely develop in a political part:
 - a) Personal relations as a battleground, the necessary changes in the "private" sphere.
 - b) LGBT issues, subject of all.
 - c) The recognising of complexity: LGBT are not the inverted mirror of the stereotypes that heterosexuals developed for themselves, our needs are not necessarily the inverted mirror of their needs and expectations.
 - d) The struggle against the assumption of people's sexual orientation and gender identity.
 - e) LGBT work, a self-exposure inside apolitical party.
 - f) Representation rights of LGBT members, condition for visibility.
 - g) LGBT activism vs. party militancy, the risk of "split personality".

Minutes of workshop 11

ILGA-Europe's finances, the development of ILGA-Europe, and plans for fund-raising

Saturday, 26 October 2002, 09.30-11.00

Presenter: Nigel Warner

Chair: Kurt Krickler

Minute taker: Roland van Benthem

Handouts distributed: Copies of the overhead sheets prepared by Nigel Warner, treasurer of ILGA-Europe, for his presentation (also attached to these minutes).

Although not massively attended the workshop had some good quality time when they looked at ILGA-Europe's finances, development as an organisation and plans for fund-raising.

1. Accounts 2001

The accounts for the year 2001, which were sent with the conference mailings, did not raise any questions.

RECOMMENDATION 1

The workshop recommends the approval of the accounts for the year 2001.

2. Outlook 2002 and budget 2003

Nigel presented a clear breakdown of the different budget items and made a comparison between 2002 and 2003. The expectation for the year 2002 is a result close to break-even, partly because of the later hiring of the staff than originally budgeted. The funding requirements of the EU will be met.

The budget for 2003 mainly consists of EU core funded activities/costs. The biggest items on the budget are staff costs (now four persons are employed), the annual conference and the office costs. The non-EU costs are expenses for non-EU board members, Eastern European activities and lobbying the Council of Europe and for transgender rights. There were not many questions on the budget 2003 itself, those who were put forward were answered satisfactory.

RECOMMENDATION 2

The workshop recommends the approval of the budget 2003.

The workshop notes that the budget does not give a complete insight in the costs of all the activities undertaken. For example the expenses for personnel make up more than 50% of the budget, but from the budget it is not clear what they do. In order to know what activities really cost, it could give more insight when the indirect costs (like staff) were to be accounted for in combination with the activities they do.

RECOMMENDATION 3

The workshop considers it useful to examine the possibilities of an activity-based budget/accounting.

3. Funding 2003 and onward

In 2003 ILGA-Europe needs to find external (non-EU) funding of around € 92,000. This is an increase compared to 2002 of € 13,500. Thanks to a huge grant from a family foundation, ILGA-Europe will be able to reach the funding for 2002 but there is a need to broaden the funding of ILGA-Europe on the long run. In order to make ILGA-Europe less vulnerable from the EU as dominant source of income, ILGA-Europe has looked into the possibilities of external funding. There are 5 possibilities considered, these are grants from foundations, members, friends of ILGA-Europe, sponsor or project funding.

Getting money from foundations largely depends on good proposals, networking and personal contacts. Most foundations will not want to pay for staff or office, but will be interested in projects only. The membership fees are 100% part of the ILGA-World budget. The workshop addressed the question of ILGA members who are not paying the full membership fee or are not paying at all. ILGA-Europe has no insight in this. Another possibility could be to cash the membership fees from the European members and transfer it to ILGA World, then the fees could count for the external funding requirements.

RECOMMENDATION 4

The workshop considers it useful to have a clarification of the rules concerning (non)payment of membership fees.

The workshop brainstormed about the other possible funding sources, like legacies, fundraising dinners, rich LGTB persons etc. On the issue of donations of corporations ILGA-Europe would need a clear, high profile, and should have an ethical policy and a clear strategy. ILGA-Europe will look into the possibility of advertisement in its Newsletter.

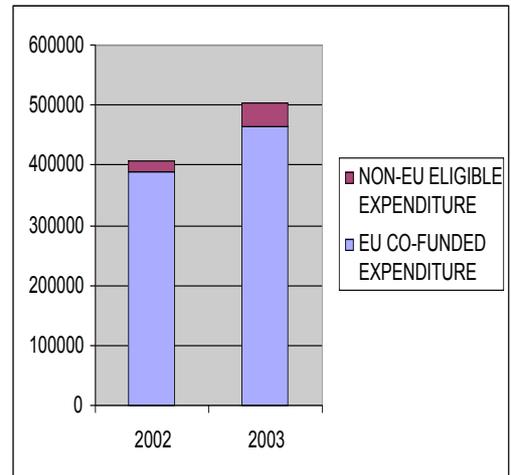
Nigel made a presentation on the friends of ILGA-Europe scheme. This will be launched in one or two countries to start with. In the coming months this scheme will be worked out in more detail.

WORKSHOP 11 – PRESENTATION:

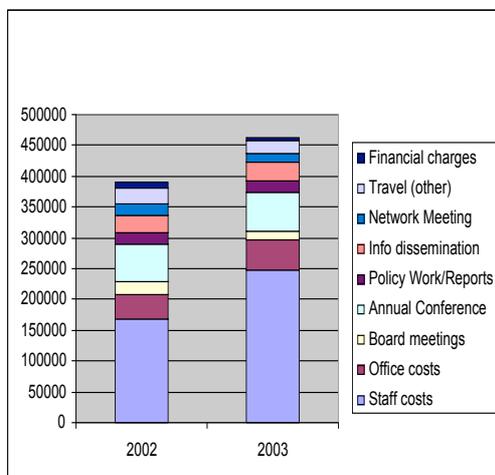
ILGA-Europe's finances + plans for fund- raising Agenda

- Accounts for 2001
- Income/expenditure to 7/2002
- Budget for 2003
- Development
- Fundraising

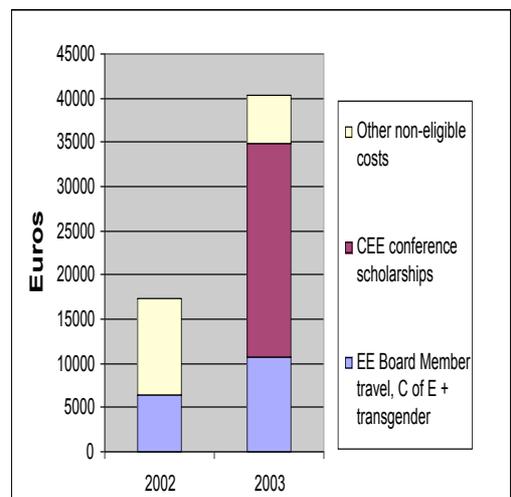
ILGA-EUROPE BUDGETED EXPENDITURE 2002 VS 2003



EU CO-FUNDED EXPENDITURE BUDGET 2002 VS 2003



NON-EU ELIGIBLE EXPENDITURE BUDGET 2002 VS 2003



ARE WE MEETING OUR CURRENT
FUNDING REQUIREMENT?

Jan 2002 – April 2003
(excl scholarships)

2002 budget	61200
Jan/April 2003	20,000
Requirement	81,200
Income:	
Stonewall	10,000
Members	15,000
Foundation	40,000
Homosexuelle Selbsthilfe/ GCODS	7,000
Total Income	72,000

The funding requirement for 2003

• Total per Budget:

Scholarships:	24,250
Rest:	67,444
Total:	91,694

67,444 compares with:
54,000 needed for 2002
= increase of 13,500

ILGA-Europe
Development

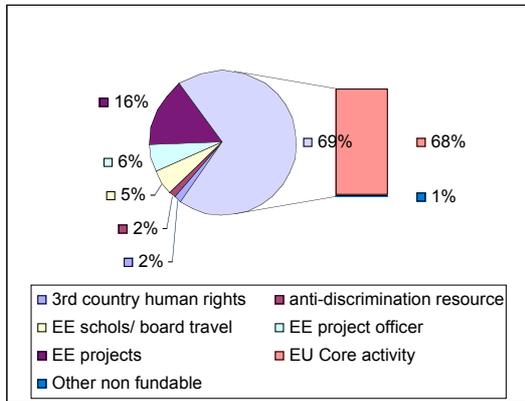
- 2001: one full-time, one part-time staff member
- 2002: for full-time staff members
- Gap: person to work on non-EU issues, particularly development in Eastern Europe
? Fundable?

Funding
sources (excl EC)

- Foundations
- Member organisations
- Supporters – “friends” scheme
- Sponsors

Possibilities for project funding

(total exp per 2003 = 503650 + 140,000 EE projects/officer)



Friends of ILGA Europe scheme – advantages/ disadvantages

- + steady income stream
- resource intensive:
Separate scheme in each country, with different:

- Languages
- Tax systems
- Legal requirements
- Banking systems
- Giving customs

Therefore: limit to three or four countries

Friends of ILGA-Europe scheme: country requirements

- Active support of member organisations in country (administrative, publicity, access to membership)
- Awareness in LGBT community of IE/international issues
- Local LGBT media support to generate publicity
- A local IE legal entity (collect money/tax certificates)

Friends of ILGA-Europe scheme – structure (illustrative)

- Regular monthly, quarterly or annual donations
- By standing order/direct debit
- Individuals, LGBT organisations, commercial organisations
- Varied, to enable different levels of donation e.g.:
 - “gold friend” = €1000 p.a.
 - “silver friend” = €500 p.a.
 - “bronze friend” = €250 p.a.
 - “friend” = €100 p.a.

Friends of ILGA-Europe The Offer (illustrative)

All receive:

- The newsletter
- ILGA-Europe “pin”
- Invitation to conference

Higher levels:

- Mention at web site
- Annual mention in newsletter
- Guided tour of European Parliament

Other ideas?

Friends of ILGA-Europe scheme: possible candidates

- Netherlands
- United Kingdom
- Switzerland
- Belgium
- Germany

Implement one at a time, learning
from each implementation

Workshop 12

Transnational exchange projects

Saturday, 26 October 2002, 09.30-11.00

Presenter: Mette Vadstrup.

No minutes seem to have been produced. Various material has been distributed in the workshop, including the following overhead sheets used by Mette for her presentation:

Transnational Exchange projects

THE AIM OF THE WORKSHOP

- To give a background of the Transnational Exchange Projects
- To share experiences of the first round of projects launched by the Commission
- To discuss participation in future round of projects to be launched in autumn 2003



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Article 13 and the Action Program

- Article 13 establishes the EU's anti-discrimination policy. The Action Program to combat discrimination covers following grounds of discrimination:

- * racial or ethnic origin
- * religion or belief
- * disability
- * age
- * sexual orientation



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Action Program to Combat Discrimination

Community Action Program to Combat Discrimination (2001-2006) is part of a three part strategy to combat discrimination:

- 1) Directive to implement equal treatment irrespective of racial or ethnic origin
- 2) The Framework directive on equal treatment in employment
- 3) Community Action Program (2001-2006)

The total budget of the Community Action Program (2001-2006) is 100 Million euro.



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Action Program to Combat Discrimination

The Action Program is divided into three strands of activities:

- Strand 1: Analysis and evaluation
- Strand 2: Developing the Capacity of organisations
 - 1) Transnational Exchange Projects
 - 2) Support for EU Networks
- Strand 3: Awareness raising

The budget for strand 2 in 2001 was 7.8 million euro



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Access to the Action Program

Access to the Program is open to all public/private bodies in the Member States and Bulgaria*, Romania*, Hungary and Cyprus (2002) and Slovakia (from 2003)- non exhaustive list including:

- * local/regional authorities
- * bodies promoting equal treatment
- * social partners
- * NGO's of all sizes
- * universities/research institutes
- * national statistical offices
- * the media



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Application procedure

The Commission uses a 4 step model to secure open and fair participation:

- 1) Pre-publication notice on the Commission web-site
- 2) Publication of "Call for proposals"
- 3) Organisations must submit applications at a certain deadline (usually 8-10 weeks after publication of the call for proposals)
- 4) Commission evaluates applications and submit their suggestions to the Program Committee, which monitors the Action Program

The Community co-finances up to 85% of the budget. The remaining part must come from partners in cash.



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Transnational Exchanges – Strand 2.1

Objectives: - To develop capacities of organisations to combat discrimination, through transnational exchanges of information and best practice

Transnational: - "mixed" partnership of different types of organisations (NGO, University and local authority) from at least three different countries

Horizontal approach: - including at least two different grounds of discrimination

"European added value": - cross border policy development



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First round of transnational projects

The first round of proposals was launched by the Commission in March 2001 with following priority areas:

- A) Non-discrimination within and by the public administration (with priority in the fields of health and education) (15)
- B) Non-discrimination within-and by the media (3)
- C) Equal participation in political, economic decision making (6)
- D) Equal access and supply of public goods and services (including housing, transport, culture and sport) (3)

71 partnership were pre-selected for Phase I (6 months).
27 projects selected for Phase II (24 months) (12/1/9)



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Example of Transnational Exchange project

Introduction of anti-discrimination training measures within the public administration:

- Partners in Brussels, Belfast, Berlin and Altea (Alicante) and European Art. 13 NGOs
- Horizontal approach covering all Art. 13 grounds
- Aims through diversity training to empower the public sector with tools to ensure equal treatment. Build links between local NGOs and public authority.
- The project of three cities can be carried out in other cities – European added value



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Check list for building transnational partnership

- VISION – what is the the issue – formulate a statement
- OBJECTIVES – what are the desired outcomes – is it do-able? Can it be measured? Is it realistic?
- MEMBERSHIP – select partners based on their interest in the objective – include different sectors
- COMMITMENT – the agreement to work together, identify possible barriers
- ACTION PLAN – formulate the steps required to reach the objective, identify role and responsibilities
- COMMUNICATION, RESOURCES and EVALUATION



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Minutes of workshop 13

Working for transgender rights at the European level

Saturday, 26 October 2002, 11.30-13.00

Presenters: Nico Beger (ILGA-Europe) and Armand Hotimsky (Caritig, France)

Minutes and Recommendations:

What are trans issues?

- Gender is the most fundamental marker of our life, daily life with gender indeterminacy is very challenging
- High unemployment
- Force to be divorced
- Health care
- Non-discrimination protection lacking
- Adoption
- Transphobia in lgb communities
- guinea pigs of medicine

Questions raised

- Situation in different countries
- How to do lgbt lobbying
- How to come to joint European work
- Increase visible in IE
- How to motivate trans people into getting more political

Recommendations to IE

- Update the web-site, collect information on the legal social and health situation in Europe
- Closely monitor upcoming EU funds to secure a work mandate on trans for the office
- Liase with MEPs to make sure the new gender action programme contains a budget line under which trans work can be placed
- Ask Joke Swiebel to broaden the scope of the intergroup into lgbt
- Change ILGA's working name to include trans
- Motivate and mentor trans people to do volunteer work for IE and put themselves forward
- Train board, staff and volunteers more explicitly so trans issues are fairly represented by everybody speaking on behalf of IE
- Send available trans people on representational duties for IE to increase visibility
- Plan a pre/conference for Glasgow for bi and trans issues training
- Fully endorse and publicise the 11 demands:
 1. The freedom to every person to portray their own chosen gender or have their intersexuality acknowledged as an intersexual gender

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

Minutes of workshop 14

Equal sexualities at work

Saturday, 26 October 2002, 11.30-13.00

Presenters: Anette Sjödin (Homosexuals and Bisexuals in the Care System/RFSL-Sweden) and Arjos Vendrig (Enabling Safety for LesBiGay Teachers/COC Netherlands)

Chair: Jackie Lewis

Minute-taker: Arjos Vendrig

The work of the four different EQUAL projects was presented (copies of the overheads used were distributed) as well as the role of the transnational partnership and the EQUAL programme as such.

The involvement of LGBT right organisations in projects of this size was welcomed and the workshop was keen on staying update on the developments within the projects.

Specially the role of research was appreciated and those present expressed their wish to stay informed on the outcomes as this would reveal if our suspicions of the situation were real. Outcomes of research would also be useful as evident in discussions with third partners and could for example be used as evidence in lobby for our rights.

As there was a great wish from those involved to stay updated there was a call upon those organisations involved to make a regular newsletter for the members of ILGA-Europe to inform them on developments in the projects.

ILGA-Europe should use these findings in their contact with key players regarding employment/discrimination in Brussels. Member organisations could use this in their national contacts related to this issue.

ILGA-Europe was asked to keep following the work in these projects and keep providing space in activities to discuss the developments.

Member organisations were asked to start thinking on possible projects for the next call expected in 2004. For this call all members should also check national regulations around the EQUAL programme now. In some countries projects only dealing with sexual orientation as discrimination ground are not accepted, and by lobbying the national institutions now we might change this and ensure our own ability to participate.

Workshop 15

Improving your fund-raising skills

Saturday, 26 October 2002, 11.30-13.00

Presenter: Ailsa Spindler.

No minutes seem to have been produced. Copies of the following overheads used have been distributed in the workshop.

**Improving your
FUNDRAISING Skills**

Workshop 15
By
Ailsa Spindler



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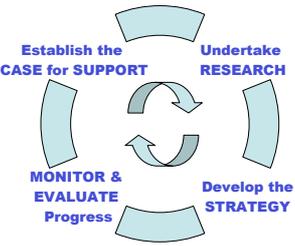
What is FUNDRAISING?

- Asking for Money!
- A Planned Approach to the Business of Providing Resources with which You will work to meet Your Objectives



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The Fundraising Cycle



Establish the
CASE for SUPPORT

Undertake
RESEARCH

Develop the
STRATEGY

**MONITOR &
EVALUATE
Progress**



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**Establishing your
CASE for SUPPORT**

- The Case for Support has two groups of functions:
 - INTERNAL
 - To check messages
 - To provide information
 - As a personal checklist
 - EXTERNAL
 - To communicate to donors and supporters
 - To gain commitment to the cause (importance & urgency)
 - As support information
 - To motivate people to give



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Ingredients of an Effective Case Statement

- Who are you, and what are you there to do?
- What are the Specific Objectives of your appeal?
- Why is the appeal IMPORTANT and URGENT?
- What would happen if the appeal failed?
- How much money are you trying to raise?
- Over what period of time are you attempting to raise the money?
- Who else is contributing?
- Relate to your potential donors
- Be CONCISe, COHERENT, URGENT and MOTIVATING



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Researching DONORS and SUPPORTERS

- PROSPECT research
 - Good for finding small numbers of major givers
- QUANTITATIVE research
 - Good for strategic planning, new donor research
- QUALITATIVE research
 - Uses focus groups for detailed information



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A Fundraising Strategy

- Presents the CASE for SUPPORT to potential donors identified by RESEARCH
- Makes it clear WHAT YOU WANT
- Presents BENEFITS, not Features
- Keeps a WRITTEN AGREEMENT
- Includes plans to MONITOR and EVALUATE



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MONITORING and EVALUATION

- Record WHO gives, and HOW MUCH
- Report results to Donors
- Meet deadlines and conditions in Funding Agreements
- Set timetable for regular Evaluation
- Use results to modify Case for Support



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Minutes of workshop 16

Some perspectives on Islam and the experience of being lesbian, gay, bisexual or transgender and Muslim in a West European environment

Saturday, 26 October 2002, 15.00-16.30

Presenters: Suhraiya Jivraj, the Joint Co-ordinator of the Safra Project (UK), and Adnan Ali of Al-Fatiha (UK)

Chair: Nigel Warner

Minute-taker: Licínia Pereira

Publications distributed: “The Safra Project Report of initial findings of the experiences of lesbian and bisexual or transgender women who identify as Muslim culturally and/or religiously, in the UK”; Draft “Discussion paper on Islam and Homosexuality”, “Legal and Ethical Considerations of the Same–Sex Relationship in Islam” of Al-Fatiha UK, and various personal testimonies.

Suhraiya started her presentation by questioning if, when speaking about Islam, we are speaking of Islamic law; or law and customs of Muslim countries; or actions and attitudes of Muslim communities.

Concerning the first point, in the Quran, according to recent studies of scholars such as Omar Nahas of the Yoesuf Foundation in the Netherlands, there is no specific prohibition of same-sex relationships as “love and caring” relationships. There is also no specific mentioning of lesbian relationships. In general, the verses that refer to gay relations concern the story of the prophet Lut. It is very complicated to analyse LGBT issues, and its interpretation is also subject to controversy. There are also recent studies from feminists who suggest other approaches to the holy books, in particular through an ethical framework of human rights based on compassion, equality and justice.

In speaking of the law and customs of Muslim countries, one has to recognise the existing immense diversity of Islam. There is not “one” Islam but rather different ways of interpreting the sacred books, laws, and ways of living.

Suhraiya then went on to present the Safra Project and in particular its initial findings of the experiences of lesbian and bisexual or transgender women who identify as Muslim culturally and/or religiously in the UK.

Adnan spoke of his experience as a gay man within the Muslim environment and as a Muslim within the wider LGBT community. He spoke of being a Muslim Pakistani in the UK where he has helped set up the UK Al-Fatiha organisation. The difficulties were big but the organisation went from six to three hundred members in three years.

He said he has been questioned on how he could be both a Muslim and gay. He has conciliated this as he truly believes that homophobia in Islam is not a religious but rather a social prejudice.

In the end there were discussions as how to proceed on promoting LGBT issues in the Muslim communities. Some participants and Adnan felt that to “come out” was the way to gain more visibility and achieve this. On the other hand, some participants and Suhraiya expressed that for women the approach must be different. She further expressed deep concerns for women and their safety in coming out and visibility.

The Safra Project Report of initial findings on the experiences of lesbian, bisexual or transgender women who identify as Muslim culturally and/or religiously, in the UK

The Safra Project is a voluntary resource project. It was set up in response to the difficulties experienced by lesbian, bisexual and transgender women who identify as Muslim culturally and /or religiously (Muslim LBT women), in accessing appropriate social and legal services.

The Safra Project provides information to:

- 1) Muslim LBT women on
 - social and legal support services
 - sexual orientation and gender identity issues in Islam
- 2) service providers on the needs and experiences of Muslim LBT women in accessing their services.

The Safra Project, which began in October 2001, is currently preparing a report of initial findings. This report aims to raise awareness of the issues that Muslim LBT women face, and to identify the obstacles they experience in accessing social and legal services. It also identifies areas where further research is required. The report is due to be launched in January 2003. Key findings from the report include the following:

Mental Health

Many women found that their counsellors perpetuate popular derogatory media representations of Islam and Muslim women and were therefore prejudiced in the session.

Many of the women would have valued a race specific or Muslim women’s support group run by counsellors that they could identify with.

Women find it difficult to go to LGBT identified centres for counselling or support and preferred to access gender and/or race specific centres.

Need: to devise training for mental health service providers that would take into account the social and political background as well as the cultural context of their clients.

Isolation, Social Networking & Coming Out

Many women felt unable to reconcile their sexual orientation with their cultural and religious background. Coming to terms with being lesbian, bisexual or transgender often led to a loss of religious and cultural identities.

The coming out process is problematic as many women do not identify with the word lesbian or bisexual and / or do not understand transgender issues. This often leads to feelings of guilt, depression and self harm.

Need:

There is a need for social, educational and support activities for Muslim LBT women that are religion and culture specific.

Marriage

There is a general pressure on Muslim women to get married. That pressure is intensified and can result in forced marriage particularly when the woman concerned is lesbian, bisexual or transgender.

Need:

To raise awareness amongst service providers of the complexities of the issue of marriage for Muslim LBT women.

Domestic Violence

Muslim women are likely to face abuse from parents or in-laws, siblings and children as well as spousal abuse.

For Muslim women, families also offer protection. Their best friends are more likely to be their sisters, aunts and cousins rather than someone outside the family. As a result, domestic violence is “put up with”. Social class is a strong determinant in being able to escape from domestic violence.

Housing & Refuges

There is pressure on unmarried women not to leave the parental home and live alone as it is not considered respectable – feelings of guilt are used to manipulate the women.

Asian women’s refuges are reluctant to deal with their clients issues relating to sexual orientation. There is little or no visibility of support for lesbians in refuges for women from ethnic minorities.

Work & Employment

Equal Opportunities Policies are geared towards tackling each form of discrimination on its own. This means that those facing a situation of possible multiple discrimination are at a disadvantage e.g. where a Muslim woman faces discrimination as a lesbian from Muslim colleagues. Organisations find it difficult to know how to deal with this.

Asylum

There is a lack of understanding of the issues that lesbian and gay asylum claimants face.

Homophobia is still widespread throughout the asylum procedure

There is insufficient objective country information available on the treatment of lesbians and gay men in countries that asylum claimants flee from

Needs:

To devise training and awareness raising to increase understanding of the issues that lesbian and gay asylum claimants face

To devise ways to combat homophobia amongst asylum workers and decision makers

To increase information sharing and research of objective country information.

Workshop 17

Developing legal protection in areas other than employment and training

Saturday, 26 October 2002, 15.00-16.30

Presenter: Ailsa Spindler.

No minutes seem to have been produced. Copies of the following overheads used have been distributed in the workshop.

Developing legal protection in areas other than employment and training

Workshop 17
By
Ailsa Spindler



ILGA-Europe Conference
Lisbon, 24-27 October 2002

The Framework Directive on Equal treatment in Employment

- Forbids discrimination on the grounds of religion or belief, age, disability or **SEXUAL ORIENTATION**
- Enters into force on 2nd December 2003



ILGA-Europe Conference
Lisbon, 24-27 October 2002

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

- Charter of Fundamental Rights
 - Article 21(1)
 - "Any discrimination based on any ground such as sex .. or sexual orientation shall be prohibited"
- European Council 'European Social Agenda' (2000)
 - the rejection of discrimination



ILGA-Europe Conference
Lisbon, 24-27 October 2002

Minutes of workshop 18

The situation in selected Central and East European countries

Saturday, 26 October 2002, 15.00-16.30

Speakers: Jelena Postic (Croatia) Sergey Torpachev (Belarus), Natalia Maymulakhina (Ukraine) and Ninoslav Mladenovic (Macedonia)

Chair: Adrian Coman

Minute-taker: Jos Tomas

The presentations were structured around legislation, social aspects and the organisation itself.

CROATIA: Jelena started with a video about the first Gay Pride in Zagreb, a very moving video. Heavy aggression and a very rough time for the participants, but also a great success and visibility of LGBT issues. Some politicians and human rights organisations were present. Trying to get more visibility before the organisations proposed a change of family law regarding partner registration. Now a changed version of that proposition goes to parliament next Thursday. This version is very badly drafted. During the pride the crowd was very abusive. There is political support even without lobbying for it. The organisations are all very young. One LGBT organisation was founded this year. Two are working together: the LGBT and a lesbian organisation.

BELARUS: is quite a different story. It is not a member of the Council of Europe because of the political situation. The organisation has been existing for about three years and has tried to get registered but all attempts have failed. It is an openly LGBT organisation. There is no funding. There is progress because there was a Gay Pride attended by 1000 people. The media ignored it, and politicians said that they had to be hospitalised. The police does not act on a crime against a LGBT person. Formally there is no anti-gay legislation but the social climate is bad. There is a magazine that the organisation itself distributes.

UKRAINE: The organisation is 5 years old and has been registered as an openly gay organisation for three years. There were victories and problems. For instance there is no real political support. The economy is a topic more important for the politicians. There are a lot of projects, for instance on HIV and AIDS, going on and the organisation itself is very active. They try to get their own meeting place but so far no success. There was a meeting place for some time, but after that the owner found out who rented it they were refused further access. In the next two years there will be co-operation with COC.

MACEDONIA: In Macedonia the organisation was founded this year by ten LGBT persons as a human rights organisation. The first activity was a research to see how people look at LGBT issues. The results are not promising at all especially from the Albanian section. Visibility is the objective although founders also want a community centre. The law is not discriminatory. The problem is not so much the government but more the non-state organisations and the attitudes of the people. The government does not protect LGBT people.

WORKSHOP 18:

Co-ordination of GLBTT groups of Croatia

KONTRA	ISKORAK	LORI
Lesbian Group www.cro-lesbians.com/kontra kontra@zamir.net	Group for promotion and protection of different sexual orientations www.iskorak.org	Lesbian organisation Rijeka www.lori.hr

Zagreb, Gunduliceva 1 – Tel. 01 / 255 55 55 – Fax. 01 / 255 55 55 – koordinacija@iskorak.org

Situation of LGBT rights in Croatia

By Jelena Postic, Lesbian Group Kontra

Croatia has undergone many turbulent changes in the past decade. War has delayed the democratic progress, and post-war situation brought various economic and social problems. Nationalism is still rampant in Croatian society and human rights came to the focus of public debate only recently.

LGBT population in Croatia has been stigmatised and marginalised, and it was not until this year, 2002, that some significant changes occurred.

There are three main actors of the LGBT movement of Croatia. These are: Lesbian Group **Kontra**, founded in 1997, Lesbian Group Rijeka **LORI**, founded in 2000, and **Iskorak**, the group for promotion and protection of different sexual orientations, founded in 2001. In 2002, all three groups have started actively working in the public sphere, first of all, by having their members come out in public as well as through pointing to discrimination that the LGBT population faces in everyday life. A co-ordination of LGBT groups of Croatia was formed in order to strengthen our voices in the society as well as to co-operate in carrying out joint projects.

Kontra and Iskorak have joined at the beginning of 2002 in organising the first ever gay pride in Croatia. In May 2002, Kontra and Iskorak launched the proposition of changes to the Family Law in public, which served as an introduction to the new era of LGBT activism in Croatia. On Saturday, w9 June 2002, „**Gay Pride 2002**“, named „**Iskorak Kontra Prejudices**“¹⁷ was held at the Zrinjevac Park in central Zagreb – the first Pride parade of lesbians, gay men, bisexuals, transsexuals, and transgender people. The event gathered around 300 people, including NGO activists from Croatia and internationally, public personalities, politicians, artists, lesbian and gay activists from neighbouring countries: Bosnia and Hercegovina, Serbia, and Slovenia, and supportive citizens. The Parade procession marched through the centre of the city while security maintained a strong human shield around the participants of the parade, supported by the assistance of police officers. Metal fences were put up along the parameters of Zrinjevac Park, and the centre square was securely guarded by police officers. During the movement of the parade, most viewers were acknowledging the parade peacefully or clapping with approval. Unfortunately, there were also some people, who were shouting, spitting and occasionally throwing objects at participants in the parade. The entire event received attention by reporters from Croatia and also from foreign countries. Near the end of the gathering, a tear gas bomb was thrown at

¹⁷ Iskorak Kontra Prejudices: The word „prejudices“ was added to the names of the organisations to create a title which means „coming out (Iskorak) and countering (Kontra) prejudices“.

participants in the main square of the park, which forced them to disperse to the far Eastern part of Zrinjevac. After the gas dissipated, participants did return to the square for the rest of the programme. After the programme was over, some skinheads started violently attacking participants at the gathering as well as bystanders. Police arrested 27 perpetrators. At least 30 people in total have been attacked and about 20 of them received minor physical injuries.

After gay pride, Iskorak, Kontra and LORI continued to actively lobby for legal changes. Into the Law on High Education, non-discrimination on the basis of sexual orientation has been included as a result of the lobbying efforts of LORI. Kontra and Iskorak continue to push further for changes in the Family Law, the Law on Asylum Seekers, the Law on the Equality of Sexes and also plan to propose changes to laws coming into procedure such as the Constitution of the Republic of Croatia, the Criminal Code, the Labour Law, the Law on Media, the Law on Health, and the Inheritance Law.

Apart from working on joint projects mentioned, each group works independently on the array of projects, one of the most prominent projects at the moment being LORI's "Visibility and promotion of homosexual rights in the Croatian society", funded by the European Commission, which includes a media campaign against homophobia launched in the form of jumbo posters throughout Croatia, public service announcements to be aired on national TV in November 2002, lobbying, and exhibitions.

Gay Pride Zagreb 2003 has already been announced publicly at the press conference of the organisational committee. Until then, we hope to further strengthen our capacities to instigate firmer changes in Croatian society, empower the LGBT community, raise public awareness about LGBT rights, bring about positive law changes, and have a larger and more peaceful gay pride.

WORKSHOP 18:

Report on the situation in Belarus

by Belarusian League for Sexual Equality “Lambda” (BLL)

Homosexuality in Belarus: From Past to Modern Situation

The LGBT society in USSR, from the Revolution of 1917 and up to the events of 1991, has passed a difficult way. At the different stages of this way, there were different ways of informing society at large about lesbians and gays inside that society. By the way, even the attitude to the sexual minorities has to be changed from time to time.

In Soviet times, male homosexuality was forbidden in Belarus – as in the other republics of the USSR). For the start of the case could be even the presence of venereal disease. The main idea was to force people to admit their homosexual relations. Even if there were no victim, the judges thought that the victim was the public moral.

Long years of silence on the problems of homosexuality and the absence of information about it have left a legacy of many difficulties, including for homosexuals in understanding their role in a modern society. Social opinion does not understand yet that homosexuality is a personal feature to be respected. Since homosexual people are educated in such stereotypes, they face additional difficulties to find self-respect and the respect of other people.

Today officials in schools can easily kick out a gay or lesbian pupil, homosexuals usually lose their job if they come out, militia usually even do not search for the criminals who killed homosexuals, etc.

Suggestions and Solutions

For four years BLL has held the annual Belarus Gay Pride Festival in Minsk. While it used to be a cultural event, we decided to use it next year for voicing political demands, too. It will help to attract more attention of society and political movements for the problems of sexual minorities.

Belarusian society is very uninformed about lesbians and gays and even does not know about their presence in society. That's why we think it would be very useful to set up information centres. Due to the very difficult situation of the media (almost all of them belong to the government and do not inform about any events, organised by sexual minorities) it is necessary to search new forms of media work, for example organising joint Belarusian-Russian campaigns. As Russian TV and radio channels are very popular in Belarus, information broadcast there would reach a large Belarusian audience.

Support of European Union Countries

European organisations should influence Belarusian NGOs and political organisations belonging to the opposition to change their attitudes towards LGBT people and in some cases to stop active discrimination against sexual minorities. Some of these organisations openly issue negative information about LGBT people demanding that they be at least treated in psychological hospitals. It is appalling that such organisations

receive financial help from European foundations. For example, the organisation “Young Front”, the biggest youth organisation in Belarus which is carrying out the campaign “Belarus to Europe”, had issued a press release just a few months ago in which they incited to violence against LGBT people. Its chairman even suggested to keep them in hospitals.

That is why we think that political support of the European Union will be very useful. There must be mechanisms to cut homophobic organisations off from European financial help. This is very important because the LGBT movement has no political support, and the main reason is the existence of populist organisations as just mentioned.

Minutes of workshop 19

Empowering LGBT Muslim communities in Europe

Saturday, 26 October 2002, 17.00-18.30

Presenters: Suhraiya Jivraj, the Joint Co-ordinator of the Safra Project (UK), Adnan Ali, Al-Fatiha (UK), and Kenneth McRooy, COC (Netherlands)

Chair: Nigel Warner

Minute-taker: Licínia Pereira

The aim of the workshop was to discuss ways to empower LGBT Muslim communities in Europe both at a national and European level by ILGA-Europe and its members.

Kenneth explained the project that COC is undertaking in terms of setting up a dialogue with LGBT communities of several religious backgrounds, including the Muslim community. In September 2001, they held a conference in Rotterdam gathering members of these communities. To this event also believers and non-believers as well as NGOs and government representatives participated. The findings will be shortly published on their web-site in English. For Kenneth a factor of success of this project is the determination to solve problems. Another one would be a change of approach. Regular meetings of this project will take place.

In terms of ways that ILGA-Europe and its member organisations could contribute to capacity building and empowering, Adnan made several suggestions:

- Raise awareness of Muslim LGBT communities
- Talk about Islamophobia, discuss what exactly it is and fight it
- A European-wide campaign is needed
- More research is needed at a European level
- General mainstreaming of Muslim LGBT issues
- Dissemination through for example education, public lectures.

Suhraiya on her side made the following proposals:

- Help is most welcome to the Safra Project but with a mutual respect of organisations. There should be a “mutual equality” and no attempts to impose ways of working on the Safra Project as well as not paternalising

- Mainstreaming and raising awareness of these issues in particular towards the particular needs of women
- In terms of language, not even implicit Islamophobic remarks should be made
- In terms of the media, Islamophobic articles should be contested
- At a EU level, more information should be exchanged through a network
- At local and regional levels, more capacity building is required
- Funding is needed from organisations that respect the Safra Project
- In terms of actions that can be taken, all must be involved in bringing the media into account, respond to discriminatory articles, provide more information to the media so they are better informed. This issue needs to be seen as a human rights question.

On the side of the participants, the representative of the Irish National Equality Authority suggested holding regular sensitivity training sessions for ILGA-Europe personnel and board members.

A representative of UNISON, UK, made the suggestion of putting pressure on trades unions and their publications in particular to promote these issues.

A representative of LBL, Denmark, spoke also about a project they are doing together with the Muslim LGBT community in their country.

A suggestion for ILGA-Europe to have a link on its web-site for the Safra Project and Al-Fatiha.

WORKSHOP 19 – PRESENTATION:

Empowering LGBT Muslim
communities in Europe –
EC work programme

“ILGA-Europe will carry out a feasibility study in relation to providing support for capacity building among minorities in lesbian, gay and bisexual communities. The feasibility study will identify the most suitable group to work with in terms of potential benefits at the European level and the best ways in which such a minority can be helped.”

1

Empowering LGBT Muslim
communities in Europe
Agenda

- At national level
- At European level

Muslim Community perspective:

- Suhraiya Jivraj
- Adnan Ali

National LGBT organisation
perspective:

- Kenneth McRooy

ILGA-Europe perspective

- Nigel Warner

2

Empowering LGBT Muslim
communities in Europe
Possible IE actions (1)

Project Pack for member organisations:

- summary of Islam position on homosexuality;
 - the experiences of LGBT Muslims;
 - Practical support for LGBT Muslim communities
 - actions to fight Islamophobia in LGBT community.
- + publicity campaign to sell these ideas to our members.

3

Empowering LGBT Muslim
communities in Europe
Possible IE actions (2)

Inside Europe:

- ? Help with setting up a transnational exchange project under the Community Action Programme to combat Discrimination ?
- ? Support for establishing a European level network of LGBT Muslim organisations?

4

**Empowering LGBT Muslim
communities in Europe
Possible IE actions (3)**

- Outside Europe:

Using the human rights clauses in
EU/third country trade and
development agreements to
support LGBT Muslims

Minutes of workshop 20

Asylum and immigration

Saturday, 26 October 2002, 17.00-18.30

Presenters: Mark Bell, Ailsa Spindler

Chair: Kurt Krickler

Minute-taker: Peter Dankmeijer

Presentation of legislative issues

Mark Bell went into the legislative background of the possibility for LGBT refugees to get refugee status (copies of the overhead sheets he used were distributed and are attached to these minutes). In 2001, the EU proposed a new directive, which already includes "sexual orientation". In addition, ILGA-Europe proposes to include "gender identity" and a definition of "family status" which includes same-sex relationships ("unmarried partners").

Furthermore, ILGA-Europe urges to grant asylum status also in the case of persecution by non-state actors because LGBT refugees are often persecuted not (only) by state actors but also by their family and peer group. The effect of these suggestions is unclear because the directive is still under negotiation in the Council. Some member states even wanted to delete "sexual orientation". Ailsa Spindler reported that ILGA-Europe's successful lobbying helped prevent this.

In reply to a question from the floor, Mark confirmed that the Commission proposal is very clear that gays and lesbians would be considered to belong to a "certain social group" that may suffer from prosecution, as provided for by the Geneva Convention on Refugees. However, this does not go for "gender identity" yet.

Another important draft directive is the one on free movement. This new directive would unify and consolidate several existing directives. The European Commission proposed to recognise unmarried partners only by those countries that already treat married and unmarried partners similarly in their national legislation. ILGA-Europe, however, lobbies for the recognition of same-sex partners by all member states. Strategically, this will work best by first aiming at the right to a residence permit for the partner. At a later stage, pushing for more equal rights of same-sex partners will be necessary. At the moment, the issue is mainly whether ILGA-Europe should go for the general recognition of "unmarried partners" or, as a "fall-back" approach, to go for the mutual recognition of same-sex partners registered in one of the member states by all other member states.

The situation in the member states

In the Netherlands, there is no push for a legislative improvement at this time, because the political situation offers few opportunities. However, refugees regularly seek support from local LGBT organisations. These have very little experience and resources to deal with such questions. In order to address this, COC Netherlands, the Schorer Foundation, the Association for Refugee Work and the Dutch section of Amnesty

International work together on a strategic plan. The plan will be published in May 2003 and will probably focus on 6 actions: improving national legislation and procedures, training of immigration officers and refugee counsellors, information for refugees, improving psychosocial care for LGBT refugees, setting up a buddy system for LGBT refugees and supporting them during their integration process (after being granted asylum status). If the Netherlands will work on an information centre, this could be very useful for other countries as well.

In Germany, the LGBT organisation wrote to the foreign minister, the law is under discussion. The ministry is hesitant.

A French delegate reported about a conversation they had with the conservative Minister of the Interior who promised that France would support mutual recognition in the free movement directive. It must be monitored, however, whether they actually would do so. The French would like to have a French translation of Mark Bell's position paper.

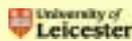
In Austria, asylum policy has become very restrictive under the new government. Dealing with individual cases is a competence of the provinces, which means that LGBT asylum seekers should rather try to put in their application in Vienna, which has a more progressive government, than in one of the provinces ruled by the conservative party.

The workshop ended with a plea to ILGA-Europe to provide members (besides legal information) with some practical guidelines, letters and press releases which they could send to ministers and media.

WORKSHOP 20 – PRESENTATION:

Refugee status proposal, 2001

- Grounds for refugee status
- Grounds for subsidiary protection
- Reception & integration of these individuals
- Addresses health, housing, education, social welfare & employment
- Denmark does not participate



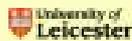
LGBT issues

- Support inclusion of sexual orientation, request addition of gender identity and health status
- Support asylum based on persecution by non-State actors
- Non-discrimination clause: add gender id.
- Recognition of unmarried family members



State of play

- Council negotiations underway, but documents are not open to public
- EP report from rapporteur Jean Lambert (UK, Green)
- Support for sexual orientation from UNHCR



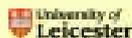
Free movement proposal, 2001

- Current EU law has different rules for movement of workers, students, retired people, economically independent people.
- Proposal to unify the rules and reduce bureaucratic obstacles to moving to another EU state



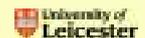
Issues for ILGA-Europe

- Definition of 'family member'
- Commission propose to include unmarried partners only in states where national law treats them like married partners: e.g. Netherlands, Sweden, Denmark
- I-E seek recognition of registered partners & unmarried partners & their children



[State of play

- Directive subject to 'co-decision' procedure: joint decision of Parliament and Council, process of bargaining.
- Parliament has delayed the process
- New Rapporteur Santini (Italy, Forza Italia) since September 2002
- First report in winter 2002/03



Minutes of workshop 21

The ILGA-Europe Work Programme

Saturday, 26 October 2002, 17.00-18.30

Chair: Tiia Aarnipuu

Minute-taker: Pierre Noël

The workshop went through the draft Work Programme and considered feedback from the various workshops where sections of the draft were discussed. No amendments were received from any of the workshops. The workshop therefore recommends that the Conference approve the draft Work Programme.

In the discussion, participants made comments on the way in which the WP is currently formulated, which it asked the Board to consider when preparing its proposal on the WP for next year's Conference. The comments included:

- The WP in its current design is more an input-oriented programme, as opposed to an outcome-oriented one. It was noted that the Board is beginning an evaluation process which includes the concepts of inputs, outputs and outcomes.
- Some participants said that they had had difficulty in correlating the activity report and the work programme, although both documents are clear.
- Under 1.6 (Intergovernmental Conference 2004), the formulation "the strengthening of Article 13" does not give a clear idea of what is meant.
- Important ongoing areas of work such as the EU co-ordination network and working on increasing membership are not mentioned specifically in the Work Programme.

The workshop agreed two specific suggestions for work over the next year:

- Beginning work in 2003 to raise profile of LGBT issues in the run up to the European elections in June 2004;
- Noting Peter Schieder's offer of support from his office made in Plenary Panel 2, the Board shall seek to develop its Council of Europe work to try to ensure that LGBT issues be taken into account in the analysis of new legislation forwarded to the CoE by member countries and work with the rapporteurs of the Monitoring Committee to ensure that LGBT rights are addressed in their reports.

Unison's proposal "Equality for all"

The workshop endorsed this proposal.

Board supplementary report

There were no questions. The report will be put for approval on the Sunday plenary.

ILGA-Europe press release of 28 October 2002

**“Recognising diversity, promoting equality”
ILGA-Europe’s Annual Conference concludes in Lisbon**

Yesterday ILGA-Europe members from 31 countries concluded a successful conference in Lisbon, Portugal. 130 participants were addressed by leading politicians from the host country and further afield. Isabel de Castro, Leader of the Portuguese Green Party, and Jamila Madeira, Leader of the Socialist Party’s youth section, joined Professor Miguel Vale de Almeida (Bloco Esquerda) and Teresa Nogueira (President, Amnesty International Portugal) to deliver opening keynote speeches. A later plenary session was addressed by Joke Swiebel, the Dutch socialist MEP, Rapporteur on Human Rights and Chair of the Gay and Lesbian Rights Intergroup at the European Parliament, and by Peter Schieder, President of the Parliamentary Assembly of the Council of Europe.

Mr Schieder, who was also Patron of the conference, presented certificates of appreciation to four campaigners who had taken landmark cases to the European Court of Human Rights. Jeff Dudgeon, Alecos Modinos, Joao Mouta and Philippe Fretté were applauded by the conference for their courage in pursuing legal actions against discrimination by their respective governments on the grounds of their sexual orientation.

The conference theme of “Recognising Diversity, Promoting Equality” was reflected in a broad range of workshops. As well as developing ILGA-Europe’s plans for the years ahead, conference participants took a special look at issues concerning lesbian, gay, bisexual and transgender (LGBT) Muslims. Other workshops explored LGBT issues in the Iberian Peninsula, Eastern Europe and in the trades union movement.

Speaking after the conference, ILGA-Europe’s Executive Director Ailsa Spindler said: “The success of this conference is a tribute to the commitment of the participants, the expertise of the speakers, and the support of the Portuguese LGBT community. The fight for equality throughout Europe has never been more important, as the European Union enlargement process moves on. Both existing Member States and candidate countries must realise that LGBT rights are fundamental human rights.”

The conference received financial support from the European Community, the Open Society Institute, the Heinrich Böll Foundation (Berlin), Pink Cross (Switzerland) and COC Haaglanden. Local support and sponsorship from Saga Travel, MuitaFruta.com and other local businesses, together with assistance from host organisation Opus Gay, helped to make the conference a great success. Next year’s ILGA-Europe conference will be in Glasgow in October.

CONFERENCE EVALUATION

36 questionnaires received (=100) out of 114 participants - 32% representation

	Total Marked	Very good		Good		Adequate		Poor	
		Marked	%	Marked	%	Marked	%	Marked	%
Day 1									
Opening Plenary	26	5	19	15	58	6	23	0	0
Second Plenary Session: Keynote speeches	27	9	33	15	56	3	11	0	0
WS 1: Implementing protection from workplace disc. at national level	14	5	36	5	36	4	29	0	0
WS 2: LGBT movements in Central & Eastern Europe, Caucasus	17	6	35	10	59	1	6	0	0
WS 3: Lesbian organising in the Iberian Peninsula	7	1	14	4	57	2	29	0	0
Day 2									
WS 4: Benefit for transgenders from EU gender anti-discrim. laws	10	2	20	6	60	1	10	1	10
WS 5: EU enlargement	16	7	44	7	44	2	13	0	0
WS 6: Organising with trade unions for LGBT rights	10	3	30	5	50	2	20	0	0
Plenary panel 1: Trade unions & implementation of EU anti-disc. laws	12	5	42	9	75	0	0	0	0
WS 7: Parenting rights under the ECHR	15	12	80	2	13	1	7	0	0
WS 8: From the Convention to the 2004 IGC	13	5	38	6	46	2	15	0	0
WS 9: Bisexuals' discrimination and IE's policies initiatives	4	2	50	2	50	0	0	0	0
Plenary panel 2: Promoting LGBT rights through CoE & EU	20	10	50	9	45	1	5	0	0
Day 3									
WS 10: Working within political parties for LGBT rights	12	0	0	2	17	4	33	6	50
WS 11: IE's finances, development & fund-raising plans	6	3	50	3	50	0	0	0	0
WS 12: Transnational Exchange Projects	16	4	25	6	38	5	31	1	6
WS 13: Working for transgender rights at European level	8	4	50	4	50	0	0	0	0
WS 14: EQUAL sexualities at work	9	3	33	6	67	0	0	0	0
WS 15: Improving your fund-raising skills	13	13	100	0	0	0	0	0	0
WS 16: Being a LGBT Muslim in a West European environment	13	7	54	3	23	2	15	1	8
WS 17: Developing legal protection beyond employment	13	2	15	10	77	1	8	0	0
WS 18: LGBT situation in some CEECs	8	3	38	4	50	1	13	0	0
WS 19: Empowering LGBT Muslim communities in Europe	11	2	18	6	55	3	27	0	0
WS 20: Asylum and Immigration	14	6	43	7	50	1	7	0	0
WS 21: IE's work programme	7	0	0	0	0	5	71	2	29
		Marked	%	Marked	%	Marked	%	Marked	%
		Very good		Good		Adequate		Poor	

	Very good		Good		Adequate		Poor	
	Marked	%	Marked	%	Marked	%	Marked	%
TOTALS								
Plenaries	29	34	48	56	10	12	0	0
WSs	90	38	98	42	37	16	11	5

	Total Marked	Very good		Good		Adequate		Poor	
		Marked	%	Marked	%	Marked	%	Marked	%
Overall event									
Speakers	34	16	47	16	47	2	6	0	0
Presentations	34	9	26	17	50	8	24	0	0
Helpfulness and effectiveness of conference staff	34	18	53	15	44	1	3	0	0
Briefing packs	33	15	45	14	42	4	12	0	0
Totals		58	43	62	46	15	20	0	0
About the venue/ administration									
Accessibility of conference venue	35	14	40	17	49	4	11	0	0
Refreshments at conference	35	13	37	12	34	9	26	1	3
Organisation of the event	35	13	37	16	46	6	17	0	0
Travel information/ arrangements	35	10	29	11	31	14	40	0	0
Hotel accommodation	34	13	38	17	50	4	12	0	0
Totals		63	36	73	42	37	21	1	1

	Total Marked	Fully		Mostly		Partly		Not much	
		Marked	%	Marked	%	Marked	%	Marked	%
To what extent did the event meet your expectations?	35	11	31	23	66	1	3	0	0

	Total Marked	Yes		No	
		Marked	%	Marked	%
Are there things you will do differently as result of conference?	31	23	74	8	26