

# International Lesbian and Gay Association

NGO in consultative status (Roster) with the Economic and Social Council of the United Nations

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## CSCE IMPLEMENTATION MEETING

Warsaw, 27 September - 15 October 1993

Statement by the International Lesbian and Gay Association (ILGA)  
presented in the plenary session on 14 October 1993 by ILGA  
Secretary-General Hans Hjerpekjøn

Mr Chairman,

Distinguished delegates,

I thank you for giving me the opportunity to address this meeting. I am the Secretary-General of the International Lesbian and Gay Association (ILGA), a world-wide umbrella organisation of about 400 non-governmental organisations fighting discrimination against homosexual women and men, which holds consultative status with the Economic and Social Council of the United Nations.

I would like to comment in my statement on the progress made, or for that matter not made, in the various CSCE participating States regarding the guarantee of full and equal human rights for their lesbian and gay citizens.

I appreciate the statements made during this meeting by the distinguished delegates from Norway, the Netherlands, Denmark, and Sweden in which they referred to discrimination based on a person's sexual orientation as a violation of human rights and fundamental freedoms. Our organisation is pleased to note that these delegations share our opinion that both the spirit and the letter of several CSCE documents classify discrimination based on sexual orientation as a human rights violation. However, I must say I had hoped that explicit mention of sexual orientation would have been made in an

actual CSCE document to make it more evident and to avoid any doubt about the obligations in this area, especially for those countries which do not yet guarantee full human rights for their homosexual citizens. We hope that this situation will be remedied by including sexual orientation, or the issue of discrimination against lesbians and gay men, in a future document of the CSCE. We will continue to work for such a clause.

As we stressed in the written presentation which we have submitted to this meeting, the European Court of Human Rights on three occasions has ruled that the criminalisation of homosexual acts between consenting adults in private is a clear violation of the European Convention on Human Rights. The repeal of a total ban on homosexual acts, therefore, is a precondition for admission to the Council of Europe. Romania, for example, was only admitted to the Council of Europe last week after having declared -- in a binding commitment -- the intention soon to abolish its law banning homosexuality. Romania's commitment will be closely monitored -- not only by the Council of Europe itself by means of half-yearly reports, but also by international human rights NGOs such as Amnesty International and our organisation.

Other CSCE participating States which also prohibit homosexuality and which have applied for membership in the Council of Europe -- Albania, Belarus, and Moldova -- therefore would be well advised to repeal their own laws against homosexuality to avoid the rather embarrassing debates which took place in conjunction with Romania's admission to the Council of Europe.

But we also appeal to other participating States, which may not be candidates for membership in the Council of Europe, to bring their legislation in line with international human rights standards. According to our information these countries include Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kazakhstan, Kyrgyzstan, Serbia, Tajikistan, Turkmenistan and Uzbekistan as well as more than 20 of the States in the United States of America. The CSCE observer state, the Republic of Macedonia, also criminalises homosexuality.

At this point, I would like to stress the positive developments which have occurred in recent years: Ukraine in 1991 took the lead of all successor states to the Soviet Union in abolishing the total ban on homosexuality inherited from the Stalinist era. Latvia and Estonia followed the example in 1992, the Russian Federation and Lithuania this year. The distinguished delegate from Ukraine remarked yesterday at the session of Subsidiary Working Body 1 that this law

reform did not quite meet with understanding among the ordinary population. They criticised the parliament for discussing exotic issues while there was no bread in the shops. This illustrates that sometimes human rights must be imposed from the top down, and that law reform does not automatically change hostile attitudes in the population. Nevertheless, it can be a signal to the people. To counter such criticism, we could argue that persecution of homosexuals (or any other group) does not feed a hungry population, nor does it fill the shops with food. For us, human rights are not only inalienable and indivisible; there is also no hierarchy and no priority in the realisation of the enjoyment of full human rights.

Moreover, we also appeal to Austria and Liechtenstein to repeal their bans on positive information about homosexuality and on the founding of homosexual organisations. These laws are clear violations of the basic rights of lesbians and gay men to freedom of thought, expression and association. In Austria, the legal ban on positive information on homosexuality has led to confiscation of AIDS-prevention materials for gay men, thus contributing to the further spread of this pandemic.

We also appeal to the remaining eight CSCE participating States that still have discriminatory age of consent provisions in their penal codes to repeal those laws, including Austria, Bulgaria, Croatia, Finland, Germany, Hungary, Liechtenstein, and the United Kingdom. Contemporary sexology has proven that there is no scientific justification whatsoever for a higher age of consent for homosexual than for heterosexual activity. The obvious evidence for this is the fact that the vast majority of the 53 CSCE participating States does without such legislation. In this context, it may be interesting to note that the penal code of Vatican City has the most liberal provision of this nature, having fixed 12 as the age of consent equally for heterosexual and homosexual activity. The criminal code of the Holy See, therefore, could in this respect serve as a model for the rest of Europe.

To conclude, I would like to echo the hope expressed by the distinguished delegate from Sweden in her statement given in Working Body 1 last Monday that discrimination and human rights violations based on a person's sexual orientation will soon belong to the past and that the implementation meeting in 1995 will not have to deal with such issues anymore.

Thank you.