

International Lesbian and Gay Association

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

CSCE Working Party Vienna
Novaragasse 40 □ A-1020 Vienna □ Austria
Telephone/Fax: +43 1 545-1310 □ e-mail: clarkj@iiasa.ac.at

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STATEMENT

delivered by Kurt Krickler on behalf of the
INTERNATIONAL LESBIAN AND GAY ASSOCIATION (ILGA)

on 1 November 1994 in Working Group 3:

**Discrimination on the basis of sexual orientation
is a violation of human rights**

Mr. Chairperson,

Distinguished delegates,

I thank you for giving me the opportunity to address this meeting. I represent the International Lesbian and Gay Association (ILGA), a world-wide umbrella organisation of some 400 non-governmental organisations fighting discrimination against homosexual women and men.

Our organisation has been participating in CSCE meetings which deal with human rights for three years now. We have spoken with most delegations, presenting our demands for inclusion of non-discrimination based on sexual orientation as a CSCE commitment in a binding document. At the Third Meeting of the Conference on the Human Dimension in Moscow in 1991, the delegations were confronted with our demands for the first time, but no delegation put forward a proposal in the deliberations. At the 1992 Follow-Up Meeting in Helsinki, the Norwegian delegation introduced such a proposal, but it was met with reservation. ILGA representatives also participated in the Human Dimension Seminar on Tolerance in Warsaw in 1992 and at the First Implementation Meeting on Human Dimension Issues in the Polish capital in Fall 1993. On both occasions, we had the opportunity to present oral statements in the plenary.

The Report of the 1993 Implementation Meeting, for the first time in the history of the Helsinki process, made reference to the issue of non-discrimination based on sexual orientation which is a real milestone. I quote:

Participants pointed to groups which were not "national minorities" but which none the less suffered discrimination, including women, homosexuals, migrant workers, and conscientious objectors...

It was pointed out that CSCE commitments in the area of non-discrimination cover homosexuals as well. Suggestions were made that discriminatory State policies against homosexuals, and criminalizing legislation, should be eliminated.

This Report, however, is not a binding document. Thus, we are here again to continue to convince you, the delegations of the 53 participating States, that it is necessary to also protect your gay and lesbian citizens from discrimination based on their sexual orientation and to include, accordingly, a clause in the Budapest Document because we feel that, if not explicitly mentioned, this commitment might not be taken serious by some Participating states.

It would be disappointing if the CSCE continues to be the only major European and international human rights platform that does not speak out against discrimination based on sexual orientation and does not phrase any protection from human rights violations against lesbians and gay men in its basic documents.

Lately, we have witnessed remarkable progress and important achievements in the recognition of the human rights of homosexual women and men at the international level:

In March 1994 the United Nations Human Rights Committee ruled that the rights of lesbians and gay men to privacy and equality were guaranteed by the provisions of the *International Covenant on Civil and Political Rights*. The Committee noted that the reference to "sex" in articles 2 and 26 of the Covenant is to be taken as including sexual orientation. For us in the lesbian and gay rights

movement, this is the most important decision to date in the international human rights law.

Another recent landmark achievement was the adoption of the *Resolution on equal rights for homosexuals and lesbians in the EC* by the European Parliament in February 1994. In this Resolution, the EP calls on the Member States to repeal all anti-homosexual legal provisions and to end any discrimination on the basis of sexual orientation.

On the first summit meeting of the Heads of State and Government of the member states of the Council of Europe, which took place in Vienna in October 1993, a *Declaration and Plan of Action on combating racism, xenophobia, antisemitism and intolerance* which, in our view, also includes lesbians and gay men, was adopted.

We would like to stress again how disappointing it would be if the CSCE remained behind the human rights standards already set forth by the United Nations and the Council of Europe. Details of these recent achievements, you will find in the Written Presentation of our organisation which has been distributed to all delegations.

In practice, this means that those CSCE participating States which still have provisions in their laws discriminating against lesbians and gay men should repeal these laws:

To our knowledge, the penal codes of Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Uzbekistan and, as was mentioned before, of more than 20 States of the USA still provide for a total ban on homosexual relations.

Discriminatory ages of consent still exist in the penal codes of Austria, Bulgaria, Finland, Hungary, Liechtenstein and the United Kingdom.

The penal codes of Austria, Finland and Liechtenstein prohibit positive information on homosexuality, thus violating the fundamental freedom of thought and expression. In Austria this law has also led to the confiscation of AIDS prevention material for gay men, thus contributing to the further spread of this pandemic.

I am not going to repeat the concrete examples of human rights violations which my colleague presented to you in this Working Group two weeks ago speaking to agenda items II b and c.

In concluding, we repeat our demand to this Review Conference to lay down in a clause of the Budapest Document the commitment to non-discrimination based on sexual orientation and the protection of the human rights of homosexual women and men.

The joint statement of Norway and the Netherlands which was just given by the distinguished Dutch delegate, and for which I would like to especially thank him, gives us hope that this may finally happen.

Thank you Mr. Chairperson.