



EUROPEAN COMMISSION ON
SEXUAL ORIENTATION LAW

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WORLD OUTGAMES:
INTERNATIONAL CONFERENCE ON
LGBT HUMAN RIGHTS
27-29 July 2009

PROGRAMME:
WORKSHOPS OF ECSOL

(held at the
IT University of Copenhagen or ITU)

About ECSOL

The European Commission on Sexual Orientation Law (ECSOL) is a non-governmental and non-political network of legal experts. Its origins lie in the European Group of Experts on Combating Sexual Orientation Discrimination, which operated between 2002 and 2004:

www.law.leiden.edu/organisation/meijers/research-projects/samesexlaw.html#european-group-of-experts-on-combating-sexual-orientation-discrimination, <http://hdl.handle.net/1887/12587> (EN), <http://hdl.handle.net/1887/12566> (FR)

Following the completion of the work of the Group of Experts, the participants were keen to build further on their research partnership and advance the project of promoting equality and recognition for LGBT persons within Europe.

The members of ECSOL come from across the Council of Europe countries, both inside and outside the European Union. Its members have a range of professional backgrounds, including legal academics, practising lawyers, judges and those working in governmental or non-governmental organisations. In principle, one representative from each European country participates in ECSOL, plus one expert for the Council of Europe and one for the European Union. For some countries, notably those with federal or quasi-federal structures, several experts participate, representing the different legal systems found within that state.

ECSOL's members have expert knowledge about legal issues pertaining to sexual orientation and/or gender identity. Their expertise includes fields such as criminal law, human rights law, anti-discrimination law, and family law.

The aim of the group is to undertake specific projects and formulate reports, to act as a forum for its members for exchange of information, collaboration, and discussion on important themes, and to conduct research into all aspects relating to sexual orientation law. To this end, ECSOL's members regularly exchange information on important legal developments at the national, European and international levels. The ECSOL network meets at least once per year, often in parallel with major LGBT conferences/events, such as the ILGA-Europe Annual Conference or the Outgames Human Rights Conference.

List of members of ECSOL:

1. *Robert Wintemute (Council of Europe, England and Wales)*
2. *Stefano Fabeni (Italy, San Marino)*
3. *Helmut Graupner (Austria, Liechtenstein)*
4. *Haris Kountouros (Cyprus)*
5. *Søren Baatrup (Denmark)*
6. *Daniel Borrillo (France)*
7. *Mark Bell (European Union, Northern Ireland)*
8. *Matteo Bonini Baraldi (Italy)*
9. *Kees Waaldijk (Netherlands)*
10. *Hrefna Fridriksdóttir (Iceland)*
11. *Rainer Hiltunen (Finland)*
12. *Lucie Otahalova (Czech Republic)*
13. *Krzysztof Smiszek (Poland)*
14. *Kenneth Norrie (Scotland)*
15. *Miguel Freitas (Portugal)*
16. *Caroline Mécary (France)*
17. *Hans Ytterberg (Sweden)*
18. *Susanne Baer (Germany)*
19. *Lina Papadopoulou (Greece)*
20. *Christian Attard (Malta)*
21. *Reimo Mets (Estonia)*
22. *Paul Borghs (Belgium)*

Workshop Block 1 (Monday, 27 July, 1100-1230, ITU Level 1, Room 1):

LGBT human rights and the Council of Europe

The Council of Europe (47 member states with 800,000,000 people) promotes respect for human rights through its institutions: the Committee of Ministers (representatives of national governments), the Parliamentary Assembly or PACE (members of national legislatures), the Commissioner for Human Rights, and the European Court of Human Rights. Each of these institutions plays an important role in strengthening protection of the human rights of LGBT persons. Speakers will discuss the work of the Council of Europe's Secretariat, DH-LGBT (the Committee of Experts on Discrimination on Grounds of Sexual Orientation and Gender Identity, which has prepared the first draft of a proposed Recommendation by the Committee of Ministers to member states), the Commissioner (Mr. Thomas Hammarberg), and PACE. The Chair will conclude by reviewing the Court's case law on issues other than the rights of same-sex couples (to the extent that the speakers have not covered it).

Chair - Mr. Robert WINTEMUTE, King's College London, England, UK

Speaker 1 - Mr. Daniele CANGEMI, Head of the Human Rights Law and Policy Division, Directorate General of Human Rights and Legal Affairs, Secretariat, Council of Europe

Speaker 2 - Mr. Hans YTTERBERG, Ministry of Integration and Gender Equality, Sweden (discussing his work as Chair of DH-LGBT)

Speaker 3 - Mr. Dennis van der VEUR, Advisor to the Commissioner for Human Rights, Council of Europe

Speaker 4 - Mr. Nigel WARNER, Council of Europe Adviser, ILGA-Europe (discussing recent developments in the Parliamentary Assembly)

Workshop Block 2 (Monday, 27 July, 1530-1700, ITU Level 1, Room 1):

LGBT human rights and the European Union

Directive 2000/78/EC of the European Union (27 member states with 480,000,000 people) prohibits sexual orientation discrimination in employment and vocational training (including higher education). EU legislation on sex discrimination in these areas (as well as social security and goods and services) has been interpreted as covering discrimination "for a reason related to a gender reassignment". A proposed new directive (COM(2008) 426 final) would extend protection against sexual orientation discrimination to social protection, social security, social advantages (ie, social benefits), healthcare, housing, other education, and other goods and services. Yet in another important area of EU competence, Directive 2004/38/EC does not sufficiently guarantee free movement of same-sex couples within the EU. Two officials of the European Commission (the EU's Brussels-based "executive"), as well as a representative of ILGA-Europe, will present their work on these issues, while the Chair will comment on recent developments and prospects for the future.

Chair and Discussant - Ms. Joke SWIEBEL, Member of the European Parliament (1999-2004), Netherlands:

Speaker 1 - Ms. Belinda PYKE, Director of Directorate G (Equality between Men and Women, Action against Discrimination, Civil Society), Directorate-General for Employment, Social Affairs and Equal Opportunities, European Commission, Brussels

Speaker 2 - Mr. José ALEGRE SEOANE, Head of Sector for Fundamental Rights, Directorate D (Fundamental Rights and Citizenship), Directorate-General for Justice, Freedom and Security, European Commission, Brussels

Speaker 3 - Ms. Evelyne PARADIS, ILGA-Europe, Brussels

Workshop Block 3 (Tuesday, 28 July, 1100-1230, ITU Level 3, Room 1)

LGBT families under European and international law

The claims of LGBT families to equal recognition raise many issues under European Union law, the European Convention on Human Rights, and other international law. The EU's Directive 2000/78/EC prohibits discrimination based on sexual orientation in employment, including employment-related pension benefits. Yet, the European Court of Justice has largely left it to the national level to decide whether to grant same-sex couples equal rights (outside of marriage). In several pending cases, the European Court of Human Rights has been asked to interpret the Convention as requiring some alternative means (apart from marrying) for same-sex couples to qualify for rights linked to marriage. Are we moving towards a right in international law to have a registered partnership recognised abroad, or even towards a right to a registered partnership law with a minimum content in every country?

Chair - Ms. Caroline MÉCARY, Lawyer, Paris, France

Speaker 1 - Mr. Helmut GRAUPNER, Lawyer, Vienna, Austria:

"The Maruko and Römer Cases: The European Court of Justice and Same-Sex Partnerships"

Speaker 2 - Mr. Robert WINTEMUTE, King's College London, England, UK:

"LGBT Families and the European Convention on Human Rights"

Speaker 3 - Mr. Kees WAALDIJK, Universiteit Leiden, Netherlands:

"Registered partnership in international law"

Workshop Block 4 (Tuesday, 28 July, 1530-1700, ITU Level 2, Room 2)

LGBT persons under national law in Europe: France, Estonia & Sweden

LGBT persons in Europe face a great variety of situations under national law. In the West, the officially secular legislation of France remains deeply conservative with regard to access to marriage, adoption and donor insemination, and alternatives to marriage do not provide equal rights. In the formerly Communist East, Estonia might be ready to follow in the footsteps of Croatia, the Czech Republic, Hungary and Slovenia, by passing some kind of law recognising same-sex couples. Meanwhile, in the Northern "paradise" of Sweden, where full legal equality has been achieved, do LGBT persons enjoy equality in practice, for example, in workplaces, schools, and adoption agencies?

Chair - Mr. Kees WAALDIJK, Universiteit Leiden, Netherlands

Speaker 1 - Ms. Caroline MÉCARY, Lawyer, Paris, France:

"2009: Le paradoxe français ou l'utopie égalitaire (état des lieux d'une nation qui fut grande)"; "2009: The French paradox or egalitarian utopia (overview of a nation that once was great)"

Speaker 2 - Mr. Reimo METS, Lawyer, Tallinn, Estonia:

"How close is Estonia to a registered partnership law?"

Speaker 3 - Mr. Hans YTTERBERG, Ombudsman against Discrimination on grounds of Sexual Orientation (1999-2009), Stockholm, Sweden:

"Ten Years as Sweden's HomO: The challenges of enforcing the law and educating the public"

Workshop Block 5 (Weds., 29 July, 1100-1230, ITU Level 2, Room 2)

LGBT human rights and religious opposition

Around the world, the leading opponents of LGBT human rights often rely on religious beliefs, doctrines or texts. Advocates of equality for LGBT persons face the dual challenge of persuading religious communities to change their beliefs and doctrines, and the interpretations of their texts, while reminding public officials that international human rights law prohibits the use of the law to impose the majority's religious beliefs on those who dissent for any reason. The first speaker will address the particular challenge faced by LGBT persons in Muslim-majority countries, and within Muslim minorities in other countries. The second speaker will consider where human rights law should draw the line when requiring accommodation of religious beliefs, especially if accommodation would permit discrimination against LGBT persons.

Chair - Mr. Nino SUSANTO, Q! Film Festival, Yogyakarta, Java, Indonesia

Speaker 1 - Mr. Vanja HAMZIC (from Bosnia and Herzegovina), LLM candidate in Human Rights Law, University of Nottingham, UK; MPhil/PhD candidate, School of Law, King's College London, UK (from Jan. 2010):

"Negotiating Identities and Human Rights: The Liminal State of Queer Muslims"

Speaker 2 - Mr. Robert WINTEMUTE, King's College London, England, UK (Professor of Human Rights Law and Mr. Hamzic's supervisor):

"Accommodating Religious Beliefs: The Examples of Headscarves and Same- Sex Couples"

Workshop Block 6 (Weds., 29 July, 1330-1500, ITU, Level 4, Room 4):

LGBT persons under national law: The UK's post-1997 "revolution", and taxation of couples vs. individuals in 8 countries

Since 1997, the United Kingdom has gone from being a "backward country" on LGBT human rights, to being one of the leaders. Apart from the word "marriage", UK legislation is arguably the most advanced in Europe with regard to LGBT families. Three speakers will consider various aspects of this "revolution": recent legislation on civil partnership and adoption, discrimination in access to goods and services (including adoption agencies), "hate speech", and access both to medically assisted procreation and subsequent parental rights. The fourth speaker will consider the taxation of couples vs. individuals in eight countries and whether, in this area, recognition of couples (married or unmarried, different-sex or same-sex) is a positive development.

Chair - Mr. Hans YTTERBERG, Ombudsman against Discrimination on grounds of Sexual Orientation (1999-2009), Stockholm, Sweden

Speaker 1 - Mr. Kenneth NORRIE, U. of Strathclyde, Glasgow, Scotland:

"Same-Sex Families in Scotland and in England and Wales"

Speaker 2 - Mr. James ADUTT, UK Government Lawyer, London:

"Recent Developments in UK law on LGBT rights"

Speaker 3 - Mr. Andrea WOELKE, Alternative Family Law, London:

"Full Equality for Same-Sex Parents: Recent Reforms to UK Fertility and Parenting Legislation"

Speaker 4 - Ms. Kathleen LAHEY, Queen's Univ, Kingston, ON, Canada:

"Taxation and Same-Sex Couples: The Impact of Egalitarian, Neoliberal, and Neoconservative Tax Policies on Queer Relationships"