

T I P O F A N I C E B E R G

ANTI-LESBIAN AND ANTI-GAY DISCRIMINATION IN EUROPE

1 9 8 0 - 1 9 9 0

a survey of
discrimination and anti-discrimination
in law and society

first report
draft-version 16.12.1991

by
Kees Waaldijk
in co-operation with
many others

INTERNATIONAL LESBIAN AND GAY ASSOCIATION

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This is the 16.12.1991 draft-version of the first report of:

**ICEBERG -
the ILGA project to uncover and combat discrimination in Europe.**

ILGA is the International Lesbian and Gay Association. "Iceberg" is run, on behalf of ILGA, by two member-organisations of ILGA: the Dutch Organisation for Integration of Homosexuality COC coordinates the action part of the project, while the Department of Gay and Lesbian Studies of the University of Utrecht coordinates the documentation and research part of it.

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Opinions expressed in this report are not necessarily shared by ILGA and its member-organisations. Nor does the classification in this report of something as "discrimination" or "anti-discrimination" necessarily mean that ILGA and its member-organisations condemn or applaud it. ILGA policy is decided upon by its Annual Conference. The contents of this report have not been the subject of such a conference decision.

No responsibility can be accepted for the accuracy of the contents of this report.

Earlier draft versions of the first Iceberg report were produced in March, May and December 1990. This 16.12.1991 draft-version aims to cover all member states of the European Community and some other European countries:

- * Austria
- * Belgium
- * Bulgaria
- * Czechoslovakia
- * Cyprus
- * Denmark
- * Finland
- * France
- * Germany
- * Greece
- * Hungary
- * Iceland
- * Ireland
- * Italy
- * Liechtenstein
- * Luxembourg
- * Netherlands
- * Norway
- * Portugal
- * San Marino
- * Spain
- * United Kingdom

The final version of the first report (covering all countries of Europe) will probably be presented at ILGA's European Regional Meeting in December 1992 in Brussels.

All information which could help to make future versions of this report more accurate and more complete, can be sent to the address given at the bottom of this page.

Anyone who would like to receive a copy of the next draft-version(s), may write to that same address. Whether it will be possible to send out copies to all those interested, depends on the financial situation of the Iceberg project. Therefore donations will be most welcome. At this moment, a copy of the next draft version can only be promised to anyone sending a donation in excess of 10 ECU.

Donations may be transferred to:

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The address of the Iceberg project is:

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INTRODUCTION

HISTORY OF THE ICEBERG PROJECT

Iceberg was established by ILGA after the hearing "On discrimination against gays and lesbians", held in Brussels on 5 and 6 March 1987, an initiative of the GRAEL/Rainbow Group in the European Parliament. This hearing followed the conference "Young people against racism" (1985), where the idea of establishing a European center for the registration of discrimination against gay men and lesbian women was conceived. At the annual conference of ILGA (Cologne, 1987) it was decided that such a center should be established, on behalf of ILGA, by the Dutch Organization for Integration of Homosexuality COC and the Interdisciplinary Gay and Lesbian Studies Department of the University of Utrecht in joint cooperation. Both are member organisations of ILGA (about ILGA, see Appendix II). It was decided to call the project "ICEBERG, the ILGA project to uncover and combat discrimination in Europe" and to launch it officially in Strasbourg, the seat of the European Parliament. The launch, on 18 May 1988, was hosted by several Members of this Parliament of the European Community. A brochure describing the project, and giving a brief list of discrimination in all member-states of the European Community, was produced and widely distributed both within the European lesbian and gay movement, and among interested politicians.

The word "iceberg", and certainly its pronunciation, is virtually the same in almost all European languages. Expressions like the **tip of the iceberg** exist in most of these languages. The idea of the iceberg simultaneously conveys three important facts about anti-lesbian and anti-gay discrimination:

- * this discrimination still occurs on a large scale,
- * only a small part of it is visible,
- * and it forms a real threat to the well-being of women and men.

Therefore, the two objectives of Iceberg are to **uncover** and to **combat** discrimination against lesbian women and gay men. It deals with discrimination and anti-discrimination in all European countries, as well as within the institutions of the European Community, the Council of Europe and other international organisations.

The project consists of two parts: one for documentation and research, and the other for political and legal action. This report is the first major result of the documentation and research side of the Iceberg project (see Appendix III about what you can contribute both to "documentation" and to "action").

SCOPE OF THE PROJECT

In Iceberg the concepts of "**discrimination**" and "**anti-discrimination**" are used with a very wide meaning. However, being an ILGA project, Iceberg only deals with (anti-)discrimination in relation to homosexuality.

Iceberg is concerned with every form of direct or indirect distinction, disadvantage or defamation on the ground of homosexual or bisexual orientation. All this will be called "discrimination".

The word "**orientation**" here not only covers **preferences** (for sex or relationships with people of a particular gender) and (sexual or erotic) **acts or relationships** (with people of a particular gender), but also **information** about such preferences, acts or relationships (everything from "coming out" to academic articles).

The wide definition of discrimination used in the project leads to the inclusions of:

- * not only **explicit** discrimination or discrimination which has been proved, but also **alleged** or **suspected** discrimination;
- * not only **unjustified** distinctions, but also **acceptable** or **justifiable** distinctions;
- * not only **unlawful** discrimination, but also **unprohibited** discrimination;
- * not only **social** discrimination (by private persons or institutions), but also **legal** discrimination (by legislative or judicial bodies);
- * not only obvious **incidents** of discrimination, but also more or less hidden forms of **structural** discrimination;
- * not only unequal **treatment**, but also discriminatory **defamation**;
- * not only **distinctions**, but also other forms of **disadvantage** (blackmail, unwanted exposure of private life, etcetera).

The main purpose of Iceberg is to expose discrimination as it occurs today. However, to get a comprehensive picture of the extent of discrimination and of anti-discriminatory steps taken against it, this report covers the period **January 1980 to December 1990**. The early 1980s have been taken as a starting point for two reasons. In October 1981 homosexuality became an officially recognised topic within the Council of Europe: on the first day of that month the Parliamentary Assembly of the Council of Europe adopted Recommendation 924 "on discrimination against homosexuals", and on the 22nd of that month the European Court of Human Rights ruled (in the Dudgeon-case) that penalisation of gay sex between consenting adults violates the European Convention on Human Rights. The other reason is, that around 1980 several important lesbian/gay periodicals have started publication (including ILGA's own Bulletin). The 1980's are the best reported years in the history of gay and lesbian emancipation so far.

For the years from 1991 supplements to this report are being planned.

HOW INFORMATION IS COLLECTED

The raw material for Iceberg's documentation consists of information about discrimination and anti-discrimination. This information is collected from different sources:

- * Lesbian and gay periodicals. From some of the major periodicals all reports about discrimination and anti-discrimination which appeared since 1980 have been photocopied for Iceberg (see the titles listed in Appendix I.D).
- * Clippings from general daily and weekly newspapers.
- * Books and specialised reports (see the titles listed in Appendix I.D).
- * Photocopies of some original documents (such as legislation and judicial decisions).
- * Various letters sent to Iceberg.
- * Comments made on earlier versions of the Iceberg report.

All information received on paper is stored in files per country and per international organisation. The privacy of sensitive data is protected. Some of the information from these paper files has been summarised for this report.

UNDER- AND OVER-REPRESENTED TYPES OF (ANTI-)DISCRIMINATION

Because of the ways information is being collected for Iceberg, some types of (anti-)discrimination are over- or under-represented in Iceberg's files. In general there is less information:

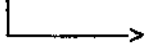
- * about anti-lesbian discrimination than about anti-gay discrimination,
- * about discrimination in Eastern and Southern Europe than about discrimination in Northern and Western Europe,
- * about discrimination in the early 1980s than about discrimination in more recent years,
- * about social discrimination than about legal discrimination,
- * about structural discrimination than about clear incidents of discrimination.

For this report a selection was made from the information collected. In that selection an effort was made to give extra attention to information about types of discrimination about which less is known.

STRUCTURE OF THIS REPORT

The core of this report are the separate items. These items are grouped in twelve chapters, most of which are subdivided in paragraphs. In each chapter and paragraph items are grouped together according to the field in which (anti-)discrimination is taking place, and according to the character of the (anti-)discrimination. Normally, items about (anti-) discrimination with a legal character precede items about social (anti-) discrimination. Items about the same country are grouped together. Within groups of similar items, a chronological order is maintained.

There are discrimination items and items which deal with anti-discrimination or non-discrimination. The two types of items are typographically distinguished:

- * The text of items dealing with a case of discrimination, or with a discriminatory rule, starts on the left end of the page.
- * The text of items dealing with anti-discrimination or non-discrimination always starts 10 more spaces to the right, and is preceded by an straight or bent arrow  or .
- * Where an item is about a direct response to the preceding item, this is shown with a bent arrow  or .

Each item has a label consisting of:

- * the name of the geographical entity concerned (international organisation, **country**, region, province, or dependent territory);
- * an indication of the **character** of the discrimination or anti-discrimination:

WRITTEN LAW	=	(anti-) discrimination contained in treaties, constitutions, acts of parliament, regulations, or local byelaws,
COMMON LAW	=	(anti-) discrimination contained in judge-made law (unwritten law),
COURT CASE	=	judicial and quasi-judicial decisions about (anti-) discrimination,
ADMINISTRATION	=	(anti-) discriminatory decisions and activities of international, national, regional, or local government administrations (including the police),
DECLARATION	=	(anti-) discriminatory non-binding declarations, statements, resolutions, motions, advice, and rejected or not-yet-adopted proposals of legislative or administrative bodies,
PEOPLE	=	(anti-) discriminatory activities and opinions of (groups of) individuals,
BUSINESS	=	(anti-) discriminatory activities and opinions of commercial businesses,
MEDIA	=	(anti-) discriminatory activities and opinions of press, radio and television,
ORGANISATION	=	(anti-) discriminatory activities and opinions of non-governmental non-profit organisations,
SOCIETY	=	any combination of most of the labels described above.

A full list of the meaning of all labels can be found in the Glossary (Appendix I.A).

Where possible, an indication of the **source** of the information is given, mostly at the end of an item [in square brackets]. Photocopies of most sources are stored in the Iceberg files in Utrecht. Abbreviations used to indicate these sources are fully explained in the Glossary (Appendix I.D). In the Glossary other abbreviations used in this report are also explained.

The **INDEX** will help to locate items about any particular country.

CHAPTER 1 PRINCIPLES AND POLITICS

1.1 INTERNATIONAL

- > **United Nations - DECLARATION**
Article 2 of UDHR:
"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."
Similar provisions can be found in article 2(2) of ICESCR and in article 2(1) of ICCPR.
- > **United Nations - WRITTEN LAW**
Article 26 of ICCPR:
"All persons are equal before the law and are entitled without any discrimination to equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."
- > **United Nations - WRITTEN LAW**
Article 2 and 3 of CEDW:
- > **Council of Europe - WRITTEN LAW**
Article 14 of ECHR:
"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."
..."objective and reasonable" justification...proportionality
- > **Council of Europe - DECLARATION**
On 1 October 1981 the Parliamentary Assembly adopts Resolution 756 and Recommendation 924, both "on discrimination against homosexuals". In the Resolution the Assembly reaffirms "its vocation to fight against all forms of discrimination and oppression". In the Recommendation the Assembly recalls "its firm commitment to (...) the abolition of all forms of discrimination", observes that homosexuals "continue to suffer from discrimination and even, at times, from oppression", and calls for forms of anti-homosexual discrimination "survivals of several centuries of prejudice". In both texts the Assembly recommends several measures to ensure an end to such discrimination.
The Resolution and Recommendation were based on the "Report on discrimination against homosexuals" (document 4755), prepared by Assembly member Mr. Voogd.....
... amendments ...
... art. 14 ...
... Committee of Ministers ...
- > **Spain - DECLARATION**
In 1983 the regional parliaments of Andalusia and Catalonia pass motions endorsing Resolution 756 and Recommendation 924 of the Parliamentary Assembly of the Council of Europe. A similar motion is passed by the national Spanish Parliament in 1985.
[Madrid Gay 1983, November, p. 4; GK 1985, August, p. 17]
- > **Council of Europe - DECLARATION**
On 2 October 1990 the "Meeting of Non-Governmental Organizations holding consultative status with the Council of Europe and interested in Human Rights" adopts a motion on the legal situation of homosexuality. The motion is introduced by the International Humanist and Ethical Union. It calls on the member states "to repeal all laws which discriminate against homosexuality" and "to refrain from introducing new discriminatory laws". It calls on the Council of Europe, among other things, "to take initiatives to accelerate the recognition of the equal value of all human beings and to fight against discrimination of homosexual men and women in all member states".
- > **European Community - DECLARATION**
On 13 March 1984 the European Parliament adopted the "Resolution on sexual discrimination at the workplace" (OJ No C 104, p. 46-48).

In it the Parliament considers that "the elimination of all forms of discrimination between individuals is a prerequisite to the achievement of a more just society and of the objectives laid down in the preamble and Article 117 of the EEC Treaty, in particular that of improving the living and working conditions of the people of Europe". It is "convinced that social justice and respect for dignity and freedom of the individual are essential for democracy and for the construction of Europe".

(... free movement ... consideration B)

It "points out that in the campaign against discrimination of all kinds it is impossible to ignore or passively to accept *de facto* or *de jure* discrimination against homosexuals". It "deplores all forms of discrimination based on an individual's sexual tendencies". It therefore calls for various measures to end such discrimination. It also calls on the EC Commission "to invite Member States to provide, as soon as possible, a list of all provisions in their legislation which concern homosexuals", and "to identify, on the basis of such lists, any discrimination against homosexuals (...) by drawing up a report".

This Resolution was based on the Report ... prepared by the Member of the European Parliament, Mrs. Squarcialupi.....

- > **European Community - DECLARATION**
resolution on human rights in the Soviet Union (17 May 1983)
- > **Nordic Council - DECLARATION**
1 March 1984 resolution on the improvement of the social position of homosexual women and men..... [SETA 1988, nr. 2]
- > **Nordic Council - ...**
debate about discrimination against homosexuals in Iceland and Finland [ILGA-bulletin 1988, nr. 2, p. 17]
- > **Helsinki Citizens' Assembly - ORGANISATION**
In 1990 the Human Rights Commission of the Helsinki Citizens' Assembly agrees a programme for "full legal and social equality for lesbians and gay men, including positive protection against discrimination on the grounds of sexual preference". [GT 1990, December, p. 21]

1.2 CONSTITUTIONAL

- > **Belgium - WRITTEN LAW**
Article 6 of the Constitution:
"(...) All Belgians are equal in the eyes of the law (...)."
Article 6b: "Enjoyment of the rights and liberties to which Belgians are entitled must be ensured without discrimination. (...)" [B&F 09/1972, p. 2]
- > **Denmark - WRITTEN LAW**
Article 70 of the Constitution:
"No person shall for reasons of his creed or descent be deprived of access to complete enjoyment of his civic and political rights (...)."
The principle of equality in other respects has been generally accepted. [B&F 1973, p. 9] [Steenbeek 1988, p. 106]
- > **France - WRITTEN LAW**
Article 2 of the Constitution:
"France (...) shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. (...)" [B&F 02/1974, p. 2]
- > **Germany (East) - WRITTEN LAW**
Article 20 of the Socialist Constitution of the German Democratic Republic (in force until 3 October 1990):
"(1) Every citizen of the German Democratic Republic, irrespective of his nationality, his race, his philosophical or religious belief, his social origin and position, has the same rights and duties. (...). All citizens shall be equal before the law.
(2) Man and woman have equal rights (...)."
- > **Germany (East) - DECLARATION**
After the peaceful revolution of November 1989 a new Constitution is drafted for the German Democratic Republic. Article 1 (paragraph 2) of this draft text reads as follows:

"(2) Everyone has a duty to recognise everyone else as equal. Nobody shall be put at a disadvantage because of his race, origin, nationality, language, his sex, his sexual orientation, his age, his handicap, his religious, philosophical or political conviction." Article 2 says: "All persons shall be equal before the public authority. Every bias and every [....."sachwidrige".....] unequal treatment is forbidden." And article 22 (paragraph 2) provides that all forms of lasting relationships will be equally protected. This new Constitution does not enter into force, because on 3 October 1990 the territory of the GDR becomes part of the Federal Republic of Germany.

[Bundestag Drucksache 11/7197, 9 July 1990, p. 5-6]

—————> **Germany - WRITTEN LAW**

Article 3 of the Constitution of the Federal Republic of Germany:

"(1) All persons shall be equal before the law.

(2) Men and women shall have equal rights.

(3) No one may be prejudiced or favoured because of his sex, his parentage, his race, his language, his homeland and origin, his faith or his religious or political opinions." [B&F 12/1974, p. 6]

—————> **Greece - WRITTEN LAW**

Article 4 of the Constitution:

"(1) All Greeks are equal before law.

(2) Greek men and women have equal rights and equal obligations."

[B&F 03/1976, p. 28]

—————> **Ireland - WRITTEN LAW**

Article 40 of the Constitution:

"(1) All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function."

[B&F 04/1983, p. 126]

—————> **Italy - WRITTEN LAW**

Article 3 of the Constitution:

"All citizens are invested with equal social status and are equal before the law, without distinction as to sex, race, language, religion, political opinions and personal or social conditions."

[B&F 02/1973, p. 1]

—————> **Luxembourg - WRITTEN LAW**

Article 11 of the Constitution:

"(...) Luxembourgers are equal before the law (...)."

[B&F 09/1972, p. 35]

—————> **Netherlands - WRITTEN LAW**

In 1983 the Dutch Constitution was given a new Article 1:

"All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any grounds whatsoever shall not be permitted."

During the parliamentary debates about the proposal for Article 1, the words "or any ground whatsoever" were added, so as to include discrimination on the ground of sexual orientation in the new prohibition.

[JH 1986/87, 2/3, p.59-60]

—————> **Portugal - WRITTEN LAW**

Article 13 of the Constitution:

"(1) All citizens shall have the same social dignity and shall be equal before the law.

(2) No one shall be privileged, favoured, injured, deprived of any right or exempt from any duty because of his ancestry, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation or social condition."

—————> **Spain - WRITTEN LAW**

Article 14 of the Constitution:

"Spaniards are equal before the law, without any discrimination for reasons of birth, sex, religion, opinion or any other personal or social condition or circumstance."

This principles of equality is not regarded as an independent human right, but as a principle governing the application of all human rights.

[BF 10/1979, p. 4; Prakte 1988, p. 668]

1.3 POLITICAL

- > **Spain - DECLARATION**
The Congress of the Communist Party declares its support for "the right of people to their own sexual preferences and to a free choice of relationships".
[Sek 1981, August, p. 15]
- > **Spain - DECLARATION**
Spain - ADMINISTRATION
The Congress of the governing Socialist Party demands that the Government will take measures against discrimination of lesbians and gays, and to work towards changing society in such a way that homosexuality can become an integral part of it.
An official delegation from gay and lesbian organisations is received by the Government. The Minister of Justice announces that he will prepare legislation against anti-homosexual discrimination. The Government establishes an office (within the Department of Social Affairs) in charge of "Homosexual Affairs". Its first tasks include establishing contacts with the homosexual movement, holding opinion polls, and organising a conference on future policy.
[GK 1983, November, p. 29; Sek 1984, November, p. 9]
- > **Italy - ORGANISATION**
In 1986 the Communist Party adopts an amendment to its party line highlighting "the contribution of the gay liberation movements in highlighting the acts of discrimination that happen every day". The Party confirms its effort against every form of discrimination.
[Babilonia 36, may 1986, p. 36]
- > **Sweden - ADMINISTRATION**
Commission 1978-1984
- > **Denmark - ADMINISTRATION**
At the request of the Folketing, the national parliament, the Minister of Justice appoints a commission in 1984 with the task of examining the situation of homosexuals in society, especially with regard to discrimination, of putting forward proposals to stop discrimination where it is found, and of creating a public debate on homosexuality. The commission takes the initiative for research, which results in three studies being published about the position of homosexuality. The work of the commission also contributes to the passing in 1987 of anti-discrimination legislation (see paragraphs).
[LBL leaflet, July 1989]
- > **Iceland - DECLARATION**
Iceland - ADMINISTRATION
In 1985 a resolution is proposed in the Althing (national parliament) expressing the intention to ensure that discrimination against homosexual persons shall not exist in Iceland. It asks the Government to appoint a committee which will study the legal, cultural and social position of homosexual persons, and which will recommend improvements and necessary measures. A study commission is created. Resolution adopted ?
[IGA-bulletin 1986, nr. 2, p. 8-9]
- > **Greece - DECLARATION**
The Minister of Youth officially declares that homosexuals are citizens of full and equal value.
[GPH 1984, nr. 146, p. 7]
- > **France - ORGANISATION**
In 1985, "SOS-Racisme", the organisation to combat racism, offers its total support to the cause of lesbian and gay rights.
[GT 1985, November, p. 22]

1.4 LESBIANS AND GAYS IN ELECTIONS

- > **Spain - PEOPLE**
In the 1980 elections several openly gay men and one openly lesbian woman are candidates for the regional parliament of Catalonia.
[Sek 1980, March, p. 20]
- > **Austria - PEOPLE**
In the 1983 parliamentary elections an openly living gay man is a

candidate for the "Alternative Liste", having his own election posters..... (HG)

—————> **Luxemburg - PEOPLE**

In 1989 a openly gay men is a candidate for the green party in the election for both the national parliament and for the European Parliament. [GPH 1989, no. 371]

—————> **United Kingdom - PEOPLE**

In 1984 a member of parliament for the Labour Party becomes the first parliamentarian to openly state that he is gay. In 1987 he re-elected with an increased majority. [Jeffery-Poulter 1991, p. 174 and 216]

—————> **Germany (West) - PEOPLE**

In 1989 an openly gay man is elected to the parliament of the city of Berlin. [GK, 25 February 1989, p. 30]

—————> **Germany (West) - ORGANISATION**

In 1987 and 1990 the Green Party selects an openly gay man for a top position on the list of candidates for the national parliament. [press release of "Die Grünen", 26 August 1990]

—————> **United Nations - WRITTEN LAW**

Article 17 of ICCPR:

"No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence (...)."

—————> **Council of Europe - WRITTEN LAW**

Article 8 of ECHR:

"(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 exercise of this right except such as is in accordance with the law and 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."

—————> **European Community - DECLARATION**

In its "Resolution on sexual discrimination at the workplace" (adopted on 13 March 1984, OJ No C 104, p. 46-48) the European Parliament considers that "the (EEC) Treaty or implementing provisions directly confer on the citizens of the Community the right to move freely and to reside on the territory of another Member State", and that "the principle of free movement within the Community does not imply merely that there should be no discrimination on the grounds of nationality but is a fundamental right of independent validity, as asserted in (...)". The Parliament therefore "instructs its Legal Affairs Committee to examine as soon as possible in what way differences between the laws of the various Member States with regard to the ban on homosexuality or the minimum age of consent constitute barriers to the right to freedom of movement and to freedom of establishment as an employee or self-employed person and, in so doing, also to indicate what Community measures might be applied to remove such barriers".

United Kingdom - COURT CASE

In 1988 more than 3000 men are convicted for homosexual offences which have no heterosexual equivalent. For some homosexual offences (such as "buggery", "gross indecency" and "soliciting and importuning") the number of convictions has risen with 25% or more since 1985.

[GT 1990, October, p. 32-33]

England and Wales - COURT CASE

In 1989 around 3500 men are prosecuted for homosexual offences which have no heterosexual equivalent. Of them, around 2700 are convicted. More than 90 are given prison sentences. The cost of prosecuting 3500 men is estimated at 12 million pounds; the cost of imprisoning 90 men at 1.2 million pound.

[Tatchell 1992.....]

—————> **England and Wales - COURT CASE**

Most convictions are for the offences of "indecent" (having gay sex with someone under 21, or having gay sex not "in private"; see paragraphs 2.2, 2.3 and 2.4), "procuring" (bringing men in contact with each other for sex; see paragraph 2.5), and "soliciting" (cruising and chatting up men; see paragraph 8.4).

The total number of convictions for these three offences has risen from 1531 in 1985, to 2311 in 1989. This rise is caused by a doubling of the number of convictions for "indecent": 729 in 1985, 714 in 1986, 951 in 1987, 1333 in 1988, 1503 in 1989. In that last year 23 men are sent to prison on a conviction for "indecent".

[GT 1991, February, p. 16-17]

2.1 TOTAL BANS ON SEX

—————> **Council of Europe - DECLARATION**

In Recommendation 924 (adopted on 1 October 1981) the Parliamentary Assembly recommends that the Committee of Ministers of the Council of Europe should "urge those member states where homosexual acts between consenting adults are liable to criminal prosecution, to abolish those laws and practices".

—————> **European Community - DECLARATION**

In its "Resolution on sexual discrimination at the workplace" (adopted on 13 March 1984, OJ No C 104, p. 46-48) the European

Parliament "urges the Member States to abolish any laws which make homosexual acts between consenting adults liable to punishment".

Scotland - COMMON LAW
Scotland - WRITTEN LAW

Until 1980 sexual acts between men of whatever age constitute criminal offences. "Sodomy" is a common law offence, defined as "unnatural carnal connection between adult male persons" (anal sex), carrying a maximum penalty of life imprisonment. Acts of "gross indecency" (other forms of sex) between men are forbidden by Section 7 of the Sexual Offences (Scotland) Act 1976. "Gross indecency" carries a maximum penalty of two years' imprisonment.
[Crane 1982, p. 20-24]

→ **Scotland - WRITTEN LAW**

Section 80 of the Criminal Justice (Scotland) Act 1980 provides that "sodomy" and "gross indecency" between two men in private (see paragraph 2.4 of this report), are lawful if both men are over the age of 21.
[Warner 1983, p. 88-89]

Northern Ireland - WRITTEN LAW
Northern Ireland - ADMINISTRATION

Until 1982 sexual acts between men of whatever age constitute criminal offences. For "buggery" (anal sex) the maximum penalty is life imprisonment (sections 61 and 62 of the Offences against the Person Act 1861). The maximum penalty for "gross indecency" (other forms of sex) is two years imprisonment (section 11 of the Criminal Law Amendment Act 1885). During the period from January 1972 to October 1980 there are 62 prosecutions for homosexual offences. Most cases involve sex with persons under 18. Some cases involve sex with persons between 18 and 21, with mental patients, or with prisoners.
[ECrTHR 22.10.1981, Vol. 45, par. 14 and 30]

Northern Ireland - ADMINISTRATION

Jeffrey Dudgeon is a gay man living in Belfast, who has been active in the gay rights movement. In 1976, during a search for drugs in his house, police find some of his correspondence and diaries in which homosexual activities are described. The police seize these personal papers. Dudgeon is asked to go to a police station, where he is questioned for several hours about his sex life. The police investigation file is considered with a view to prosecuting him for the offence of "gross indecency between males". However, the Director of Public Prosecutions decides not to prosecute him.
[ECrTHR 22.10.1981, Vol. 45, par. 33]

→ **Council of Europe - COURT CASE**

Dudgeon lodges an application (no. 7525/76) with the European Commission of Human Rights. He claims that the existence of legislation prohibiting gay sex constitutes a violation of his right to respect for his private life (Article 8 of ECHR) and also discrimination on the grounds of sex, sexuality and residence (Article 14 of ECHR).

The Commission, in its report of 13 March 1980, expresses the following opinions: The legal prohibition of private consensual homosexual acts involving male persons over 21 years is in breach of Article 8. It is therefore not necessary to examine whether this prohibition also violates Article 14. The legal prohibition of homosexual acts involving persons under 21 years is not in breach of either article. The Commission then refers the case to the European Court of Human Rights.

Before the Court, the United Kingdom Government argues that the prohibitions do not violate the right to respect for private life, because they are "necessary in a democratic society for the protection of morals and for the protection of the rights of others" (paragraph 2 of Article 8).

The Court, in its judgement of 22 October 1981, dismisses the Government's argument. It argues that the present case "concerns a most intimate aspect of private life. Accordingly, there must exist particularly serious reasons before interferences on the part of the public authorities can be legitimate for the purpose of paragraph 2 of Article 8." In the opinion of the Court "there is now a better understanding, and in consequence an increased tolerance, of homosexual behaviour to the extent that in the great majority of the member States of the Council of Europe it is no longer considered to be necessary or appropriate to treat homosexual practices of the kind now in question as in themselves a matter to which the sanctions of the criminal law should be applied; the Court cannot overlook the marked changes which have occurred in this regard in the domestic law of the member States (...). In Northern Ireland itself, the authorities have refrained in recent years from enforcing the law in respect of private homosexual acts between consenting males over the age of 21 years capable of valid consent (...). No evidence has been adduced to show that this has been

injurious to moral standards in Northern Ireland (...). It cannot be maintained in these circumstances that there is a 'pressing social need' to make such acts criminal offences, there being no sufficient justification provided by the risk of harm to vulnerable sections of society requiring protection or by the effects on the public." The Court further considers "that such justifications as there are for retaining the law in force unamended are outweighed by the detrimental effects which the very existence of the legislative provisions in question can have on the life of a person of homosexual orientation like the applicant." After having found this breach of Article 8, the Court does not consider it necessary to examine the question of discrimination. The Court does not deal with the question of age of consent either, considering that "it falls in the first instance to the national authorities (...) to fix the age under which young people should have the protection of the criminal law".

[ECrTHR 22.10.1981, Vol. 45, par. 34-36, 52, 60, 66 and 70]

→ **Northern Ireland - WRITTEN LAW**

In 1982 sexual acts in private between men over 21 are decriminalised by the Homosexual Offences (Northern Ireland) Order 1982. [Jeffery-Poulter 1991, p. 152-154]

Guernsey, Alderney and Sark - WRITTEN LAW

Until 1986 sexual acts between men of whatever age constitute criminal offences.

→ **Guernsey, Alderney and Sark - WRITTEN LAW**

Section 1 of the Sexual Offences (Bailiwick of Guernsey) Law of 15 November 1983 provides that (between men) "homosexual acts in private shall not be an offence provided that the parties consent thereto and have attained the age of twenty-one years".

Section 10 provides that this law will only operate for a trial period of three years, unless a continuation order is made.

In 1986 the duration of this law is made indefinite by the Sexual Offences (Bailiwick of Guernsey) Law 1983 (Continuation) Ordinance 1986.

[Order in Council XIX 1983; Ordinance of the States XXVII 1986; GT 1986, September]

Liechtenstein - WRITTEN LAW

Until 1989 gay and lesbian sex constitutes a criminal offence in Liechtenstein, whatever the age of the individuals concerned. The maximum penalty is five years imprisonment, sometimes combined with heavy conditions (article 129 of the Penal Code). During the last years of its existence, this law is only applied in cases where persons under 18 are involved.

[Pink Book 1988, p. 235; ILGA-bulletin 1988, nr. 2, p. 9]

→ **Liechtenstein - WRITTEN LAW**

In 1989 a reformed Penal Code comes into force: sexual acts between men over 18 and sexual acts between women over 14 are decriminalised.

[ILGA-bulletin 1989, nr. 1, p. 5]

Ireland - WRITTEN LAW

Sexual acts between men of whatever age still constitute criminal offences. Section 61 of the Offences against the Person Act 1861 deals with "the abominable crime of buggery" (that is: anal intercourse). Section 11 of the Criminal Law Amendment Act 1885 deals with "any act of gross indecency with another male person" (that is: any other form of gay sex).

At least since 1974 no public or private prosecution has been brought under these laws, except when minors were involved or when the acts were committed in public or without consent. However, there is no official non-enforcement policy.

[ECrTHR 26.11.1988, Vol. 142, par. 12-14 and 19-20]

Ireland - PEOPLE

Parents returning early from their holidays, find their son in bed with another boy. They demand from the Director of Public Prosecutions that he starts prosecuting their son.

[Sek 1988/3, p. 18]

Ireland - COURT CASE

In 1977 David Norris starts proceedings in the Irish courts, claiming that the existence of the criminal laws against gay sex is inconsistent with the Irish Constitution. The High Court dismisses the action (10 October 1980). On appeal, the Supreme Court upholds the judgement of the High Court (22 April 1983). According to the Supreme Court the laws are consistent with the Constitution. It says that no right of privacy covering consensual homosexual activity can be derived from "the Christian and democratic nature of the Irish State". It considers that homosexuality "has always been condemned in Christian teaching", that it "can result in great distress and unhappiness for the individual", that "the homosexual oriented can be importuned into a

homosexual lifestyle", that male "homosexual conduct has resulted, in other countries, in the spread of all forms of venereal disease", and that homosexual conduct is "harmful" to marriage "as an institution".

[ECrTHR 26.10.1988, Vol. 142, par. 21-24]

→ **Council of Europe - COURT CASE**

After losing in the Irish courts, David Norris takes his case to the European Commission of Human Rights (application no. 10581/83). He claims that the existence of legislation prohibiting gay sex constitutes a violation of his right to respect for private life (as guaranteed by Article 8 of ECHR).

The Commission, in its report of 12 March 1987, agrees that there has been a violation of Article 8 of the Convention. (? or did it only declare the application admissible?.....) The Commission then refers the case to the European Court of Human Rights.

Before the Court, the Irish Government argues (1) that David Norris is not a "victim", because he has not been prosecuted, and (2) that the laws in question are "necessary in a democratic society for the protection of morals and for the protection of the rights of others" (as mentioned in paragraph 2 of Article 8 ECHR).

The Court, in its judgment of 26 October 1988, dismisses the first argument, by considering that the laws "may be applied again (...) if for example there is a change of policy", and that therefore David Norris can be said to "run the risk of being directly affected" by these laws.

The Court also dismisses the second argument, by applying the same reasoning as it did in the Dudgeon-case (22.10.1981, Northern Ireland, see above), noting that the Irish Government has not provided any evidence of justifying factors which are additional to or of greater weight than those present in the Dudgeon-case. The Court concludes that there is a violation of Article 8 of the Convention. Now Ireland is obliged to change its law.

[ECrTHR 26.10.1988, Vol. 142, par. 1 and 25-47]

→ **Ireland - DECLARATION**

In 1989 the Law Reform Commission recommends that gay, lesbian and hetero sex should be put on an equal footing. It recommends two general ages of consent: 15 and 17 years. The age limit of 17 would apply for intercourse, and for any form of sex between a young person and a "person of authority".

[GCN 1990, October; Equality Now 1990, p. iii; GT 1990, November]

→ **Ireland - ORGANISATION**

In 1989 the Irish Council for Civil Liberties publishes proposals for legislation to repeal the discriminatory criminal laws against gay sex.

[Equality Now 1990]

→ **Ireland - DECLARATION**

On 12 December 1990 the Minister for Justice announces in Parliament that the government will introduce legislation in 1991 to take account of the judgement of the European Court of Human Rights.

[letter of 18 december 1990, from GLEN to ILGA]

Isle of Man - WRITTEN LAW

Sexual acts between men of whatever age still constitute criminal offences.

→ **Isle of Man - DECLARATION**

In 1987 the government of the island announces proposals to make gay sex between consenting men over the age of 21 legal. When announcing the plans, the Chief Minister makes it clear that any change in the law would not mean that homosexuals or their activities would be encouraged on the island, and that no sympathy would be shown towards gay rights movements. [GT 1987, May, p. 19]

Isle of Man - DECLARATION

In May 1987 the Parliament of the island passes a resolution calling on the government to drop the proposal. When the Sexual Offences Bill is published later that year, it does not contain any provision to legalise gay sex. A proposal from individual members of parliament to insert such a provision is defeated by 15 votes to seven.

[GT 1987, June, p. 6; September; 1988, January; Guardian, 20 March 1990]

Isle of Man - COURT CASE

In 1989 a man of 37 years is sentenced by the court of Douglas to two years imprisonment for having had sex with a sixteen year old man.

[GPH 1989, nr. 360, p. 14]

Isle of Man - ADMINISTRATION

In 1989 the arrest of a 23 year-old man for a homosexual offence in a public toilet leads to his suicide. [GT 1989, August, p. 9]

Isle of Man - DECLARATION

Following pressure from the government of the United Kingdom, including threats to legislate from London without the consent of the Isle of Man parliament, the Isle of Man government introduces a proposal to legalise gay sex for a trial period of three years.

[GT 1990, April, p. 5;
Guardian, 20 March 1990; GK, 2 June 1990, p. 31]

Gibraltar - WRITTEN LAW

Sexual acts between men of whatever age still constitute criminal offences.

Gibraltar - ADMINISTRATION

In 1987, law reform is being considered by the government of Gibraltar. For the time being the Attorney-General declares that he will not allow prosecution in respect of homosexual acts which take place in private between two consenting adults.

[GT 1987, May, p. 19]

Gibraltar - DECLARATION

A government minister of the United Kingdom writes to the Attorney General of Gibraltar to draw his attention to the judgment of 26 October 1988 of the European Court of Human Rights in the Norris-case (see above). [Capital Gay, 9 December 1988, p. 12]

Cyprus - WRITTEN LAW

Cyprus - ADMINISTRATION

Sexual acts between men of whatever age still constitute criminal offences. The maximum penalty is five years imprisonment (article 171 of the Penal Code). Attempts to commit gay sex can be punished with three years imprisonment.

There have been prosecutions which have resulted in imprisonment. In 1989 the Turkish Cypriot Embassy in London says: "No-one is at present in prison in Cyprus for committing homosexual acts." (... is that true?)

[Pink Book 1988, p. 210; TPP, 5 August 1989, p. 1]

(see also articles 172-174..... whipping or flogging)

(1982 - Supreme Court - case of three soldiers in tent ...)

Cyprus - PEOPLE

In november 1979 progressive intellectuals and lawyers organise a round table conference to open the debate about abolishing the anti-homosexual laws. [Sek 1980, October, p. 20]

(... followed by two day seminar in 1982, organised by Cyprus Mental Health Association ...)

European Community - DECLARATION

In 1981 a Dutch Member of the European Parliament asks the Commission of the EC whether it thinks the anti-homosexual laws in Cyprus are a violation of the European Convention on Human Rights. The Commission answers that it does not consider itself competent to judge on this matter. [Sek 1981, August, p. 16]

Cyprus - DECLARATION

On 14 July 1988, the House of Representatives of (South) Cyprus discusses the existing anti-homosexual laws, and resolves not to abolish them.

[ILGA-bulletin 1989,]

Council of Europe - COURT CASE

In 1989 the President of the Gay Liberation Movement of Cyprus, Alexander Modinos, challenges the articles 171-174 of the Penal Code in an application to the European Commission of Human Rights.

[ILGA-bulletin 1989]

Serbia, Bosnia-Herzegovina, Macedonia, Cosovo - WRITTEN LAW

Rumania - WRITTEN LAW

Vatican City

(Italian laws applicable ?)

Andorra

.....?

Monaco

(French laws applicable ?)

2.2 PARTIAL BANS ON SEX

Soviet Union - WRITTEN LAW intercourse

Soviet Union - ADMINISTRATION **Czechoslovakia - ADMINISTRATION**

For having had gay sex, a young Czech man is sentenced in the Soviet Union to five years imprisonment. His mother tries very hard to get him released from the Soviet prison. After two years she succeeds: The young man is allowed to complete his sentence in a Czechoslovakian prison.

[Lambda Nachrichten, April 1983, p. 30]

Bulgaria - WRITTEN LAW

According to article 157 (section 3) of the Penal Code it is forbidden to engage in homosexual acts in public, in a "scandalous" manner, or in a way which may entice others to "perversity". The words "homosexual acts" refer to "sexual intercourse or acts of sexual gratification with a person of the same sex". The maximum penalty is "social disgrace" and two years imprisonment or betterment work.

[ILGA-EEIP 1982, p. 4]

Czechoslovakia - WRITTEN LAW

According to article 244 (section 2b) of the Penal Code it is forbidden to have sexual intercourse with a person of the same sex if that causes "public offence". The maximum penalty is five years imprisonment.

[ILGA-EEIP 1982, p. 5]

└──────────> (changed in 1990 ?)

San Marino - WRITTEN LAW

According to article 274 of the Penal Code, habitual lesbian or gay sex is a offence if it provokes public scandal. It can be punished with imprisonment (of the third degree) and with exclusion from certain political rights and public offices.

Greece - WRITTEN LAW

It is a criminal offence to have gay sex by misusing a relationship of dependence based on any form of employment (article 347 of the Penal Code; minimum penalty of three months imprisonment)?

[H&E 1983, p. 49]

United Kingdom - WRITTEN LAW

Gay sex between three or more men is a criminal offence. Sex between two men over the age of 21 is only lawful, when it takes place "in private" (see paragraph 2.4 of this report). This is provided by section 1 of the Sexual Offences Act 1967, section 80 of the Criminal Justice (Scotland) Act 1980, and section 3 of the Homosexual Offences (Northern Ireland) Order 1982. In case of anal sex the maximum penalty is life imprisonment in Scotland, and two years imprisonment in England and Northern Ireland In case of any other form of sex the maximum penalty is two years imprisonment.

[Crane 1982, p. 20-24]

Guernsey, Alderney and Sark - WRITTEN LAW

Gay sex between three or more men is a criminal offence. Sex between two men over the age of 21 is only lawful, when it takes place "in private" (see paragraph 2.4 of this report). This is provided by section 1 of the Sexual Offences (Bailiwick of Guernsey) Law 1983. According to section 3 the maximum penalty is two years imprisonment.

Jersey - WRITTEN LAW

According to a law of 1932, "sodomy" (anal sex) between men of whatever age constitutes a criminal offence. The maximum penalty is four years imprisonment.

[GT 1990, June, p. 7; GPH 1989, nr. 387, p. 11]

└──────────> **Jersey - ADMINISTRATION**

In 1987 the Attorney-General announces that he will "not prosecute nor authorise the prosecution of any person in respect of homosexual acts in private which under the law of England would not be a criminal offence". The reason behind this non-prosecution policy is the wish to ensure that gay men are not deterred from seeking advice about AIDS.

[GT 1987, March, p. 7]

Jersey - DECLARATION <──────────┐

In 1989 the non-prosecution policy ends, when the legislative commission of Jersey rejects a proposal to decriminalise "sodomy".

[GPH 1989, nr. 387, p. 11]

—————> **Jersey - WRITTEN LAW**
 Following pressure from the government of the United Kingdom, including threats to legislate from London without the consent of the Jersey parliament, a proposal to decriminalise "sodomy" is adopted by the Jersey Parliament on 29 May 1990. Now article 1 of the Sexual Offences (Jersey) Law 1990 (L.15/90) provides that "sodomy" shall not be punishable if it takes place "in private" between two men who are over the age of 21.
 [GT 1990, April, p. 5; June, p. 7]

United Kingdom - WRITTEN LAW
 For a woman or man who belongs to the armed forces it is a criminal offence to have lesbian or gay sex with anyone, on or off duty, because "disgraceful conduct of an indecent kind" is forbidden by the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957. The maximum penalty is two years imprisonment. (See also paragraph 5.4.) [Crane 1982, p. 184]

United Kingdom - WRITTEN LAW
 For a man who belongs to the crew of a merchant ship it is a criminal offence to have gay sex with another seaman on a merchant ship of the United Kingdom. This is provided by section 2 of the Sexual Offences Act 1967, section 80 of the Criminal Justice (Scotland) Act 1980; and (Northern Ireland) [Crane 1982, p. 184]

Jersey - WRITTEN LAW
 Article 2 of the Sexual Offences (Jersey) Law 1990 (L.15/90) prohibits "sodomy" on a Jersey ship between men who are members of the crew of such a ship.

Guernsey, Alderney and Sark - WRITTEN LAW
 For a man who belongs to the crew of a merchant ship it is a criminal offence to have gay sex with another seaman on a merchant ship registered in the Bailiwick of Guernsey. This is provided by section 2 of the Sexual Offences (Bailiwick of Guernsey) Law 1983.

Council of Europe - COURT CASE
 Martin Johnson v UK 10389/83 ("in private" and age of consent) [PA]

Switzerland - WRITTEN LAW
 armed forces

2.3 AGE LIMITS FOR SEX

(... Dudgeon case)

—————> **Council of Europe - DECLARATION**
 In Recommendation 924 (adopted on 1 October 1981) the Parliamentary Assembly recommends that the Committee of Ministers of the Council of Europe should "urge member states to apply the same minimum age of consent for homosexual and heterosexual acts".

—————> **European Community - DECLARATION**
 In its "Resolution on sexual discrimination at the workplace" (adopted on 13 March 1984, OJ No C 104, p. 46-48) the European Parliament "urges the Member States to apply the same age of consent as for heterosexual acts".

—————> **Albania - WRITTEN LAW**
Denmark - WRITTEN LAW
Malta - WRITTEN LAW
Norway - WRITTEN LAW
Poland - WRITTEN LAW
Slovenia - WRITTEN LAW
Spain - WRITTEN LAW
Sweden - WRITTEN LAW
Turkey - WRITTEN LAW
 Already since before 1980, the age of consent for gay and lesbian sex is the same as the age of consent for hetero sex in Albania (14), Denmark (15), Malta (18), Norway (16), Poland (15), Slovenia (16), Spain (12...?), Sweden (15), and Turkey (15....?). In several countries a higher minimum age applies in cases where a young person is being pressurised into having sex.
 [DDHÖS 1989, p. 6-9; Tatchell 1990, p. 22 and 25]

—————> **Italy - WRITTEN LAW**
San Marino - WRITTEN LAW

Also in Italy and San Marino the ages of consent are the same for gay and lesbian sex as for hetero sex. However different ages apply, depending on the question whether the young person has been "corrupted" before. If he or she has not yet been "corrupted" the minimum age is 16 in Italy (article 530 of the Penal Code) and 18 in San Marino (article 177 of the Penal Code). A lower minimum age of 14 applies to sex with a young person who has been "corrupted" before (article 519 of the Italian Penal Code and article 173 of the Penal Code of San Marino).

Italy - COURT CASE

Article 523 of the Penal Code provides that women and minors can be the victims of "abduction with the intent of lust". In May 1988 the Constitutional Court decides that this crime cannot be committed against an adult man.....? [Babilonia 58, July/August 1988, p. 9]

Greece - WRITTEN LAW

Until 1987 the age of consent for lesbian and hetero sex is 16. The age of consent for gay sex is also 16 (article 339 of the Penal Code). However, according to article 347 it is also a criminal offence for a man over 17 to have gay sex by "seducing" a man over 16 but under 17 (minimum penalty of three months imprisonment). In this context "seducing" means: directing the wishes of the young man towards performing or allowing the sexual acts, or stimulating his sexual feelings (.....?) See also articles 317, 338, 343, 344 and 353 of the Penal Code. [Pink Book 1988, p. 232; H&E 1983, p. 49]

Greece - WRITTEN LAW

Since 1987 the age of consent is 15 for lesbian, gay and hetero sex. (But: "unnatural practices"?) [Tatchell 1990, p. 17]

Netherlands - WRITTEN LAW

It is illegal to have sex with someone under the age of 16 (articles 244, 245 and 247 of the Penal Code). However, article 245 provides that a man who has had "carnal intercourse" with a girl between the ages of 12 and 16, can only be prosecuted on the basis of a formal complaint (in most cases to be made by her legal representative, normally either of her parents). Until 1991, no such complaint is necessary for the prosecution of a person who has had gay or lesbian sex with someone between 12 and 16 (article 247).

Netherlands - WRITTEN LAW

On 1 December 1991 an amendment to articles 245 and 247 of the Penal Code comes into force. Now, a formal complaint is required for the prosecution of any person who has had any sex with someone between the ages of 12 and 16. The complaint must be made either by the young person involved, or by her or his legal representative, or or by the Child Welfare Council.

[Law of 9 October 1991, Staatsblad 519]

Switzerland - WRITTEN LAW

The general age of consent for lesbian, gay and hetero sex is 16. However, it is a criminal offence to "seduce" someone of the same gender when he or she is younger than 20, whereas it is only a criminal offence to "seduce" someone of the opposite gender when he or she is younger than 18 (articles 194 and 196 of the Penal Code; the first is worded more strictly too)

[DDHÖS 1989, p. 9]

Switzerland

proposal.....
passed 11 December 1990?

Portugal - WRITTEN LAW

Art. 202 (sexual intercourse with a girl under 12), 205 (.....), 207 (gay or lesbian sex with someone under 16) Penal Code.

Art. 71 Penal Code ("acts against nature").....?

Portugal - WRITTEN LAW

In most cases people can only be prosecuted for having sex with a boy or girl between 12 and 16, if that boy or girl files a formal complaint. [Tatchell 1990, p. 24]

France - WRITTEN LAW

Until 1982 the age of consent for lesbian and gay sex is 18, whereas the age of consent for hetero sex is 15. Since the Law of 23 December 1980 (no. 80-1041) the first paragraph of article 331 of the Penal Code provides that indecency ("attentat à la pudeur") with a person younger than 15 shall be punished with a maximum sentence of 5 years imprisonment and a fine. The second paragraph of this article provides that any indecent act or act against nature ("acte impudique ou contre nature") with a minor (that is someone under 18) of the same sex shall be punished with a maximum sentence of 3 years and a fine. [Boutet 1988, p. 31]

→ **France - COURT CASE**

In its decision of 19 December 1980 (D.1981 - IR - 358), the Constitutional Council ruled that the different age limits for hetero sex and for lesbian and gay sex did not violate the constitutional principle of equality before the criminal law, because that principle was no bar to "differentiations between acts of a different nature" [Boutet 1988, p. 31]

→ **France - ORGANISATION**

On 31 May 1980, and again on 23 October 1980, a few thousand people demonstrate against the discrimination contained in the articles 330 and 331 of the Penal Code. [Sek 1980, November, p. 19]

→ **France - ADMINISTRATION**

In 1981 government circulars give instructions to public prosecutors and the police to enforce the second paragraph of article 331 of the Penal Code only in exceptional cases. [Boutet 1988, p. 32]

→ **France - WRITTEN LAW**

The Law of 4 August 1982 (no. 82-683) abolishes the second paragraph of article 331. The result is that the minimum age for lesbian and gay sex is now 15, as is provided by the first paragraph of article 331, which is also applicable to hetero sex. [Boutet 1988, 32]

Belgium - WRITTEN LAW

Until 1985 article 372bis of the Penal Code (introduced in 1965) makes it a criminal offence for someone over the age of 18 to have lesbian or gay sex with someone under the age of 18 (maximum penalty three years imprisonment and a fine). Hetero sex only constitutes a criminal offence if your partner is younger than 16 (article 372 of the Penal Code). [H&E 1983, p. 36]

→ **Belgium - WRITTEN LAW**

The law of 18 June 1985 abolishes article 372bis. Now article 372 provides one common age of consent of 16 years for lesbian, gay and hetero sex.

Luxembourg - WRITTEN LAW

Article 372bis of the Penal Code makes it is a criminal offence for someone over the age of 18 to have lesbian or gay sex with someone under the age of 18 (maximum penalty three years imprisonment and a fine). The age of consent for hetero sex is 14 (article 372 of the Penal Code, maximum penalty five years imprisonment).

→ **Luxembourg - DECLARATION**

In 1981 a proposal is introduced to abolish article 372bis of the Penal Code.....

[Sek 1984, p. 10; 1986, p. 22; Pink Book 1988, p. 235]

Iceland - WRITTEN LAW

The age of consent for hetero sex is 16. Lesbian or gay sex between someone under 18 and someone over 18 is a criminal offence, which is regularly enforced. [Pink Book 1985, p. 62 and 148]

→ **Iceland - DECLARATION**

... 1989 proposal to lower the age of consent for lesbian and gay sex from 18 to 14, and the age of consent for hetero sex from 16 to 14.

Finland - WRITTEN LAW

Finland - ADMINISTRATION

The age of consent for lesbian and gay sex is 18, whereas the age of consent for hetero sex is 16. Violation of the higher homosexual age of consent is seldom prosecuted. [Pink Book 1985, p. 140]

Finland - DECLARATION

A legislative proposal to lower the homosexual age of consent from 18 to 16 has been prepared by the government, but is not introduced. According to the Minister of Justice, answering questions in Parliament in 1988, the proposal would be unlikely to be accepted by Parliament. In an interview he added: "As the failure of this sort of bill would cause greater damage to the issue than a delay of some time, I have not planned to propose the matter, at least not in the near future."

[SETA 1988, nr. 2]

England and Wales - WRITTEN LAW

The age of consent for gay sex is 21, whereas the age of consent for lesbian and hetero sex is 16. According to section 1 of the Sexual Offences Act 1967 "buggery" (anal sex) or "gross indecency" (other forms of sex) between men, can only be lawful if both men are over the age of 21. If at least one of the partners is under the age of 21, the maximum penalty is five years imprisonment for people over 21, and

two years for people under 21 (section 3). Prosecutions can only be brought with permission of the Director of Public Prosecutions (section 8).
[Crane 1982, p. 8 and 24]

—> **England and Wales - DECLARATION**
In April 1981 a report of the Criminal Law Revision Committee recommends to reduce the age of consent for gay sex from 21 to 18 years. It considers it "wholly unacceptable to public opinion" to bring down the gay age of consent to that applicable to hetero sex (16 years).
[Jeffery-Poulter 1991, p. 159]

—> **England - COURT CASE**
In 1984 a 45 year old man is sentenced to three years imprisonment for having a sexual relationship with 16 year old man. In 1982 he was sentenced for a similar offence.
[GK 1984, August, p. 11]

—> **England and Wales - COURT CASE**
In 1985 a total of 49 men between the ages of 16 and 21 are found guilty of consensual sex with men over 16; two of them are imprisoned, each for 18 months. In the same year a total of 37 men over the age of 21 are imprisoned for sex with men between the ages of 16 and 21. Their sentences vary from three months to five year, with an average of 22 months.
[ILGA-bulletin 1987, nr. 2, p. 10]

—> **England and Wales - COURT CASE**
In 1986 a total of 26 men between the ages of 16 and 21 are prosecuted for having consensual sex with men over 16; 21 of them are found guilty; one of them is sentenced to youth custody (for one year). In 1987 the number of prosecutions rises to 41, and the number of convictions to 35.
[Capital Gay, 27 January 1989, p. 10]

—> **England and Wales - COURT CASE**
In 1988 a total of 23 men are given prison sentences for having consensual sex with men between the ages of 16 and 21; 15 of them are sent to prison for more than one year.
[GT 1990, March, p. 5]

—> **England and Wales - COURT CASE**
In 1989 a total of 33 men are given prison sentences for having consensual sex with men between the ages of 16 and 21. These sentences are often twice as long as those given for "unlawful sexual intercourse" with girls between the ages of 13 and 16.
[Tatchell 1992]

Council of Europe - COURT CASE
Peter X v UK 7215/75 (age of consent) [PA]

Council of Europe - COURT CASE
Richard Desmond v UK 9721/82 (age of consent) [PA]

Council of Europe - COURT CASE
Martin Johnson v UK 10389/83 ("in private" and age of consent) [PA]

—> **United Kingdom - PEOPLE**
Research shows that 90% of gay men has sex before the reach the legal minimum age of 21.
[Capital Gay, 15 June 1990, p. 1]

United Kingdom - PEOPLE
In 1990 a survey among members of parliament (held for the "Guardian" newspaper and the television series "Out On Tuesday") shows that 50% of them would keep the age of consent for gay sex at 21, that 32% would reduce it to 18, and that 12% would reduce it to 16.
[GT 1990, April, p. 8]

Scotland - WRITTEN LAW
Since 1980 the age of consent for gay sex is 21, whereas the age of consent for lesbian and hetero sex is 16. According to section 80 of the Criminal Justice (Scotland) Act 1980 "sodomy" (anal sex) and "gross indecency" (other forms of sex) between men, can only be lawful if both men are over the age of 21. If at least one of the partners is under the age of 21, the maximum penalty for "gross indecency" is two years' imprisonment, and the maximum penalty for "sodomy" is Section 7 of the Sexual Offences (Scotland) Act
[Crane 1982, p. 20-24; Warner 1983, p. 88-89; SHRG leaflet, April 1991]

—> **Scotland - COURT CASE**
In 1988 the High Court of Edinburgh finds a 36 year-old man guilty on four charges of "gross indecency" and "sodomy" with two 17 year-old men. The Court sentences the man to five years imprisonment.
[GT 1990, May, p. 17]

—> **Scotland - COURT CASE**
The defendant appeals against this decision, claiming that the judge had shown signs of anti-homosexual prejudice, that the judge had ignored political moves

to lower the homosexual age of consent from 21 to 16, and that the sentence of five years imprisonment was excessive. The Court of Criminal Appeals rejects all the claims, calling the five years prison sentence "unduly lenient".
[GT 1990, May, p. 17]

Scotland - ADMINISTRATION

In 1988 and 1989 there are no other convictions for "sodomy" or "gross indecency" between consenting partners over the age of 16. That does not mean that there are no prosecutions, because many cases are dropped before they reach court.
[SHRG leaflet, April 1991]

Guernsey, Alderney and Sark - WRITTEN LAW

Since the abolition of the total prohibition of gay sex on 15 November 1983 the age of consent for gay sex is 21, according to section 1 of the Sexual Offences (Bailiwick of Guernsey) Law 1983. According to section 3 the maximum penalty is five years imprisonment for men over 21, and two years for men under 21. The age of consent for lesbian and hetero sex is 16.
[Order in Council XIX 1983]

Jersey - WRITTEN LAW

Since the abolition of the prohibition of "sodomoy" in 1990 the age of consent for gay sex is 21, according to article 1 of the Sexual Offences (Jersey) Law 1990 (L.15/90). The age of consent for lesbian and hetero sex is 16.

Northern Ireland - WRITTEN LAW

Since the Homosexual Offences (Northern Ireland) Order 1982 the age of consent for gay sex is 21. The age of consent for lesbian and hetero sex is 17.
[Crane 1982, p. 8 and 15]

Malta - WRITTEN LAW

The age of consent for gay sex is 18, whereas the age of consent for lesbian and hetero sex is 16.

Germany (West) - WRITTEN LAW

The age of consent for gay sex is 18. According to article 175 of the Penal Code it is an offence for a man over the age of 18 to have sex with a man under that age. The maximum penalty is five years imprisonment. The general minimum age for hetero and lesbian sex is 14 years (article 176), but some higher minimum ages apply: It is an offence to have sex with a person under 16 when one is responsible for the education or care of that person (article 174; in case of misuse of the dependence of the younger person the minimum age is 18). It is also an offence for a man to seduce a girl under 16 to have sexual intercourse ("Beischlaf") with him - but only if the man does not marry the girl (article 182).
[Selbstbestimmt 1989, p. 55-56]

Germany (West) - COURT CASE

In the periode 1980 to 1984 the average number of men convicted of the offence of article 175 is 161 per year; the average number of prison sentences is 67 per year.

In the period 1985 to 1987 the average annual number of convictions is 119. In 1985 52 men are given prison sentences.

[Selbstbestimmt 1989, p. 59; Dose 1990, p. 131]

Germany (West) - ORGANISATION

In its manifesto for the federal parliamentary elections of 1980 the liberal party (FDP) includes a proposal to abolish article 175.

[Dose 1990, p. 137]

Germany (West) - ORGANISATION

Many trade unions, political and social organisations condemn article 175.

[Dose 1990, p. 140]

Germany (West) - DECLARATION

In 1985 the Green Party in the federal parliament introduces a bill to abolish articles 175 and 182.

[Dose 1990, p. 139]

Germany (East) - WRITTEN LAW

Until 1989 the age of consent for gay and lesbian sex is 18. According to article 151 of the Penal Code it is an offence for someone over the age of 18 to have sex with someone of the same gender under the age of 18. The maximum penalty is three years imprisonment. Article 148 provides that the age of consent for hetero sex is 14 (while articles 149 and 150 set higher ages for cases of misuse of "moral immaturity" or of a position of authority).

[Thinius 1990, p. 149-150; Pink Book 1988, p. 231]

Germany (East) - PEOPLE

From 1983 various medical and social scientists recommend that the age of consent for lesbian and gay sex should be the same as that for hetero sex. In 1987 the First Secretary of the FDJ (National

Youth Organisation) gives the same advice to the Minister of Justice. [Thinius 1990, p. 157 and 159]

→ **Germany (East) - COURT CASE**

In 1986 a man is found guilty, on the basis of article 151, of sex with a man of 17, and sentenced to 10 months imprisonment by a local court (Kreisgericht Leipzig, Stadtbezirk Südwest 38 S 180/86, 121-362/86-6). In reaching its decision the court considers that such a sentence is necessary to make the man and others aware of the need to protect young people and to guarantee their proper moral development. As a result the man also loses his job as a school teacher. [Thinius 1990, p. 157-158]

→ **Germany (East) - DECLARATION**

The case leads to a hearing by the criminal division of the Supreme Court (Oberste Gericht, 3. Strafsenat). Without changing the decision of the Leipzig court, the Supreme Court gives an advisory opinion (Beratungsprotokoll of 24 March 1987). It calls the distinction made in the Penal Code between homosexual and heterosexual acts "not justified" and it recommends that a legislative proposal be introduced to abolish this distinction. [Thinius 1990, p. 157-158]

→ **Germany (East) - COURT CASE**

On the basis of article 151, a 31 year old man is found guilty of sex with a man of 17, and given a suspended sentence by a local court (Kreisgericht). [Thinius 1990, p. 159]

→ **Germany (East) - COURT CASE**

On appeal this decision is overturned by the Supreme Court (Oberste Gericht, 11 August 1987; Neue Justiz 1987, nr. 11, p. 467). In its judgment the Supreme Court states that homosexuality is a sexual variation just like heterosexuality, that therefore homosexuals do not fall outside socialist society, and that civil rights should be guaranteed to them as they are to all other citizens. The Court also states that in general homo sex between a person over 18 and a person under 18 will not have other consequences than homo sex between persons under 18 or than hetero sex between a person over 18 and a person under 18. The Court concludes that - in the absence of misuse of authority or "moral immaturity" - article 151 should not be enforced in cases where the rights and interests of other citizens and society have hardly been affected and where the accused is hardly to blame. [Thinius 1990, p. 159]

→ **Germany (East) - WRITTEN LAW**

On 14 December 1988 parliament passes a law to abolish article 151 of the Penal Code (Gesetzblatt der DDR Teil 1, Nr. 29, 28 December 1988). Articles 149 (misuse of "moral immaturity") and 150 (misuse of position of authority) are changed so as to also cover gay and lesbian sex. (Gesetzblatt der DDR Teil 1, Nr. 3, 31 January 1989Thinius?). The result is a uniform age of consent of 14 for lesbian, gay and hetero sex (article 148). In addition to that it is a criminal offence for an adult to have sex with someone between the ages of 14 and 16 when the adult misuses the "moral immaturity" of the youngster by offering gifts or making promises (article 149), or when the adult misuse his or position of authority over a youngster for whose upbringing or education he or she is responsible of who is in his or her care (article 150). Misuse of a position of authority over a someone between the ages of 16 and 18 can also be a criminal offence, but only when the adult has "sexual intercourse" or something which "resembles sexual intercourse" with the youngster (article 150). The reform of the law enters into force on 1 July 1989. [Thinius 1990, p. 160; Pink Book 1988, p. 231; Lambda Nachrichten 1989, nr. 2, p. 33]

Germany (East) - COURT CASE ←

Between the passage of the repeal of article 151 and its entering into force six months later, four men are convicted on the basis of article 151. [Thinius 1990, p. 160]

Germany - WRITTEN LAW

When on 3 October 1990 the territory of the German Democratic Republic becomes part of the Federal Republic of Germany, for a two-year period the GDR laws on gay sex remain in force in the eastern part of the country, and the FRG laws on gay sex remain in force in the western part

→ **Germany - DECLARATION**

The two parties forming the government of the re-united Germany agree to replace the old FRG and GDR laws on minimum ages for sex with one article setting an age of 16 as the legal minimum for gay, lesbian and hetero sex. During the process of law reform
[GK 29 December 1990, p. 11; ILGA-bulletin 1991, nr. 4, p. 21]

Austria - WRITTEN LAW

The age of consent for gay sex is 18, whereas the age of consent for lesbian and hetero sex is 14. Article 209 of the Penal Code makes it a criminal offence for a man over 18 (since 1989: over 19) to have gay sex ("gleichgeschlechtliche Unzucht") with a man between 14 and 18. The maximum penalty is five years imprisonment. Numbers of convictions for breach of article 209 are: 42 in 1985, 24 in 1986, 32 in 1987, and 38 in 1988. In 1986 a man is sentenced to 10 months imprisonment for having sex with a man of 16.

[DDHöS 1989, p. 4; ILGA-bulletin 1986, nr. 6 p. 5]

Austria - DECLARATION

In 1987/1988 the gay and lesbian organisation HOSI Wien succeed in persuading the Ministry of Justice and the spokespersons for legislative affairs of the main parties to partly reform article 209 (by lowering the age of consent for gay sex from 18 to 16). However, before the reform bill (prepared by the Ministry of Justice) is introduced in Parliament, it is vetoed in the Committee of Ministers by the conservative Minister for the Environment, Family and Youth.

[ILGA-bulletin 1989, nr. 1, p. 4]

Austria - PEOPLE

From the public gallery of Parliament gay and lesbian activists protest against the "non-reform" on 20 October 1988. On 1 December 1988 (World AIDS Day) they occupy the offices of the Minister for the Environment, Family and Youth. [ILGA-bulletin 1989, nr. 1, p. 4]

Austria - WRITTEN LAW

On 1 July 1989 article 209 is changed a little. Since then it is not only legal for men younger than 18 to have sex with a man between 14 and 18, but also for men aged between 18 and 19 years.....

Austria - COURT CASE

A constitutional complaint ...
decision Constitutional Court 10-1989

[Pink Book 1988, p. 225]

Liechtenstein - WRITTEN LAW

Since the abolition of the total prohibition of gay and lesbian sex in 1989, the age of consent for gay sex is 18, whereas the age of consent for lesbian and hetero sex is 14. Article 208 of the Penal Code makes it a criminal offence for a man over 18 to have gay sex ("gleichgeschlechtliche Unzucht") with a man between 14 and 18. The maximum penalty is five years imprisonment.

[ILGA-bulletin 1988, nr. 2, p. 9, 1989, nr. 1, p. 5]

Czechoslovakia - WRITTEN LAW

Until 1990 the age of consent for gay and lesbian sex is 18 (art. 244 of the Penal Code), whereas the age of consent for hetero sex is 15 (art. 242). It is a criminal offence for anyone over 18 to have sexual intercourse with someone of the same sex younger than 18. The maximum penalty is five years imprisonment.

[ILGA-EEIP 1982, p. 5]

Czechoslovakia - WRITTEN LAW

Since 1 July 1990 the age of consent for lesbian, gay and hetero sex is 15 (proposal re-introduced after revolution of 1989)

Hungary - WRITTEN LAW

The age of consent for lesbian and gay sex is 18 (art. 199 of the Penal Code), whereas the age of consent for hetero sex is 14 (art. 201). It is a criminal offence for anyone over 18 to have lesbian or gay sex with someone under 18. The maximum penalty is three years imprisonment.

[Hauer 1984, p. 45 and 47]

Hungary - ADMINISTRATION

There is little prosecution under article 199 of the Penal Code. Prosecution normally ends in a provisional sentence. However, such a sentence makes it impossible to acquire an international passport. There are also reports about blackmail by the police. People who are found out to have breached article 199, are blackmailed into working as a secret spy for the police.

[Pink Book 1985, p. 147; Sek 1986, January, p. 31]

Bulgaria - WRITTEN LAW

The age of consent for hetero sex is 14 (art. 151 of the Penal Code). It is a criminal offence for women and men to engage in "homosexual acts" with a minor or with someone under age (art. 157). It is believed that anyone under 21 is a

minor and/or under age (.....?). The words "homosexual acts" refer to "sexual intercourse or acts of sexual gratification with a person of the same sex". The maximum penalty is five years imprisonment and "social disgrace".
[ILGA-EEIP 1982, p. 4; Pink Book 1988, p. 228; Spartacus 1990, p. 80]

Croatia, Vojvodina, Montenegro - WRITTEN LAW

The age of consent for gay sex is 18, whereas the age of consent for lesbian and hetero sex is 14-16?

2.4 SEX IN PUBLIC

France - WRITTEN LAW

Public indecency is a criminal offence according to article 330 of the Penal Code. Up to 1980 the second paragraph of article 330 provides for higher penalties if the public indecency consisted of "an act against nature with a person of the same sex" (maximum of three years in stead of two years imprisonment; maximum fine of 15000 in stead of francs).

[Boutet 1988, p. 30]

France - WRITTEN LAW

The second paragraph of article 330 of the Penal Code is abolished by the Law of 23 December 1980 (no. 80-1041). [Boutet 1988, p. 30]

United Kingdom - WRITTEN LAW

Sex between two men over the age of 21 is only lawful, when it takes place "in private".

In deciding whether sex took place "in private", the court may look at all the surrounding circumstances. However, an act is never done "in private" when more than two persons take part or are present, or when it takes place in a public toilet. For England and Wales this is provided by section 1 of the Sexual Offences Act 1967. Similar provisions can be found in section 80 of the Criminal Justice (Scotland) Act 1980, and section 3 of the Homosexual Offences (Northern Ireland) Order 1982. In case of anal sex the maximum penalty is life imprisonment in Scotland, and two years' imprisonment in England and Northern Ireland In case of any other form of sex the maximum penalty is two years' imprisonment. [Crane 1982, p. 20-24]

United Kingdom - ADMINISTRATION

Police frequently hide in or near (or on the roof of) public toilets, to catch gay men having sex in there.

[Crane 1982, p. 49; Hurwitt and Thornton 1989, p. 219]

England and Wales - COURT CASE

In 1987 the Magistrate's Court in Swansea sentences a man to four months in prison for having gay sex in a public toilet.

[GT 1990, June, p. 6]

England and Wales - ADMINISTRATION

Over the first half of 1989 police in Slough report 300 offences of sex between men in one public toilet.

[GT 1990, June, p. 6]

Hotel rooms etc.....

[Stonewall leaflet, September 1990]

Northern Ireland - ADMINISTRATION

Northern Ireland - COURT CASE

In 1989 police carry out a big operation investigating men having gay sex in public toilets and open spaces. Many men are arrested and questioned. Several of them are charged with "gross indecency" in a public place. The investigations and charges lead two men to commit suicide. One man decided to move to Dublin "because he could not stay in his job or his family". In the Magistrate's Court of Antrim three men are sentenced to two months imprisonment, one man to four months, and four to fines of up to 3000 pounds. In the Magistrate's Court of Portadown six men are given suspended prison sentences of two to six months. [GT 1990, May, p. 17]

Guernsey, Alderney and Sark - WRITTEN LAW

Sex between two men over the age of 21 is only lawful, when it takes place "in private". An act is never done "in private" when more than two persons take part or are present, or when it takes place in a public toilet. This is provided by section 1 of the Sexual Offences (Bailiwick of Guernsey) Law 1983. The maximum penalty is two years imprisonment (section 3).

Jersey - WRITTEN LAW

"Sodomy" (anal sex) between two men over the age of 21 is only lawful, when it takes place "in private". An act is never done "in private" when more than two persons take part or are present, or when it takes place in a public toilet. This is provided by article 1 of the Sexual Offences (Jersey) Law 1990.

Bulgaria - WRITTEN LAW

According to article 157 (section 3) of the Penal Code it is forbidden to engage in homosexual acts in public. The words "homosexual acts" refer to "sexual intercourse or acts of sexual gratification with a person of the same sex". The maximum penalty is "social disgrace" and two years imprisonment or betterment work. [ILGA-EEIP 1982, p. 4]

Italy - ADMINISTRATION

Italy - COURT CASE

"Laws concerning 'public decency' are used on a large scale against gay men." [Pink Book 1988, p. 235]

Greece - COURT CASE

During one of their regular inspections of a gay cinema in Athens, police arrest two gay men who are having sex there. For "public indecency" they are given sentences of three and five months imprisonment.

[GPH 1984, nr. 146, p. 7]

Greece - COURT CASE

In 1983, an 80 year old Danish gay man is arrested in a gay cinema in Athens. He has to spend the night in a cell. His passport is confiscated. Shortly after this he is sentenced to eight months of imprisonment? With help from several places he manages to get out of Greece without his passport.

[Pan 1983, nr. 2, p. 6]

2.5 PROSTITUTION

Austria - WRITTEN LAW

Article 210 of the Penal Code prohibits gay prostitution, with a maximum penalty of two years imprisonment. Heterosexual and lesbian prostitution is legal.

Austria - WRITTEN LAW

On 1 July 1989 article 210 is abolished. The main argument is that because male homosexual prostitution was illegal, homosexual prostitutes were not subject to the regular HIV testing that prostitutes have to undergo.

[ILGA-bulletin 1989, nr. 1, p. 4; nr. 3, p. 1]

Liechtenstein - WRITTEN LAW

Since the abolition of the total prohibition of gay and lesbian sex in 1989, article 209 of the Penal Code prohibits gay prostitution. The maximum penalty is two years imprisonment. Heterosexual and lesbian prostitution is legal.

[ILGA-bulletin 1988, nr. 2, p. 9, 1989, nr. 1, p. 5]

Switzerland - WRITTEN LAW

article 194 of the Penal Code

Iceland - WRITTEN LAW

Criminal provisions on homosexual prostitution are different from the provisions on heterosexual prostitution.

[DDHÖS 1989, p. 10]

Greece - WRITTEN LAW

It is a criminal offence to have gay sex by way of profession, or with the intention of earning money (article 347 of the Penal Code; minimum penalty of three months imprisonment)? [HGE 1983, p. 49]

"Law concerning the protection against venereal disease and the settlement of relevant subjects" [Sek 1981, August, p. 15]

Czechoslovakia - WRITTEN LAW

It is a criminal offence to offer or accept remuneration for sexual intercourse with a person of the same sex (art. 244, section 2a, of the Penal Code). The maximum penalty is five years imprisonment. [ILGA-EEIP 1982, p. 5]

→ (changed in 1990 ?)

Bulgaria - WRITTEN LAW

It is a criminal offence to engage in homosexual acts for financial profit, to procure another person for homosexual acts for financial profit, or to induce another person to homosexual acts by giving or promising profit (art. 157, section 4, of the Penal Code). The maximum penalty is three years imprisonment, a fine and hard labour.

[ILGA-EEIP 1982, p. 4; Hauer 1984, p. 45]

United Kingdom - WRITTEN LAW

Homosexual prostitution as such is not forbidden. However it is a criminal offence for a man to "procure" another man to have sex with a third man, and

for a man or a woman to live on the earnings of male prostitutions (sections 4 and 5 of the Sexual Offences Act 1967 and section 80 of the Criminal Justice (Scotland) Act 1980).

The prohibition of "procuring" is not only used against brothels etcetera, but also against people who in any other way bring gay men in contact with each other. [Crane 1982, p. 26-29]

→ **England and Wales - COURT CASE**

In 1985 a total of 350 men are convicted for "procuring", 193 in 1986, 246 in 1987, 328 in 1988. Of the 346 convicted in 1989, 73 men are sent to prison. [GT 1991, February, p. 16-17]

2.6 KISSING AND HOLDING HANDS

United Kingdom - WRITTEN LAW

United Kingdom - COMMON LAW

Under several laws (including the Public Order Act 1986) "insulting behaviour likely to cause a breach of the peace" is a criminal offence.

[Crane 1982, p. 17-19; Hurwitt and Thornton 1989, p. 220]

→ **United Kingdom - ADMINISTRATION**

In 1980, at Leeds Central railway station, two women kiss each other before one of them takes a train. Both women are arrested by the transport police. The women are threatened with a charge of "insulting behaviour likely to cause a breach of the peace". Finally they are not charged, but released. The police make an announcement over the loudspeaker system apologising to the passengers for the "incident", and for any "offence" it may have caused them.

[Crane 1982, p. 19]

→ **United Kingdom - COURT CASE**

In 1984 two gay men are standing at a bus stop in London. They are cuddling and kissing each other, and fondling each other's genitals and buttocks over their clothes. Two young men walk past, followed by two young women. When seeing the cuddling couple, the women stop, one of them raises her hand to her mouth, and runs to the two young men. They walk back to the gay men, one of the young men shouting: "You filthy sods. How dare you in front of our girls?" Police arrive and arrest the two gay men. They are charged with "insulting behaviour". In court they are found guilty, and ordered "to keep the peace and be of good behaviour".

They appeal to the High Court (Queen's Bench Division, 18 April 1986, *Masterson v. Holden*). This court concludes that there was evidence on which the first court could base its finding that the men's conduct was "insulting" and that it might have caused a breach of the peace. The High Court considers that "homosexual conduct in a public street (...) may well be regarded by another person, particularly by a young woman, as conduct which insults her by suggesting that she is somebody who would find such conduct in public acceptable herself". [1 Weekly Law Reports 1986, p. 1017-1024]

→ **United Kingdom - ADMINISTRATION**

In 1986 two gay men kiss each other in front of a gay bar. They are arrested and charged with "insulting behaviour". [GT 1986, August, p. 19]

→ **United Kingdom - ORGANISATION**

In protest, a hundred people attending the conference of International Gay and Lesbian Youth Organisation (IGLYO), stage a "kiss-in" at London's Piccadilly Circus.

[GT 1987, September, p. 17]

United Kingdom - PEOPLE

In April 1987 a gay man is beaten up - for half an hour - by two men who saw him kissing his lover on the street. [GK 1988, November, p. 10]

→ **United Kingdom - COURT CASE**

One of the attackers is arrested. Both of them are prosecuted. The judge reminds the jury that in this country it is not illegal for two men to walk hand in hand and to kiss in the streets. The jury unanimously finds the two accused men guilty of assault. The one who has been arrested is given a two years prison sentence.

[GK 1988, November, p. 10]

Ireland - ADMINISTRATION

Two men leave a gay disco, walk around town, sit down for a while in a car park, and exchange a romantic kiss. Immediately, a police car races into the car park. Two policemen jump out, and roughly take the men into the car and to the police station. The police punch and kick one of them, and call them "queer" and "perverted". The police try to make one of them to "confess" to being gay, and to accuse his friend of sexual assault. [OfO 1986, p. 197-198]

Italy - ADMINISTRATION

In 1981, in Sicily, two women are arrested by the police, after kissing each other in a park. They are charged with "public indecency".

[Sek November 1981, p. 20]

Italy - COURT CASE

The court of Agrigento sentences the women to seven months imprisonment.

[Bolletino del CLI, January 1983, p. 7]

Italy - PEOPLE

In Rome a demonstration is organised to protest against the arrest and the charging of the two women. Almost a hundred lesbian women take part, several of them in disguise, so as not to be recognised by the hostile crowd.

[Sek November 1981, p. 20]

Spain - ADMINISTRATION

In 1987 two women are approached by a policeman who had seen them kissing each other in the centre of Madrid. He asks them for identification. They argue and fight. He arrests them for contempt, for resisting arrest and for public outrage. They are detained for two days.

[ILGA-Bulletin 1987/2, p. 22]

Spain - PEOPLE

At the site of the arrest, a demonstration is held to protest against the harassment of lesbians and gays in Spain. Several hundred lesbians take part, many of them repeatedly kissing each other.

[ILGA-Bulletin 1987/2, p. 22]

Germany (West) - ADMINISTRATION

In August 1988, the International Gay and Lesbian Youth Organisation (IGLYO) has its annual conference in Berlin. On a free evening, a group of 30 delegates visits the "Volksfest" (a big fair which the American armed forces is offering to the people of Berlin). At the "Volksfest" military police follow the group around. When two boys in the group kiss each other, the military police intervenes and removes the whole group from the "Volksfest" site, handing them over to the Berlin police, who orders them to disperse immediately.

[GK, 10 September 1988, p. 14]

Germany (West) - ORGANISATION

In protest, IGLYO organised a demonstration a few days later. The incident leads to a lot of publicity, and to critical questions being asked both in the Berlin Parliament and in the Parliament of the United States of America.

[GK, 10 September 1988, p. 14]

CHAPTER 3 PARTNERSHIP

—————> United Nations - WRITTEN LAW

Article 17 of ICCPR:

"(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence (...)."

—————> Council of Europe - WRITTEN LAW

Article 8 of ECHR:

"(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 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."

United Nations - WRITTEN LAW

Article 23 of ICCPR:

"(1) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

(2) The right of men and women of marriageable age to marry and to found a family shall be recognized.

(...)"

Council of Europe - WRITTEN LAW

Article 12 of ECHR:

"Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right."

Council of Europe - COURT CASE

The European Court of Human Rights has judged in the Rees-case (17 October 1986, Vol. 106, par. 49), that "the right to marry guaranteed by article 12 refers to the traditional marriage between persons of opposite biological sex".

.....Cossey 1990

—————> Germany (West) - PEOPLE

In a survey among gay men from all over the Federal Republic (held in 1989 by the monthly magazine "Wiener"), 62% say they are having a steady relationship. Of those in a steady relationship, 42% are living together in the same house. [GK, 26 August 1989, p. 13]

—————> Germany (West) - PEOPLE

In a report of the Federal Department of Housing, it is estimated that around 50% of lesbian women and gay men are having a steady relationship, and that a third of these couples are living together in the same house. [Bericht, 5 December 1989, p. 5]

3.1 REGISTERED PARTNERSHIP (INCLUDING MARRIAGE)

—————> Denmark - WRITTEN LAW

In 1989 Parliament adopts the Law on Registered Partnership with a great majority. The national gay and lesbian organisation LBL has been campaigning for such a law since 1979. On 1 October 1989 it becomes possible for lesbian and gay couples to enter into "registered partnership".

With some exceptions, registered partnership has the same legal effect as marriage. The effects of registered partnership include:

- the right to a residence permit for the foreign partner (see paragraph 3.3),
- choice between common and separate property (with a tax advantage for the transfer of property),
- joint income tax assessment,
- mutual liability for maintenance during the partnership and after its end (with the possibility of a reduction of the social benefit received by one partner because of the level of income or property of the other partner),
- procedures and legal aid for divorce,
- automatic rights of inheritance (including the right to retain the undivided possession of the estate),
- the lowest tariff for inheritance tax,
- pension rights provided or guaranteed by law.

During the first year 671 partnerships are registered (521 gay and 150 lesbian).

[Pan 1981, nrs. 2/4/5; 1982, nr. 2, p. 3; 1989, nr. 5, p. 2;
Wong 1988, p. 5; Emborg 1989; LBL leaflet, July 1989;
GK, 21 April 1990, p. 15; Frankfurter Rundschau 19 April 1990;
Elmer & Larsen 1990; LBL letter to Iceberg 3 January 1991]

Denmark - WRITTEN LAW

In the Law on registered partnership some legal effects of marriage are not extended to registered partnership. These exceptions include custody and adoption (article 4 of the Law; see paragraphs 4.1 and 4.2 of this report), and some widow's pensions (those provided for by Law 102 of 14 March 1941). The Law does not deal with pensions provided for in private contract (only some private pension funds have recognised registered partnership). There is also no guarantee that registered partnerships will be recognised in other countries (article 4.4).

[Emborg 1989; LBL leaflet, July 1989; Elmer & Larsen 1990]

Denmark - WRITTEN LAW

According to article 2.2 of the Law on registered partnership, a lesbian or gay partnership can only be registered if at least one of the partners is domiciled in Denmark and has Danish citizenship. This restriction, which is added during the final stage of the parliamentary debates about the law, does not apply to (heterosexual) marriage.

[GK, 1 July 1989, p. 13]

France - WRITTEN LAW

France - COURT CASE

Although the Civil Code nowhere provides that marrying partners should be of different gender, this is considered to be one of the conditions for the validity of a marriage (decision of the Court of Cassation, 6 April 1903, D-1904-1-397; S 1904-1-223).

[Boutet 1988, p. 91-92]

France - DECLARATION

In 1990, a socialist senator introduces a legislative proposal to create a "contract of civil partnership". This civil partnership would be open to couples of people over 18. The "civil partners" would be bound to give each other help and support, to live together. They would have the same possibilities of matrimonial property as married couples. In social security law and in inheritance law they would be treated in the same way as married couples.

United Kingdom - PEOPLE

In 1990 a survey among members of parliament (held for the "Guardian" newspaper and the television series "Out On Tuesday") shows that 29% of them would (and 56% would not) support the introduction of registered partnership for homosexual couples giving them similar property and taxation rights as married couples.

[GT 1990, April, p. 8]

Netherlands - WRITTEN LAW

Although there is no explicit provision to that effect, the rules on marriage in the Civil Code are traditionally interpreted as only allowing marriage between two people of opposite sex. (This interpretation has been confirmed by the Supreme Court: Hoge Raad, 19 October 1990, RvdW 1990, nr. 176.) This means that lesbian and gay couples have no access to the rights and benefits which are the exclusive privileges of married couples. These include: most pension-rights of partners, some rights of inheritance, some tariffs of inheritance tax, adoption.

Netherlands - COURT CASE

In 1989 two men want to marry each other. At the Registrar's Office their request is refused. They take the case to Court, arguing that the Civil Code does not explicitly require the marrying partners to be of the opposite sex, and that the assumed impossibility for people of the same sex to marry is a violation of international human rights. The Court (Rechtbank Amsterdam, 13 February 1990, NJCM 1990, p. 456-460) considers that the legislature's intention to require marrying partners to be of different genders is evident. The Court refuses to consider the alleged violation of international law. It argues that, if such a violation were established, it would be beyond the court's law-making role to decide how the then necessary equality should be realised. It notes that the new Danish legislation provides for a system which is not identical to marriage. The Court concludes that the question should be left to the Dutch legislature to decide.

Netherlands - COURT CASE

In 1988 two women want to marry each other. At the Registrar's Office their request is refused. They take the case to court, arguing that the assumed impossibility for people of the same sex to marry is a violation of international human rights. After losing in the District Court (Rechtbank Rotterdam, 16 August 1988) and in the Court of Appeal (Gerechtshof Den Haag, 2 June 1989) the women apply to the Supreme Court.

The Supreme Court (Hoge Raad, 19 October 1990, RvdW 1990, 176) considers that the impossibility for the two women to marry does neither violate the right to marry (Art. 12 ECHR and Art. 23 ICCPR) and the right to respect for family life (Art. 8 ECHR), nor the right not to be discriminated against in the enjoyment of these rights (Art. 14 ECHR). In reaching this conclusion the Supreme Court relies on the interpretation of the right to marry given by the European Court of Human Rights (Rees-case, 17 October 1986, Vol. 106, par. 49; see above).

According to the Supreme Court there is also no violation of the general prohibition of discrimination of Art. 26 ICCPR. It considers the legal impossibility of same-sex-marriage to be justified by certain legal consequences of marriage, namely those consequences for the descent of children that are linked to the gender difference of the spouses. However, in an aside, the court explicitly refers to the "possibility" that there might be insufficient justification for the fact that specific other consequences of marriage are unavailable in law for same-sex couples in a lasting relationship.

→ **Netherlands - DECLARATION**

In 1990 most political parties in Parliament express themselves in favour of introducing some form of registered partnership for lesbian, gay and hetero couples. Registered partnership should then have more or less the same legal consequences as marriage. In a surprise announcement, the Minister of Justice declares himself prepared to ask his official advisers to look into the possibility of such partnership with consequences in the fields of private law, tax and social security.

Austria - WRITTEN LAW

Article 44 of the Civil Code

Spain - WRITTEN LAW

Article 32 of the Constitution provides that man and woman ("el hombre y la mujer") have the right to marry.

Spain - COURT CASE

In 1987 two men want to marry each other. At the Registrar's Office in their (Catalonian) town their request is refused. They take the case to Court. They argue that article 32 of the Constitution does not require the marrying partners to be of the opposite sex. The men claim that there is an ambiguity in the law, because it does not speak of marriage "between" man and woman. The Court, however, is of the opinion that it goes without saying that the legislature has only intended a marriage between a man and a woman. The two men appeal to a higher court.....

[GK 1987, November, p. 19;
clipping from Avui in: Lambda 1987, September, p. 48]

→ **Spain - PEOPLE**

Spain - DECLARATION

The case causes a lot of publicity. An opinion poll shows that a majority of the town's population supports the men's request. The Attorney-General of Catalonia gives as his opinion that marriage is a "moral institute in which homosexual relationships don't fit", but also that, given the principle of non-discrimination, "people of the same sex have the right to be recognised as a couple".

[GK 1987, November, p. 19]

→ **Germany (East) - DECLARATION**

Shortly before the unification of Germany in 1990, the Communist Party introduces a proposal to make it possible for two people of the same sex to marry each other and have all the legal consequences of the traditional marriage.

[GK, 6 October 1990, p. 9]

3.2 LIVING TOGETHER

→ **Netherlands - WRITTEN LAW**

In some fields no distinction is made between marriage and unmarried cohabitation, nor indeed between hetero cohabitation and lesbian or gay cohabitation. These fields include: rent protection, income tax, most social security.

Unmarried couples can legally organise their property rights and other mutual obligations by entering into a cohabitation contract (before a public notary). Such a contract has no effect on third parties, although some employers (including the civil service) do award "spousal" benefits to those who have entered into one. Only a few pension-funds recognise unmarried partners.

→ **Finland - ADMINISTRATION**

The government recognises homosexual relationships in the area of social benefits. Legislation giving other rights to gay and lesbian couples is being prepared.

[Pink Book 1988, p. 229; SETA 1988, nr. 2]

Iceland - WRITTEN LAW

In 1984 the term "cohabiting persons of opposite sex" is introduced in the inheritance law. Other rights and privileges are also only available for heterosexual couples.

[Pink Book 1985, p. 62]

France - ORGANISATION

In 1982 a gay man hears from the police that his lover (with whom he has been living together for two years) is in hospital. Arriving in the hospital he is first refused admission. Only after hours he learns that his lover has died. The hospital and the family of his lover refuse to give any details about the cause of death, because he is not "family".

[GPH, 26 March 1983, p. 16]

France - WRITTEN LAW

France - COURT CASE

Over the years the legislature and the courts have gradually given some of the legal consequences of marriage to unmarried heterosexual couples living together. On the ground that the living together of two women or two men does not resemble marriage, the same legal consequences have been denied to homosexual couples.

For example, on 27 May 1986 (D.1986.IR.436) the Court of Paris rules that even "if the existence of stable homosexual couples constitutes a social fact, such a situation cannot be held to create rights". The court therefore refused to apply in this case the law which provided that after the death of a tenant his or her "known concubine" (unmarried partner) could continue the tenancy.

[Boutet 1988, p. 97-103]

France - ADMINISTRATION

Unmarried couples living together can get a "certificat de concubinage" from their local authority. With this certificate they can prove their partnership to their landlord, employer, etcetera. Most local authorities refuse to give a "certificat de concubinage" to lesbian and gay couples.

[Boutet 1988, p. 100; GPH 1986, nr. 215, p. 32; 1989, nr. 378, p. 14]

France - ADMINISTRATION

In 1983 two women near Nantes (see below), in 1987 two men in the town of Ullis, and in 1990 two men in the city of Reims manage to obtain a "certificat de concubinage".

[GPH 1986 nr. 254, p. 7; 1989 nr. 378, p. 14; 1990 nr. 409, p. 10]

France - COURT CASE

Nadia and Annie (and the three children of Nadia) are living together since 1980. Annie is covered by social security insurance. Nadia, who is out of work, wants to benefit from the same social security benefits for herself and her children as would be available if Annie was a man and married to her. In fact, article 13 of the Law of 2 January 1978 provides that such benefits are available "to the person who lives in a marriage-like manner with the person insured". First, the two women manage to obtain a "certificat de concubinage" from their local authority.

Then they go to Court. On 19 January 1984, the Court of Nantes rejects their claim. They lodge an appeal against that decision. On 27 November 1985 (D.1986.J.380) the Court of Appeal of Rennes also rules that article 13 does not apply to a woman and her lesbian partner.

On a final appeal, the Court of Cassation reaches the same conclusion (judgment of 11 July 1989). The Court considers that the phrase "in a marriage-like manner" in article 13 only refers to people who have decided to live together without marrying each other first, and that therefore it can only be applied to couples consisting of a man and a woman.

[GPH 1983, nr. 68, p. 16; 1985, nr. 197, p. 6; 1989, nr. 375, p. 11-12; Lesbians, 27 April 1985, p. 16-17; Boutet 1988, p. 101-102; Gazette du Palais, 13/14 April 1990]

France - ORGANISATION

At their annual conference the public notaries of France speak out in favour of the same rights for homosexual and heterosexual couples living together.

[GPH 1988, no. 324, p. 12]

France - ADMINISTRATION

Breadwinners are exempted from compulsory military service. From 1989 this exemption does not only apply to breadwinners in heterosexual couples, but also to those in gay couples.

[GK 29 July 1989, p. 31]

France - COURT CASE

In his testament a gay man had made bequests to three gay friends. After his death the bequests are contested by his family. On 28 June 1985 the "Tribunal

de Grand Instance de Paris" rules that these are indeed void (article 1133 of the Civil Code), because they had to be regarded as a remunerations for "immoral relations". [Boutet 1988, p. 102; GPH 1986, no. 215, p. 34]

United Kingdom - ADMINISTRATION

State pension schemes only provide pensions to wives who survive their husbands. Unmarried partners are not provided with pensions.

[Capital Gay, 24 March 1989, p. 12]

United Kingdom - BUSINESS

Under private pension schemes, employees can nominate someone who would receive a pension after their death. It is possible to nominate your lesbian or gay partner.

[Capital Gay, 24 March 1989, p. 12]

United Kingdom - WRITTEN LAW

If a tenant (who is renting accommodation from the local authority) dies, the Housing Act 1980 provides for a right of succession for his or her partner only in the cases of married or cohabiting couples of the opposite sex. An attempt to extend this right to lesbian and gay couples, is rejected during the law's passage through parliament. [Crane 1982, p. 142]

Council of Europe - COURT CASE

Mary X v UK 11716/85 (succession rights in public housing)

[PA]

United Kingdom - PEOPLE

A lesbian woman, whose lover has died, is left to grieve alone by her lover's family. At the funeral she is instructed to remain in the back of the chapel. Afterwards, the family refuse to tell her where the ashes of her lover have been scattered. They force the woman to leave the flat she co-owned with her lover. [GT 1990, June, p. 7]

United Kingdom - WRITTEN LAW

If a husband or wife dies without leaving a will, there are rules to ensure that all property will be inherited by the surviving spouse and children. Lesbians and gay men can only ensure that their partners inherit if they leave a will. Such a will can only be contested in exceptional cases, for example when the deceased's ex-wife can claim "proper financial provision" from the estate, or when the will was drawn up with "undue influence".

[Crane 1982, p. 144]

United Kingdom - WRITTEN LAW

If a married person dies as the result of an accident that was somebody's fault, his widow or her widower can claim compensation. No such right to compensation exists for lesbian and gay partners (Fatal Accidents Act 1976).

[Crane 1982, p. 144]

England and Wales - WRITTEN LAW

A wife who gets a divorce has a very strong claim to the ownership of the joint house, even if it is not in her name. She also has certain rights to stay in the joint house until the divorce is completed. Lesbian and gay partners have no such rights after the break-up of their relationships (unless they buy or rent the house jointly). [Crane 1982, p. 145-146]

Norway - PEOPLE

According to an opinion poll (held in 1983 by Scan Fact) 43% of the population think, that if cohabitants are given the same rights as married couples, the same rules should apply to homosexuals living together; 34% are against this, while 22% have no opinion on this point. [IGA-bulletin 1984, nr. 2, p. 10]

Norway - ADMINISTRATION

Foreigners having a stable homosexual relationship with a Norwegian citizen are being given work permits, which before were only available to foreigners married to a Norwegian man or woman.

[Sek 1983, March, p. 9]

Norway - ADMINISTRATION

The Ministry of Defence offers employees living together with a partner of the opposite sex the same financial benefits as are available for married employees. However, it refuses to make these benefits (including four free journeys home) available to an officer living together with a partner of the same sex. [ILGA-bulletin 1989, nr. 3, p. 14]

Spain - COURT CASE

A man offers hiding to his lover who has escaped from prison. Hiding someone who has escaped is a criminal offence, unless it is your spouse or a member of your family. In court, the man pleads that he acted out of love. The judge acquits the man, because he is of the

opinion that the same criterion should be applied as in the case of married heterosexual partners. [GK 1987, November, p. 19]

Spain - ADMINISTRATION

Spain - COURT CASE

widowerspension Barcelona (Juan Reina) 1988-

—————> Denmark - WRITTEN LAW

If two people of the same sex have been living together and one of them dies, and according to the will his or her partner inherits everything, the same (low) tariff of inheritance tax applies as for married couples. This is the effect of Law 339 of 4 June 1986. These provisions for lesbian and gay couples are repealed in 1989, when the Law on registered partnership comes into force (see paragraph 3.1). [Emborg 1989]

—————> Denmark - WRITTEN LAW

Law 888 of 29 December 1989 provides the same (low) tariff of inheritance tax for people who have lived together for two years, as applies for those in marriage or registered partnership. [Elmer & Larsen 1990]

—————> Denmark - BUSINESS

After pressure from the lesbian/gay movement, the airline company SAS in 1981 changes its policy on giving certain rebates only to families. Now the same rebates are available to gays and lesbians who live together. [Pan 1981, nr. 3, p. 3]

—————> Denmark social security

—————> Italy - WRITTEN LAW

The law "more uxorio" recognises unmarried couples who have registered with a notary as living together, for the purposes of medical help, child benefit and the transfer of pension. However, because employers refuse to recognise such partnerships, hardly any gay or lesbian couple has registered. [GPH 1986, no. 243, p. 30]

Italy - COURT CASE

In June 1989 the Constitutional Court considers that the "de facto" couples do not enjoy the same rights as married couples. This interlocutory opinion recognises forms of living together that are different from the traditional ones, and it invites Parliament to legislate on this matter.

[Babilonia 71, October 1989, p. 7]

Italy - WRITTEN LAW

The Presidential decree of 30 May 1989 (nr. 223, published 8 June) contains new rules for municipalities on the registration of citizens. Article 4 contains a new definition of "family": "a group of people bound together by marriage, kinship, affinity, adoption, custody or affective ties who live together or share the same abode in the same municipality". However, this does not mean that homosexual couples can enjoy the same rights and benefits as married couples. For example: income tax benefits, the right to family allowances, and reduced-rate loans for "young couples", are only available for married couples. [Babilonia 71, October 1989, p. 7]

—————> Italy - ADMINISTRATION

Following the new legal definition of "family", Bologna becomes the first Italian city to allocate public housing for gay and lesbian couples. (In 1986 the provincial authorities had vetoed a similar proposal from Bologna.) [GT 1989, September, p. 22]

Italy - ORGANISATION

Two women (a novice and an abbess) fall in love. To prevent them from living together, the church authorities make it impossible for the two women to see each other or communicate. [GPH 1984, no. 128/129, p. 9]

Belgium - COURT CASE

After the death of his gay lover a man claims damages. The Court of Dendermonde dismisses the claim because "an immoral situation or relationship can never be the basis of damages". [.....]

Belgium - COURT CASE

Two women are living together. One falls ill and is incapable to work for two and half months. From her insurance company she claims damages, because of the costs she incurred for home help. The company, and the court of first instance, dismiss the claim because the women do not form a "family". [GK 1988, nr. 106, May, p. 8]

—————> Belgium - COURT CASE

The decision is overturned by the Gent Court of Appeal. This court considers that the fact of living together with another woman did not affect her actual need for home help.

[GK 1988, nr. 106, May, p. 8]

3.3 FOREIGN PARTNERS

European Community - WRITTEN LAW

Article 10 of Regulation 1612/68 specifies which members of the family of a worker from another EC country have the right to live with him or her: the marital partner of the worker, their children under the age of 21, their dependent older children, their dependent parents and grandparents. For other family members dependent on the worker, or living under his or her roof in their home country, the member states are only required to facilitate their admission (which means that they should treat them sympathetically).

[Frowein & Stein 1987, p. 1801-1802]

→ European Community - COURT CASE

In the Court of Justice of the EC rules that article 10 of Regulation 1612/68 does not confer a right to family reunification on the stable partner of an unmarried couple. The Court argues that a wider (more "dynamic") interpretation is not possible as long as there is no parallel development of the social recognition of unmarried partnerships and no consensus in all member states (Reed-case, 59/85).

[Frowein & Stein 1987, p. 1802]

→ Denmark - WRITTEN LAW

Denmark - ADMINISTRATION

According to article 9(1) of the Aliens Law a residence permit shall be issued to an alien who cohabits at a shared residence, either in marriage or in regular cohabitation of prolonged duration, with a person permanently resident in Denmark. For both homosexual and heterosexual "cohabitation of prolonged duration", normally a period of up to two years is required. This requirement does not apply to married couples, nor to registered partnerships.

In 1981 the Ceylonese partner of a Danish man is deported by the Aliens Police, because the two men had not been living together for at least two years. They had not been able to live together for such a period, because a tourist visa is only valid for three months.

[Frowein & Stein 1987, p. 249; Wong 1988, p. 4; Elmer & Larsen 1990; Pan 1981, nr. 4/5, p. 3]

→ Sweden - WRITTEN LAW

Sweden - ADMINISTRATION

A residence permit will be given to persons with a "family link" with a person permanently resident in Sweden. The notion of "family link" includes marriage and (heterosexual or homosexual) cohabitation. In general the relationship must have existed for at least four to twelve months.....

[Wong 1988, p. 5]

United Kingdom - WRITTEN LAW

According to the Immigration Rules a lesbian or gay foreign partner cannot be allowed to enter the country or to stay there on the basis of her or his relationship with a UK citizen. A heterosexual partner can enter or stay when she or he is married to a UK citizen and immigration officials have found the marriage to be "genuine". There is also a provision for a woman "living in permanent association" with a man. According to the government it would be too difficult for immigration officials to assess the stability of lesbian or gay relationships.

[Crane 1982, p. 149-150; Frowein & Stein 1987, p. 1698]

Council of Europe - COURT CASE

X v UK 12513/86 (immigration rights of foreign lovers)

[PA]

United Kingdom - ADMINISTRATION

An English woman and an Australian woman are lovers. They have been living together in Britain for five years. The Australian woman is threatened with deportation, because immigration laws only recognise heterosexual relationships as a basis for foreign partners to stay in Britain.

[Capital Gay, 10 February 1989, p. 1]

→ Netherlands - ADMINISTRATION

A lesbian or gay foreign partner (or a unmarried heterosexual partner) is eligible for admission to and residence in the Netherlands. However, according to the "Aliens Circular" this only applies to the partners of persons who have Dutch nationality, who have an establishment permit, or who have been granted asylum. The partners must live together, have suitable housing, and the "Dutch" partner must have a sufficient income.

Austria - WRITTEN LAW
Belgium - WRITTEN LAW
France - WRITTEN LAW
Germany - WRITTEN LAW
Ireland - WRITTEN LAW
Luxembourg - WRITTEN LAW
Poland - WRITTEN LAW
Portugal - WRITTEN LAW
Switzerland - WRITTEN LAW
Turkey - WRITTEN LAW

Only foreign partners who are married to a resident have rights to admission and residence. [Frowein & Stein 1987, p. 124, 349-356, 461-462, 624-625, 849, 1048, 1219, 1275, 1374, 1502]

Austria - WRITTEN LAW
Belgium - WRITTEN LAW
France - WRITTEN LAW
Germany - WRITTEN LAW
Italy - WRITTEN LAW
Spain - WRITTEN LAW
Switzerland - WRITTEN LAW
United Kingdom - WRITTEN LAW

In any country it is possible for foreigners, under certain conditions, to acquire that country's nationality. If the foreigner is married to a national of that country, less (or less heavy) conditions apply. Similar facilities for lesbian and gay relationships do not exist in these countries.

[De Groot 1988, p. 274-279]

—————> **Netherlands - WRITTEN LAW**

The Dutch Nationality Act ("Rijkswet op het Nederlanderschap", Staatsblad 1984, nr. 628) which came into force on 1 January 1985, contains some recognition for lesbian, gay and other non-marital relationships.

One of the general conditions for acquiring Dutch nationality is that the foreigner must have been living in the Netherlands for at least five years. This condition does not apply if the foreigner has been married to a Dutch national for at least three years (paragraph 3 of article 8). It is irrelevant where the married couple lived during those three years.

A foreigner who has been living in a permanent non-marital relationship with a Dutch national for at least three years, can acquire Dutch nationality if he or she has been living in the Netherlands for at least three years (paragraph 4 of article 8).

[De Groot 1988, p. 280]

3.4 CHURCH WEDDINGS

—————> **France - PEOPLE**

In 1985, in a church in Lyon, two men are "married" by a baptist priest. The priest later declares that there is no reason to refuse the blessing of a couple, of their love, of their affection, of their friendship. [GPH 1985, nr. 157, p. 23 and 66]

—————> **Belgium - PEOPLE**

In 1990, in a church in Aalst, two women are "married" by a priest. [GK, 17 November 1990, p. 19]

Germany - WRITTEN LAW

article 6 of the Constitution

Denmark - WRITTEN LAW

Partnership cannot be registered in churches

—————> **United Kingdom - ORGANISATION**

In 1987 a lesbian couple is blessed in a church in Reading.

[LIS 1987, October, p. 8]

United Kingdom - MEDIA

In the newspaper "The Star" the editor writes: "We believe homosexuals have every right to do their own thing - in private! But to pretend their behaviour is normal ... that's daft. And for a Church of England vicar to solemnly bless a 'marriage' between two women in church ... that's a scandal."

[LIS 1987, October, p. 8]

—————> **Germany (East) - ORGANISATION**

In 1986 two gay men from Czechoslovakia have their relationship blessed in a German evangelical church. The vicar gives them a "certificat of blessing". [Lambda Nachrichten 1986, nr. 3, p. 29]

—————> **Germany (West) - PEOPLE**

In 1984 in Hamburg, and in 1988 in Würzburg, two lesbian women have their relationship blessed by an evangelical vicar.

[GK 1984, September, p. 7; 1988, August, p. 14]

Germany (West) - ORGANISATION <—————

Both vicars are officially reprimanded by the regional church authorities.

[GK 1984, September, p. 7; 1988, August, p. 14]

3.4 MARRIED TO A HETEROSEXUAL

France - COURT CASE

In 1983 a lesbian woman is getting divorced from her husband. In the divorce judgement the court makes her pay 10000 francs to her husband because she had "humiliated" him by her lesbianism. [GPH, 18 June 1983, p. 20]

—————> **France - ORGANISATION**

She appeals against the judgement. The lesbian action group GAL organises a benefit party to help her pay the costs of the appeal.

[GPH, 18 June 1983, p. 20]

France - COURT CASE

In its judgement of 1 April 1987 (JCP 29 April 1987, p. 17-18) the Court of Cassation (one of the supreme courts) rules that homosexuality of one the spouses is "injurious" to the other, that it constitutes a "grave violation" of the obligations of marriage, that it makes the continuation of the shared life intolerable, and that homosexuality therefore is a sufficient ground for divorce (article 242 of the Civil Code). [Boutet 1988, 93-95]

—————> **United Nations - WRITTEN LAW**

Article 17 of ICCPR:

"(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence (...)."

—————> **Council of Europe - WRITTEN LAW**

Article 8 of ECHR:

"(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 exercise of this right except such as is in accordance with the law and 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."

United Nations - WRITTEN LAW

Article 23 of ICCPR:

"(1) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

(2) The right of men and women of marriageable age to marry and to found a family shall be recognized.
(...)"

Council of Europe - WRITTEN LAW

Article 12 of ECHR:

"Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right."

4.1 CO-PARENTING

Denmark - WRITTEN LAW

Article 4.3 of the Law on registered partnership of 1989 means that a child born during a registered lesbian partnership will not have the partner of her mother as co-parent. [Elmer & Larsen 1990]

4.2 FOSTERING AND ADOPTION

Norway - DECLARATION

In the old law only married couples are allowed to adopt / foster (?) children. In 1983/1984 (?) a change of the law is proposed, which would give the same rights to unmarried heterosexual couples, and which would make adoption / fostering (?) by a single person possible in exceptional cases.

[IGA-bulletin 1984, nr. 1, p. 17]

—————> **Norway - ORGANISATION**

The national gay and lesbian organisation DNF-48 (which the Ministry of Justice has not invited to a hearing on the proposal) criticises the limited scope of the proposed change. According to DNF-48, the child's best interest should be the criterion for adoption / fostering (?), and not the gender or number of the parents or their being married or not.

[IGA-bulletin 1984, nr. 1, p. 17]

—————> **Norway - WRITTEN LAW**

(the proposal is adopted)

Finland - WRITTEN LAW

Finland - ADMINISTRATION

Homosexuals are discriminated against with respect to adoption and foster parenthood.

[Pink Book 1988, p. 229]

Austria - WRITTEN LAW

articles 179(2) and 186 of the Civil Code

Denmark - WRITTEN LAW

Article 4.1 of the Law on registered partnership of 1989 excludes the possibility of adoption from the legal effects of registered partnership. Joint adoption is only possible for married couples.

Adoption by one parent alone is possible, but approval for that form of adoption is very difficult to obtain. [Emborg 1989]

Ireland - WRITTEN LAW

The Adoption Act of 1952 does not allow adoption of a child by a single person or by an unmarried couple. [Equality Now 1990, p. 33]

Belgium - WRITTEN LAW

Belgium - ADMINISTRATION

France - WRITTEN LAW

France - ADMINISTRATION

Not only married couples, but also single individuals can adopt (article 346 of the Belgian Civil Code; article 343/1 of the French Civil Code). Adoption by two people is only possible when they are married. In practice, adoption by single people is very rare.

[Boutet 1988, p. 119; GPH 1986, no. 215, p. 34; GK, 2 November 1991, p. 5]

United Kingdom - WRITTEN LAW

United Kingdom - ORGANISATION

The Adoption Act 1976 provides for adoption by a married couple or by a single person. Adoption by unmarried individuals is very difficult, especially for lesbian or gay people, because most adoption agencies do not accept single people as adoptive parents. Private adoptions (that is: adoptions not via an adoption agency) are possible, but must be notified to the local authority who will "investigate the suitability of the applicant". [Crane 1982, p. 145]

→ **United Kingdom - ADMINISTRATION**

In 1990 the local council of Newcastle-upon-Tyne recommends that a two-year-old handicapped boy should be adopted by a lesbian social worker. The recommendation causes both a lot of criticism and a lot of support. [GT 1990, December, p. 8]

United Kingdom - COURT CASE ←

.....

→ **United Kingdom - WRITTEN LAW**

United Kingdom - ADMINISTRATION

Fostering by lesbians or gay men is possible. Whether they are in practise allowed to foster children, depends on the social services department of the local authority concerned. [Crane 1982, p. 145]

Germany - WRITTEN LAW

Germany - ADMINISTRATION

Adoption is possible for married couples (article 1741 of the Civil Code) and for single people. In practice it is hardly possible for lesbian women and gay men to adopt children.

Fostering by lesbians or gays is possible in some circumstances.

[SchwIPs 1982, p. 247; Bundestag Drucksage 11/7194, p. 11]

4.3 INSEMINATION AND IN VITRO FERTILISATION

Norway - DECLARATION

According to a report of the Medical Research Council (presented in September 1983) artificial insemination and in vitro fertilisation should not be available to single or lesbian women, because children have "the right to grow up in a family with a mother and a father". [IGA-bulletin 1984, nr. 2, p. 9]

Spain - DECLARATION

..... ?

[Mundo Gay 1986, April, p. 7; clipping from Diario 16, 3 November 1984, in Madrid Gay 1984, December, p. 17]

Belgium - PEOPLE

According to a survey of "Le Journal de Médecin" only one third of doctors is in favour of artificial insemination. The number of doctors who are in favour of artificial insemination of single women or of women in a lesbian relationship is even smaller. [Soir, 21 May 1987]

France - SOCIETY

Artificial insemination and in vitro fertilisation is refused to lesbian and gay couples and individuals. The majority of the population is against using artificial procreation to allow homosexual couples to have a child.

[Boutet 1988, p. 113-118]

France - DECLARATION

In 1986 the Minister for Health gives as his opinion that in vitro fertilisation should not be available to homosexuals. The National Advisory

Commission for Ethics suggests that in vitro fertilisation should only be allowed for "heterosexual couples with a stable relationship".

[GPH 1986, no. 249/250; GK 1987, February, p. 5]
(.....in 1988 or 1989 a report from the Council of State recommends that medically assisted procreation be refused to homosexuals; before this report is discussed in Parliament, it is withdrawn, following pressure from the gay movement Ornicaar)

United Kingdom - WRITTEN LAW

United Kingdom - DECLARATION

Human Fertilisation and Embryology Bill "account" must be taken of "the welfare of the child who may be born"

Amendment to restrict the access of lesbians to artificial insemination defeated in committee

Amendment to ensure that all donor clinics have equal opportunities policies also defeated

.... the needs of a child for a father must be considered before fertilisation services may be used [GT 1990, June, p. 6]
[Stonewall leaflet, September 1990]

United Kingdom - PEOPLE

In 1990 a survey among members of parliament (held for the "Guardian" newspaper and the television series "Out On Tuesday") shows that 33% of them would (and 45% would not) support a legal ban on lesbians receiving artificial insemination from clinics.

[GT 1990, April, p. 8]

Finland - ADMINISTRATION

Finland - ORGANISATION

Homosexuals are discriminated against with respect to sperm-donation and artificial insemination. [Pink Book 1988, p. 229]

Italy - PEOPLE

According to Rosa Russo Jervolino (member of parliament for the Christian Democrats) lesbians do not qualify for artificial insemination, because this would violate the right of the child of having a family.

[Babilonia 1985, July/August, p. 51]

4.4 AFTER BREAKING UP

United Nations - WRITTEN LAW

(Treaty on the rights of children - non-discrimination clause ...)

France -

(during ratification explicit attention was given to the implications of the Treaty for gay/lesbian parents ...)

Council of Europe - DECLARATION

In Recommendation 924 (adopted on 1 October 1981) the Parliamentary Assembly recommends that the Committee of Ministers of the Council of Europe should "call on the governments of the member states to ensure that custody, visiting rights and accommodation of children by their parents should not be restricted on the sole grounds of the homosexual tendencies of one of them".

France - COURT CASE

In a divorce case in 1982 a Court in Lyon gives custody to the mother, although efforts had been made to deny her the custody over her children because she is lesbian. [GPH, 28 May 1983, p. 21]

France - COURT CASE

In 1983, in another divorce case, the court in Lyon denies custody to a father "because his homosexuality, according to the reports of a social worker and a psychiatrist, would have serious consequences for the children, since - at the start of their adolescence - they would be confronted daily with it". [GPH, 28 May 1983, p. 21]

France - COURT CASE

In a divorce case in 1988 the husband argues that custody over the children should not be given to his lesbian wife. However, the Court of Appeal of Versailles rules that "homosexual behaviour is not a bar to the exercise of parental authority", and gives custody to the mother. [Lesbia 1988, May, p. 4; GPH 1988, no. 311, p. 17]

Norway

(Custody no problem when you are openly lesbian, but when you are discovered to be hiding the fact that you are lesbian, custody will be refused....)

Belgium - COURT CASE

On their divorce a (gay) man and his wife agree that the man will be allowed to see their two sons twice per month. This visiting arrangement is confirmed by the court.

After a while, the man starts to live together with his male lover. His ex-wife refuses to let the boys visit their father. The conflict is taken to court. The judge rules in favour of the woman, considering "that a situation of two men living together is no good example for two young boys who at their age are still in search of correct moral values and natural foundation in life". [GK 1985, April, p. 17]

Belgium - COURT CASE

In 1981, after his divorce, a father is denied the right to visit his children, because he is now living with his male lover (Court of First Instance, Bruges, 15 April 1981; J.T., 1982, 364). The judge considers that "from scientific reports it is sufficiently known that there are only very few real homosexuals, and that most of them are directed in that way, specifically by influences from their environment and certain experiences in life", and that "if he is not prepared to give up his homosexuality for the sake of his children, he therefore, in the interest of the children, should be denied all visiting rights".

[Rechtskundig Weekblad 1984-85, p. 2135-2136; Homokrante 1981, September, p. 4]

→ Belgium - COURT CASE

On appeal the decision of the Bruges court is overturned. The Court of Appeal of Gent (10 December 1982) rules that the father can see his sons. It argues that "on its own the homosexual orientation of the father can be no reason to disrupt his contact with his children", especially since "there is no evidence that the father is trying to transmit his orientation onto his children".

[Rechtskundig Weekblad 1984-85, p. 2134-2137; GK 1985, May, p. 14]

Belgium - COURT CASE

In 1988 the court of Merksem decides that a woman, who lives with her lesbian lover, cannot have custody over her children. Custody is given to the father of the children. The mother is allowed to see her children, but not in her own home or with her lover present. The court considered that "children should be brought up via the most prevailing and normal way of life" and that "it would be irresponsible to place the children in abnormal situations". copy.....[AM]

[GK 1989, nr. 123, January, p. 26]

Belgium - COURT CASE

Shortly after the birth of their first child, husband and wife have a divorce. The man is suffering from mental illness. He never bothers to visit his son. Custody is given to the mother.

After a few years the man discovers that his ex-wife is living with her lesbian lover. The conflict is taken to court. At first the judge rules that the boy should be with his father each weekend. The result is that the boy becomes very difficult and behaves rudely to his mother and her partner. Then the judge decides to give the father exclusive custody over the boy, because "the lesbian couple is neither normal nor acceptable" and "the very example of those two women is corrupting the child". [Lesbia 1989, December, p. 18]

United Kingdom - COURT CASE

In most divorce cases where the homosexuality of one of the partners is known, that partner will not retain custody over the children. Sometimes even visiting rights are denied to the lesbian or gay parent.

In July 1982 a lesbian woman was awarded custody of her daughter, after the Court of Appeal had been told that she "lived discreetly" with her lover, and that the woman had been subjected to extreme physical and sexual abuse by her husband during the marriage. The court considered that "if a parent becomes homosexual after a marital breakdown the court should not allow children to be brought up in a homosexual household (...) and should only consider awarding custody (...) to the homosexual parent if there is clearly no acceptable alternative and they are satisfied that it is in the best interests of the child".

[Crane 1982, p. 122-128; Durell 1983, p. 9-10]

→ United Kingdom - COURT CASE

In 1990 a county court decides that a mother (living in a lesbian relationship) should keep custody of her six-year-old daughter. The Court of Appeal later refers the case to the High Court for review, on the grounds that the courts should aim, where possible, to place a child in a conventional home environment: with a mother and a father. The High Court, however, upholds the original decision.

[GT 1990, December, p. 8]

Scotland - COURT CASE

In 1988 the Court of Session in Edinburgh decides that custody over a seven year old boy should be given to his father in stead of to his mother who is living with her lesbian lover. The court considers that the boy might be

better able to adjust to the situation of his mother living with another woman from the safe distance of the father's household, and that the possible effect of the lack of a suitable male role model in the mother's household might cause the child to have serious and longterm developmental problems. The court also considers that confusion might arise from the presence of female figures, and that the boy might run the risk of difficulties with other children if the nature of his mother's relationship should become public knowledge in the neighbourhood.

[Lesbian Information Service, 1988, September, p. 2]

Denmark - WRITTEN LAW

Article 4.2 of the Law on registered partnership of 1989 excludes from the legal effects of registered partnership the possibility of joint custody over a child born in a previous marriage of one of the partners?[Emborg 1989]

Ireland - PEOPLE

Ireland - COURT CASE

When a lesbian mother or gay father is party to a judicial separation (from their heterosexual spouse) a child custody issue may arise. Often, the gay or lesbian parent has not contested a custody suit because threat of blackmail. The heterosexual parent in some cases threatens the gay or lesbian parent that if he or she contests the custody, then the question of the gay or lesbian parent's sexual orientation will be raised in court.

[Equality Now 1990, p. 33]

Spain - COURT CASE

In 1988 a lesbian mother loses custody over her child.

[Lambda Nachrichten 1988, no. 1, p. 54]

Spain - ORGANISATION

The women's movement organises a protest march. Several hundreds of women take part, shouting "I am lesbian and an excellent mother".

[Lambda Nachrichten 1988, no. 1, p. 54]

Italy - COURT CASE

After having had a sex-change, a divorced man is not allowed to see his child on the ground that his visits cause "deep psychological disturbances" that may result in an upsetting of the child's psychological development.

[Babilonia 1, 1983, p. 16]

Germany - COURT CASE

In its decision of 14 December 1988 the Court of Berlin (Berliner Landgericht) considers it "irresponsible to let a child of school age be brought up by a homosexual couple".

[Bundestag Drucksache 11/7197, 9 July 1990, p. 11]

Germany - COURT CASE

After the divorce of his parents, a ten year old boy spends some days per week with his father and some days with his mother and her lesbian lover. After a while the father wants to spend all week with his son. He even threatens his ex-wife with violence, to make her give up her son. She decides to go to court to claim full custody over her son. The court (Familiengericht Dortmund) orders a psychological report. This recommends that the boy spend all week with his father, because with him he would be in a better position to develop his sexuality and male identity.

[GK 1988, August, p. 16]

Portugal - WRITTEN LAW

Art. 1933,1 Civil Code (no custody for those behaving improperly.....)

Art. 1915?

Art. 1953,1.....?

Art. 1934?

CHAPTER 5 EMPLOYMENT

- > **United Nations - WRITTEN LAW**
ILO Convention concerning Discrimination in Respect of Employment and Occupation (111)
.... work ... human rights ...
- > **Council of Europe - DECLARATION**
In Recommendation 924 (adopted on 1 October 1981) the Parliamentary Assembly recommends that the Committee of Ministers of the Council of Europe should "call on the governments of the member states to assure equality of treatment, no more no less, for homosexuals with regard to employment, pay and job security, particularly in the public sector".
- > **European Community - WRITTEN LAW**
Preamble + art. 117 EEC-Treaty
- > **European Community - DECLARATION**
In its "Resolution on sexual discrimination at the workplace" (adopted on 13 March 1984, OJ No C 104, p. 46-48) the European Parliament considers it "unacceptable that homosexuality should be the reason, whether manifest or not, for individual dismissals". It therefore calls on the EC Commission "to renew its efforts with regard to dismissals to ensure that (...) certain individuals are not unfairly treated for reasons relating to their private life" and "to submit proposals to ensure that no cases arise in the Member States of discrimination against homosexuals with regard to employment and working conditions". It also calls on the EC Commission "to invite Member States to provide, as soon as possible, a list of all provisions in their legislation which concern homosexuals", and "to identify, on the basis of such lists, any discrimination against homosexuals with regard to employment (...) by drawing up a report".

5.1 EMPLOYMENT IN GENERAL

(see also paragraphs 3.1 and 3.2)

- > **Belgium - DECLARATION**
On 23 May 1985 a socialist member of parliament introduces a proposal for an anti-discrimination law (no. 1219/1, reintroduced 29 March 1988, no. 339/1). Article 1 of this law would make it a criminal offence "to distinguish, directly or indirectly, on the ground of sex, sexual and relational behaviour or preference, civil status, or family situation". In article 2 "private life" and "the internal organisation and the practice of a religion or belief" are exempted from the prohibition of article 1. Article 4 would establish a "Council for the fight against discrimination" with investigative, mediating and advisory tasks.
- > **France - WRITTEN LAW**
The Law of 25 July 1985 inserts the words "sex", "family situation" and "moeurs" (which means morals/habits/lifestyle, which includes sexual orientation) in some anti-discrimination provisions of the Penal Code. The original proposal did not contain the word "moeurs"; this is added by way of amendement.
Paragraph 3 of article 416 now makes it a criminal offence for an employer to dismiss or not-employ someone because of his or her sex, "moeurs", family situation, etc. The maximum penalty is one year imprisonment and a fine of 20000 francs.

France - MEDIA

Several right-wing newspapers criticise the new anti-discrimination law and denounce the fact that parents and schools can no longer keep homosexuals away from their children. [GK 1985, July, p. 16]

- > **France - WRITTEN LAW**
The Law of 17 January 1986 changes the Code of Labour Law (Code du travail). According to article L.122-35 internal regulations of an enterprise may no longer contain disadvantages for employees because of their "moeurs" (which means morals/habits/lifestyle, which includes sexual orientation).
[Le Poing et la Rose 1989, October, p. 54; JCP 1991, 21724]

- > **France - WRITTEN LAW**
 The Law of 12 July 1990 inserts the words "moeurs" in another article of the Code of Labour Law. Article L.122.45 now makes it unlawful to base the dismissal of an employee on his or her "moeurs" (which means morals/habits/lifestyle, which includes sexual orientation). [JCP 1991, 21724]
- > **France - WRITTEN LAW**
 article L.123-1 du code du travail ?
- > **France - DECLARATION**
France - ADMINISTRATION
 "Discrimination on the basis of one's HIV status is illegal." ? ? ?
 [AIDS Survey, p. 6]
- Denmark - ADMINISTRATION**
 In 1982 the principal of the institution Nødebogaard refuses a social education student as a trainee, because the student is gay.....?
 [Pan 1983, nr. 1, p. 4]
- Denmark - BUSINESS**
Denmark - ORGANISATION
 In private employment many lesbian women and gay men are not open about their homosexuality. One of the reasons for this is that they fear they will be discriminated against, if their sexual preferences became known to their employer.
 [LEL leaflet, July 1989]
- > **Denmark - DECLARATION**
 Discrimination in employment is not covered by Law 289 of 9 June 1971 (which forbids discrimination on the grounds of race etcetera) as amended in 1987 (insertion of the words "sexual orientation"). However, in 1989 the Minister of Justice confirms that homosexuality is not a valid reason for refusing employment to someone. In public employment this follows from the basic rule of equal treatment.
 [Pan 1989, nr. 2, p. 3; letter of 3 January 1991 to Iceberg]
- Ireland - BUSINESS**
 A survey of gay men carried out by Gay Health Action in 1988 reports that of those replying 11% has been discriminated against in work because they were known to be gay.
 [letter of May 1991]
- > **Ireland - ADMINISTRATION**
 According to guidelines from the Ministry of Finance, it is illegal in the civil service to discriminate on the basis of HIV status or sexual orientation.
 [AIDS Survey, p. 11]
- > **Ireland - ORGANISATION**
 In 1982 the Irish Congress of Trade Unions adopted an anti-discrimination policy for lesbian and gay workers. The document states that a worker will receive support if she or he is dismissed or refused promotion on the grounds of sexual orientation.
 [Ofo 1986, p. 165-173]
- > **Ireland - ORGANISATION**
 The National Institute of Higher Education and the National College of Art & Design have agreed that sexual orientation will not be a cause for any discrimination in respect of promotions, conditions, applications, leave, etcetera.
 [IGA-bulletin 1986, nr. 5, p. 19]
- > **Ireland - ORGANISATION**
 In 1987 the Irish Congress of Trade Unions issues guidelines for combatting discrimination against lesbian and gay workers. The guidelines recommend, that the affiliated unions negotiate with employers about an agreement prohibiting discrimination on grounds of sexuality and about procedures to deal with complaints about such discrimination, and that they investigate any direct and indirect discrimination in the conditions of employment. The objective is to "create a work-place environment where lesbian and gay workers can have equality of opportunity and be free of harassment or possible reprisals from other workers, or management".
 [GK 1987, November, p. 13; LIS 1987, December, p. 13]
- > **Ireland - ORGANISATION**
 In 1988 three big trade unions start to implement the guidelines.
 [GT 1988, July]
- > **Ireland - ORGANISATION**

In 1989 the Irish Council for Civil Liberties publishes proposals for legislation against discrimination on account of sexual orientation in employment and other fields.

[Equality Now 1990, p. 54-56]

United Kingdom - DECLARATION

In 1983 the House of Commons rejects a private member's bill on Sex Equality, which would have outlawed employment discrimination based on homosexuality.

[Jeffery-Poulter 1991, p. 167]

United Kingdom - PEOPLE

In 1990 a survey among members of parliament (held for the "Guardian" newspaper and the television series "Out On Tuesday") shows that 45% of them would (and 47% would not) support the introduction of legislation to protect homosexuals against discrimination in employment. [GT 1990, April, p. 8]

United Kingdom - DECLARATION

In 1982 a Security Commission report says that homosexuality should not be treated as a absolute bar to employment in government work which involves access to secret information. In each case particular attention should be paid to "whether the way in which the individual has indulged his homosexual tendencies casts any doubt on his discretion or reliability".

[GT 1987, October; Guardian, 19 January 1990]

United Kingdom - DECLARATION

According to the same report, homosexuality should continue to be a absolute bar to employment in the Diplomatic Service or in the armed forces.

[Guardian, 19 January 1990]

United Kingdom - DECLARATION

The Cabinet Office sends out a reminder to all government departments, that in the Civil Service "discrimination on the grounds of sexual orientation is not tolerated and any harassment from such a cause will be considered an offence under the disciplinary rules".

[GT 1988, June]

United Kingdom - ADMINISTRATION

Part of the employment policy of the town of Rugby is an equal opportunities clause. In 1984 the local Council decides to strike out the words "sexual orientation" from this clause. [GT 1984, November, p. 18; December, p. 10]

United Kingdom - ORGANISATION

United Kingdom - PEOPLE

The Council decision leads to many protests from trade unions, politicians and gay and lesbian organisation. On 10 November 1984 over 1000 people take part in protest demonstration. A few months later, the Council reconsiders its decision. The words "sexual orientation" are returned into the equal opportunities clause.

[GT 1984, November, p. 18; December, p. 10; GK 1985, April, p. 14]

Italy - ORGANISATION

In Emilia Romagna the local assembly of the Federation of farmworkers in the trade union CGIL adopts a motion for the defence of the homosexual or transsexual individual both at the workplace and in getting a job. Later this motion is accepted by the CGIL at national level. [Babilonia 34, March 1986, p. 9]

Scotland - SOCIETY

In 1989 a judge resigns after he and two other judges were questioned by the Lord President of the Court of Session (Scotland's most senior judge) about allegations of homosexual behaviour. One of the other judges issues a statement denying that he "has engaged in homosexual conduct, associated with homosexuals or otherwise behaved in a manner unbecoming of a judge".

[The Independent, 19 and 21 January 1990]

Germany (East) - ORGANISATION

In October 1984 the synod of the Evangelical Church discusses the position of gay and lesbian clergy. They resolve to look into the question again, and to consult with other churches. The synod decides that in the mean time lesbian women and gay men cannot be appointed as ministers.

[Leeuwarder Courant, 7 December 1984]

Germany (East) - PEOPLE

A young theologian, who is barred from appointment because of his relationship with a man, writes an open letter to the synod accusing it of prolonging the suffering of homosexuals in the church.

[Leeuwarder Courant, 7 December 1984]

Germany (West) - ORGANISATION

A gay minister of the Evangelical Church in Hannover is suspended for five years by the disciplinary commission of the Church. The commission considers that his living together with a man is "a way of life that violates his clerical office". [Haagsche Courant, 27 October 1989]

Germany (West) - DECLARATION

In 1986 the federal government declares that it does not know of professions from which homosexuals are excluded, and that it does not see any reason to protect homosexuals from discrimination. [Pink Book 1988, p. 230]

Germany (West) - SOCIETY

In a survey among gay men from all over the Federal Republic (held in 1989 by the monthly magazine "Wiener"), 41% say their career has been negatively affected by their homosexuality, and 16% say that the effect has been positive. [GK, 26 August 1989, p. 13]

-----> Norway - PEOPLE

According to an opinion poll (held in 1983 by Scan Fact) 87% of the population think that homosexuals should have the same employment rights as others. However, 28% feels that homosexuals should not be allowed to become priests, and almost as many do not want homosexuals to become teachers. [IGA-bulletin 1984, nr. 2, p. 11]

-----> Norway - ORGANISATION

In 1984, after three years of discussion, the Norwegian Trade Unions issue a circular to their members calling on them to stop anti-homosexual discrimination. [GK 1984, April, p. 25]

Greece - BUSINESS

Companies in the merchant navy refuse to employ gay men. [GPH 1983, nr. 70, p. 13]

Portugal - WRITTEN LAW

Public employees may be suspended for undignified behaviour? (Decreto-Lei no. 191-D/79, 25 June 1979, Art. 24) [H&E 1983, p. 54]

Czechoslovakia - ADMINISTRATION

Lesbian women and gay men cannot be appointed in government and public security services. [Lambda Nachrichten, January 1981, p. 20]

5.2 DISMISSAL

Belgium - ADMINISTRATION

On 28 October 1980, in the Province of Hainaut, Eliane Morissens, assistant headmistress at a technical college, appears in a television programme, talking about being a lesbian and the way in which this has been a handicap to her career. She explains: "I was preparing to become responsible for a very large school that was attended by 1000 girls and 200 boys. It was said - but unfortunately not put into writing - that it was unthinkable that a homosexual woman should be the Head of a school attended by girls - that's funny! (...) At present, the school is run by two men; I don't know if the danger is not even greater..."

Because of this she is dismissed by her employer, the provincial authorities, on the grounds that she had "deliberately challenged the provincial authorities by arguing that her homosexuality had been an obstacle to her being appointed as a headmistress" and that she had "insinuated that it was just as dangerous to have entrusted the headship to two men, thus challenging the integrity and moral sense of her immediate superiors".

[IGA-bulletin 1982, nr. 2, p. 2-3; ILGA-bulletin 1988, nr. 4, p. 15-16]

-----> Belgium - PEOPLE

Belgium - ORGANISATION

In protest Eliane Morissens starts a hunger strike. Protest demonstrations are held in Hainaut and Brussels, as well as in other countries. Questions are asked in the European Parliament. The Dutch Minister of Foreign Affairs expresses his concern to his Belgian colleague. Ms. Morissens lodges an appeal with the Council of State.

[IGA-bulletin 1982, nr. 2, p. 2-3]

Belgium - COURT CASE <-----

Her first complaint is that her freedom of expression (as guaranteed by article 10 of the European Convention on Human Rights) has been violated. In its decision of 27 June 1984 the Council of State rejects this by arguing that civil servants should not make unjustified criticisms of their superiors, and that this duty of civil servants is necessary in a democratic society and therefore not contrary to article 10 of the European Convention.

The second complaint of Ms. Morissens concerns the lack of proportionality between the disciplinary dismissal and the television appearance on which it was based. This amounts to an abuse of power, she argues. The Council of State rejects this complaint too, pointing out that she has repeated her statements in another television programme, and that these statements have made a "profound impression" within the Provincial education service. The Council concludes that "the punishment inflicted is not wholly disproportionate to the acts in question". [ILGA-bulletin 1988, nr. 4, p. 15-16]

Council of Europe - COURT CASE

Eliane Morissens takes her case to the European Commission of Human Rights. In its decision of 3 May 1988 the Commission declares her petition inadmissible (case 11389/85).

Spain - BUSINESS

In Barcelona a man who works as bartender is fired, because he is gay.

[Lambda 1980, April, p. 2]

Spain - COURT CASE

He takes his case to an Employment Tribunal. The Tribunal decides the dismissal is not fair, and recommends that he is reinstated in his job by his employer. The employer, however, does not want to take him back, and pays compensation instead.

[Lambda 1980, April, p. 2]

United Kingdom - COURT CASE

In Salford a lecturer is suspended by the college authorities, after they have read a newspaper report about the court case in which the lecturer had pleaded guilty to "gross indecency" (in fact: sexual avances) with another adult man in a locked cubicle of a public toilet. Later he is dismissed on the grounds that he had "given way to temptation" and shown "lack of control", and that therefore his students might be at risk, and that he might be vulnerable to approaches from his students.

The Industrial Tribunal accepts that the college authorities have acted reasonably. The Employment Appeal Tribunal recognises the question whether the lecturer is a "risk" to his students as a "highly controversial subject", but it concludes that the college and the Industrial Tribunal are "not making an error of law if they (...) conclude that there is a risk" (Wiseman v. Salford CC [1981] IRLR 202).

[Crane 1982, p. 106-107; Daly 1983, p. 38-40]

Scotland - COURT CASE

Mr. Saunders works as a maintenance man at a youth camp. When reporting to the police that he had been robbed in a gay bar, he lets the police know that he is gay. The police inform his employers.

They respond by dismissing Mr. Saunders, giving him a written explanation of his dismissal: "the reason is that information was received that you indulge in homosexuality. At a camp accommodating large numbers of schoolchildren and teenagers it is totally unsuitable to employ any person with such tendencies." His employers accept that he never had a homosexual relationship with any resident of the camp.

The dismissal is accepted as fair by the Glasgow Industrial Tribunal. The Employment Appeal Tribunal later considers it proper for the first tribunal to take account of the fact that many employers "would take the view that the employment of homosexuals should be restricted, particularly when required to work in proximity and in contact with children", although "whether that view is scientifically sound may be open to question". The EAT further considers that some employers "might have decided not to dismiss", but that "others, like the respondent, would have felt that in the interests of young persons for whom they were responsible to parents it was the only safe course". The EAT concludes that neither group of employers "could be said to have acted unreasonably" (Saunders v. Scottish National Camps Association Ltd. [1980] IRLR 174).

This decision is later confirmed by the Court of Session in Edinburgh ([1981] IRLR 277).

[Crane 1982, p. 105-106; Daly 1983, p. 40-41]

United Kingdom - ADMINISTRATION

A lesbian woman is working as a night care attendant in a residential home for girls. When one of her colleagues directly asks her whether she is lesbian, she says yes. The colleague informs the director, who then asks the lesbian woman to resign. She refuses, and is dismissed. Despite many protests from unions and gay and lesbian organisations, the local authority responsible for the home refuses to reinstate her in her job.

[CHE 1981, p. 7]

United Kingdom - ORGANISATION

In 1982 another lesbian working in a residential home for girls is dismissed. After it had become known that she is lesbian, she was asked to resign, and told that if she refused to resign she would lose her job on the ground of being "temperamentally unsuitable" for it. When she refuses to resign, she is dismissed because of being "temperamentally unsuitable".

[ILIS-newsletter 1982, October, p. 4]

United Kingdom - ADMINISTRATION

When it is discovered that a senior policeman has a gay relationship, he is dismissed on the ground that he could be a security risk.

[GK 1982, September, p. 22]

United Kingdom - ADMINISTRATION

A 21 year old man has been working as a data processor at GCHQ (the government's intelligence gathering centre in Cheltenham) since he was 16. In 1986 he realises that he is gay. Aware of security requirements, he tells his boss that he is gay. In 1987 his employers respond by removing his security clearance (which means that he can no longer work with secret information). He is suspended while his employers try to find work for him which does not involve secret information.

[GT 1988, August]

United Kingdom - COURT CASE

The man takes his case to the High Court, which rules that - because national security is involved - it cannot decide whether the removal of his security clearance was reasonable. The Court praises the man's courage and honesty.

[GT 1988, August]

United Kingdom - ADMINISTRATION

A teacher in a secondary school in Bradford, answers personal questions from pupils. Among other things he tells them about his being gay. This gets reported in a couple of newspapers. The school authorities respond by not renewing the teacher's contract. In support of their decision, the school authorities invoke the legislative proposal to stop the "promoting of homosexuality" ("Section 28", which is being debated in parliament at that time; see paragraph 9.1).

[GT 1988, April, p. 9; Colvin 1989, p. 53]

United Kingdom - ORGANISATION

The decision leads to many protests. The other teachers threaten to go on strike in support of their colleague. This leads to an agreement between the local branch of the National Union of Teachers and the leader of Bradford City Council: the teacher is allowed to return to his job.

[GT 1988, April, p. 9; May, p. 18]

Norway - BUSINESS

In 1985 Henki Karlsen loses his job as bartender. The reason for his dismissal is his being HIV-positive.....

[letter 7 November 1988 to Iceberg]

Norway - COURT CASE

He takes his case to court. In first instance he is awarded damages, but not re-instated in his job. On appeal he is given his old job back (Court of Appeal 1985)....

[letter 7 November 1988 to Iceberg]

Belgium - BUSINESS

In 1987 a gay man is forced out of his job (as a warehouseman with a foods factory) because of his HIV-seropositivity. The employer said that sales would drop if it became known that they were employing a HIV-seropositive man.

[De Morgen, 7 August 1987]

Iceland - ORGANISATION

Iceland - BUSINESS

Sämtokin '78 (the national lesbian and gay organisation) is aware of a great number of people who have been fired from their jobs on account of their homosexuality. This is not illegal.

[Pink Book 1985, p. 62-63]

France - PEOPLE

France - ADMINISTRATION

In 1987 a young man tries to blackmail a gay policeman, by threatening to report his homosexuality to his superiors. After the policeman refuses to pay, the young man carries out his threat. The policeman, who has an excellent record as special duty police, is arrested and charged with "inciting a minor to indecency". Before this charge reaches the criminal court, the disciplinary council of the police dismisses him from his job because of "bad contacts and suspect behaviour in his private life".

In February 1988 the court of Melun acquits him on the incitement charge.

[GPH 1989, nr. 375, p. 10-11]

France - ORGANISATION

A gay man works as a verger for a very conservative catholic church. When he learns that he is HIV-seropositive, he confidentially tells one of his colleagues about his seropositivity and about his homosexuality. The colleague then informs the abbot of the church, who responds by firing the verger.

[GPH 1988, no. 349/350, p. 9]

France - COURT CASE

The verger appeals to the employment tribunal (Conseil des Prud'hommes) of Paris. On 6 december 1988 (no. 14656/87) this

tribunal rules that the dismissal lacked a "real and serious reason". It orders the church to pay the verger 21.000 francs in compensation. [see below]

France - COURT CASE

In its judgment of 30 March 1990 the Court of Appeal of Paris overturns this decision. The Court considers that for a verger in a catholic church his employment contract requires him to carry out his duties with an attitude which is not only externally but also internally compatible with that religion. It notes that homosexuality has always been condemned by the Catholic Church. And the Court concludes that the verger's "homosexual characteristics" are violations of his contractual obligations. [copy of judgment, No. Répertoire Général: 33968/89]

France - COURT CASE

The verger appeals to the Court of Cassation. In its judgment of 17 April 1991 this supreme court overturns the decision of the Court of Appeal. In reaching its decision the Court of Cassation relies on two articles of the Code of Labour Law (article L.122.35 as amended by the Law of 17 January 1986, and article L.122-45 as amended by the Law of 12 July 1990; see paragraph 5.1 above). The Court considers that these two articles make it unlawful for an employer to dismiss an employee "pour le seul motif tiré de ses moeurs" (on the sole ground of his or her morals/habits/lifestyle), but that it would be lawful to dismiss an employee because of behaviour "qui, compte tenu de la nature de ses fonctions et de la finalité propre de l'entreprise, a créé un trouble caractérisé au sein de cette dernière" (behaviour that, given the character of his functions and the proper purpose of the organisation, had created evident unrest within that organisation). The Court concludes that the Court of Appeal had broken the law by only considering the "moeurs" of the verger, without establishing whether his behaviour had created evident unrest. It refers the case back to another chamber of the Paris Court of Appeal. [JCP 1991, 21724]

Denmark - BUSINESS

In 1980 a man is fired from his job, officially because there were difficulties in the co-operation between him and his colleagues. However, when the man asks his boss for details, it transpires the actual reason was that his colleagues had complained about his being gay. Later the man gets his job back. The stress of the whole affair causes the man to be sick for three weeks. [Pan 1980, nr. 5/6, p. 26]

Denmark - ORGANISATION

In 1982 a woman teacher risks being fired from her job, or at least being transferred to a different position, because the principal of her school feels that her being openly lesbian is not very good for the children. [Pan 1982, nr. 5, p. 3]

5.3 CONDITIONS DURING EMPLOYMENT

Italy - BUSINESS

In spite of his excellent curriculum, an employee at the Banco di Napoli in Milan is rejected during an internal bank selection process, because he is openly gay. [Babilonia 35, April 1986, p. 6]

Italy - BUSINESS

A young gay activist, working as a bank employee in Sondrio, is given a five day suspension without wages as a disciplinary measure, because his activities were deemed damaging to the bank's image.

Italy - COURT CASE

With the trade union's help the man sues the bank for discrimination. On 14 February 1989 he wins the case. [Babilonia 66, April 1989, p. 52-53]

France - BUSINESS

In 1983 a steward working for Air France demands for his male partner the same financial benefits (cheap flights etc.) as are available for married and unmarried heterosexual couples. The company refuses. The steward takes the case to court. [GK 1985, December, p. 9]

France - COURT CASE

On 14 November 1984 the employment tribunal (Counseil des Prud'hommes) rules in favour of the steward, considering that to

refuse to recognise homosexuality, would be a denial of the right to be different and could be discriminatory.

[GPH 1985, no. 154, p. 9; GK 1985, December, p. 9]

France - COURT CASE

The airline company brings an appeal against the decision. The Court of Appeal of Paris overturns it on 11 October 1985 (D.1986.J.380). It considers that "homosexuality, even if it is no longer a criminal offence, can nevertheless not generate rights" and that the steward and his partner cannot be regarded as "concubines".

On 11 July 1989 this decision is confirmed by the Court of Cassation:
nature du couple homosexuel est de nature différent

[GPH 1985, no. 191, p. 9-10; Boutet 1988, p. 102]

France - ORGANISATION

The Federation of Protestant Churches deletes the name of gay priest Doucé from their list of priests in special service of these churches. The priest has been active in giving pastoral care to homosexuals. [Trouw, 23 May 1985]

> Netherlands - PEOPLE

France - PEOPLE

Three Dutch leading protestant priests, considering it their moral duty to support christians who are persecuted because of their sexual orientation, write an open letter of protest against this to the Federation. [Trouw, 23 May 1985]

Belgium - BUSINESS

In Antwerp the wife or girlfriend of a male tramdriver gets free travel on the city's trams, but not the boyfriend of a male tramdriver.

[GK 1988, October, p. 9]

United Kingdom - BUSINESS

London Underground does only provide free travel to married partners of their employees (and also to their heterosexual "common law spouses"), but not to their lesbian and gay partners. [Capital Gay, 21 April 1989, p. 3]

> United Kingdom - PEOPLE

United Kingdom - ORGANISATION

One lesbian employee starts a campaign to make London Underground also provide free travel to her lover. She is supported by the trade unions and the National Council for Civil Liberties. London Underground (which has an equal opportunities policy which specifically states that there should be no discrimination based on "sexual orientation") agrees to look again at the issue.

[Capital Gay, 21 April 1989, p. 3]

United Kingdom - ADMINISTRATION

In 1987 several senior government officials complain that - because they are gay - they have been refused promotion or the opportunity to do work involving secret information. [GT 1987, October; Guardian, 19 January 1990]

> United Kingdom - DECLARATION

This leads the head of the Civil Service to write a letter to the heads of all government departments. In the letter he reminds them that homosexuality should not be an automatic bar to promotion or to access to secret information. [GT 1987, October]

United Kingdom - ADMINISTRATION

A lesbian teacher working in a Buckinghamshire County school is being harassed at school: she is pushed, sworn at, told that she has AIDS. Finally she gets angry and tells a class of 12 to 14 year olds that yes indeed she is a lesbian, and that she is sick of being treated so badly. This leads to some parent's complaints. At first her superiors are supportive, but when she reports to physical attacks, she is advised to "let it drop". Complaints about her openness about being a lesbian get published in the local press. This leads to a meeting with her superiors, where she is told that the school's reputation is at stake and that she has broken "an agreement not to discuss her sexuality". Pressure from the school authorities forces the woman to leave her job. [LIS 1987, November, p. 8]

United Kingdom - BUSINESS

A lesbian woman is being harassed by senior male colleagues. After she complains about it, their lewd comments and sexual innuendo get worse. This causing such a stress, that her hair starts falling out. In the end the woman decides to leave the job. [LIS 1989, August/September, p. 16]

> United Kingdom - PEOPLE

United Kingdom - ORGANISATION

With the help of the organisation "Lesbian Employment Rights" she puts in a claim for compensation for the sex discrimination she has

suffered. In an out of court settlement her former employer agrees to pay her 2000 pounds in compensation.
[LIS 1989, August/September, p. 16]

5.4 MILITARY

(see also paragraph 2.2)

United Kingdom - WRITTEN LAW

United Kingdom - ADMINISTRATION

Having lesbian or gay sex, on or off duty, is forbidden as "disgraceful conduct of an indecent kind" by the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957.

Most people who are found breaking this prohibition are discharged administratively, without being brought before a court martial. The official policy is to prosecute in cases where the sexual activity would also have been a offence in civilian law, where there is difference in rank between the sexual partners, or where the conduct has been harmful to service discipline or brings the service into disrepute. The maximum sentence that can be given by court martial is two years imprisonment.

The number of men and women administratively discharged because of homosexuality was 361 over the period 1980-1982, and 196 over the period 1987-1989.

From 1981 to 1983 57 men are dismissed or dismissed "with disgrace" because of homosexuality. From 1987 to 1989 32 people are dismissed "with disgrace". Most of these 32 first have to serve prison sentences of three to five months; the longest sentence given is two years.

[Crane 1982, p. 184; ILGA Military 1990]

Council of Europe - COURT CASE

John Bruce v UK 9237 (armed forces)

[PA]

Ireland - WRITTEN LAW

Ireland - ADMINISTRATION

The general criminal law, with its total ban on gay sex, also applies within the military.

According to Colonel Patrick Ghent (Deputy Judge Advocate General), being openly homosexual in the Defence Forces leads to a disruptive effect on order and discipline and therefore, as a pragmatic solution, the person will be discharged from the service (Col. Ghent speaking at the Xth Congress of the International Society for Military Law and Law of War, Garmisch-Partenkirchen, 2-7 October 1985).

In such cases two articles of the Defence Act 1954 can be applied: article 139 ("officer who (...) behaves in a scandalous manner, unbecoming the character of an officer") and article 168 ("act, conduct, disorder or neglect to the prejudice of good order and discipline").

[ILGA-Military 1987]

Germany (West) - ADMINISTRATION

Germany (West) - COURT CASE

Homosexuals are allowed to serve in the military. However, they are not appointed to senior positions. The exclusion of homosexuals from senior positions has been approved in several judgments of the Supreme Administrative Court (Bundesverwaltungsgericht, 16 December 1976, 25 October 1979).

[ILGA Military 1987; Pink Book 1988, p. 230
Bundestag Drucksache 11/7197, p. 14]

Germany (West) - ADMINISTRATION

In 1983 an army general is given early retirement because he is believed to be homosexual. The general denies ever having had any homosexual contact. The affair grows into a big political scandal. The end result is the rehabilitation of the general (the rumours about his homosexuality are deemed to be false) and the resignation of a junior minister of defence.

[GK 1984, March, p. 10-11]

Germany (West) - ADMINISTRATION

A 26 year old man has been working at the Air Force intelligence gathering centre, for several years. He has also been openly gay for several years. In August 1986 his security clearance is withdrawn (which means that he can no longer work with secret information); he is moved to another job in the Air Force. As reason for this decision he is told that "in view of his sexual behaviour" there is no guarantee that secret information is safe with him, and that because of his homosexuality blackmail cannot be ruled out.

[GK, 30 July 1988, p. 12]

Germany (West) - COURT CASE

The man appeals against this decision. The military court in Karlsruhe finds in his favour (Truppendienstgericht Süd, 4. Kammer, 17 August 1987, S 4 - BLa 1/87). The court argues that the man's

homosexuality as such cannot be considered a security-risk, especially because he has not concealed his homosexuality, and is living in a steady relationship with one partner. He gets his old job back. [copy of judgment; GK, 30 July 1988, p. 12]

Germany (West) - ADMINISTRATION <—

In February 1988 his security clearance is withdrawn for a second time. And again he is moved to another position. Now the decision is based on information from the Military Intelligence Service (MAD). They have found that apart from his steady relationship he has also brief and changing sexual contacts, that he tries to keep these secret, and that therefore there is enough basis to consider him blackmailable. [GK, 30 July 1988, p. 12]

<— **Germany (West) - COURT CASE**

Again, the man appeals against the decision.

[GK, 30 July 1988, p. 12]

Germany (West) - COURT CASE

An army lieutenant, who is gay, applies for the position of instructor. The Minister of Defence refuses to appoint him as such, on the ground that his homosexuality makes him unsuitable for an educational job. The lieutenant lodges an appeal against the refusal. He loses his case. The Minister's decision and his reasons for it are considered legal by the Supreme Administrative Court (Bundesverwaltungsgericht, 8 November 1990, 1 WB 61/90). The Court considers it possible that the tolerance of homosexuality has been increasing in society, but points out that it is far from certain that such tolerance can be expected from the young soldiers the instructor would be training. [NJW 1991, Heft 17, p. 1127]

Italy - WRITTEN LAW

Italy - ADMINISTRATION

Homosexuality is included among those "deficiencies and illnesses which are ground for unfitness for military service" (Law 1008 of 2 September 1985). In this way, "sexual inverts" are prevented from carrying out military service. The law stipulates that the "sociopathic behaviour" has to be proven by the confirmations of the carabinieri (state police), or by the data of criminal records, or by suitable acts of the public institutions. To get the necessary confirmations, the carabinieri visit and question parents and relations of the gay conscripts. [ILGA-Military 1987; Unità 23.12.1987; ILGA-Bulletin 1988/3]

Finland - WRITTEN LAW

Finland - ADMINISTRATION

When the authorities consider someone's homosexuality to be a "sexual anomaly which is an impediment for the service" they may exclude this person from the military. [ILGA-Military 1987]

Finland - ADMINISTRATION

In 1981 two Finnish United Nations peace-keeping soldiers, serving on the Golan Heights, are discharged after having been caught "embracing and kissing" each other. The kissing took place during their leisure time, far from their camp, in a UN car parked out of sight from passers-by.

[Pink Book 1985, p. 141]

Finland - COURT CASE <—

The soldiers sue the State for damages. According to an expert opinion given to the Supreme Court, "suspected homosexuality, of which the 'proof' was found in a humanly upsetting and exceptional situation clearly outside the work community, should not under any circumstances form a legal ground for dismissal". However, the Supreme Court decides not to look into the case, because it considers the dismissal of UN soldiers on the basis of real or suspected homosexuality not an "important prejudicial question".

[IGA-bulletin 1983, nr. 8, p. 3]

Spain - WRITTEN LAW

Until 1984 it is illegal for people in the armed forces to "commit dishonourable acts with individuals of the same sex" (art. 352 of the Military Penal Code).

[Pink Book 1985, p. 166; ILGA-Military 1987]

Spain - COURT CASE

On 9 November 1983 two parachutists are sentenced to six months imprisonment, for breach of article 352. (See also Chapter 11.) One of the parachutists takes his case to the Constitutional Court, to test article 352 against the constitutional non-discrimination provision (article 14). On 11 July 1984 the Constitutional Court decides that "in principle" article 352 of the Military Penal Code cannot be regarded as unconstitutional.

[Madrid Gay 1983, September, p. 4; December, p. 3-7; 1984, September, p. 5]

Spain - COURT CASE

On 6 December 1983 three men are sentenced to nine months imprisonment, and six men to six months; all for having breached article 352 in 1979. All nine men are expelled from military service. In the first months of 1984, one man

is sentenced to six years for the same offence, and another soldier kills himself before the trial against him starts. [Madrid Gay 1984, May, p. 9-12]

Spain - COURT CASE

On 1 March 1984 two men are sentenced to two years and to six months imprisonment respectively, for breach of article 352. The first sentence is confirmed by the Supreme Court of Military Justice.

[Madrid Gay 1984, April, p. 13-14; Mundo Gay 1985, January, p. 5]

Spain - WRITTEN LAW

On 28 December 1984 Parliament abolishes art. 352 of the Military Penal Code. However, it remains illegal to have (gay, lesbian or hetero) sex during military duty or inside military barracks.

[Mundo Gay 1985, January, p. 3-4; ILGA-Military 1987]

Spain - ADMINISTRATION

Spain - COURT CASE

In 1988 an airforce captain is expelled from the service, because of homosexual conduct in a military building. He takes his case to the Constitutional Court. His request to have his expulsion suspended while the case is in progress, is not granted. [El País, 30 December 1988, p. 25]

Spain - WRITTEN LAW

A regulation of the Council of Ministers (of 21 March 1986) states as one of the reasons for exclusion from the military: "the incapability to follow the regimen of service life". It is meant to apply especially to transvestites and to individuals whose homosexuality is "evident" or who clearly state their homosexuality.

[Mundo Gay 1986, April, p. 3-5; ILGA-Military 1987]

France - WRITTEN LAW

Dismissal of military personnel because of their being openly homosexual is covered by the general prohibition of discrimination in employment (article 416 of the Penal Code). This is confirmed by Magistrate General Ors (speaking at the Xth Congress of the International Society for Military Law and Law of War, Garmisch-Partenkirchen, 2-7 October 1985).

[ILGA-Military 1987]

Austria - ADMINISTRATION

Disciplinary measures (including discharge from the military) may be taken against servicepersons who commit any of the homosexual offences of the Penal Code, or who have homosexual contacts on duty / inside barracks.

[ILGA Military 1987]

Greece - ADMINISTRATION

No gays are allowed to work in the navy.

[GPH 1983, nr. 70, p. 13]

Portugal - WRITTEN LAW

Homosexuals can be excluded from military service under article 22.2 of the Law on Military Service, if a judge finds that they have "practised offensive acts either against good conduct or seriously affecting their dignity".

[ILGA Military 1987]

CHAPTER 6 SERVICES AND GOODS

- > **United Nations - WRITTEN LAW**
Convention against Discrimination in Education

education human rights etc.
- > **European Community - DECLARATION**
In its "Resolution on sexual discrimination at the workplace" (adopted on 13 March 1984, OJ No C 104, p. 46-48) the European Parliament calls on the EC Commission "to invite Member States to provide, as soon as possible, a list of all provisions in their legislation which concern homosexuals", and "to identify, on the basis of such lists, any discrimination against homosexuals with regard to (...) housing and other social problems by drawing up a report".
- > **Belgium - DECLARATION**
On 23 May 1985 a socialist member of parliament introduces a proposal for an anti-discrimination law (no. 1219/1, reintroduced 29 March 1988, no. 339/1). Article 1 of this law would make it a criminal offence "to distinguish, directly or indirectly, on the ground of sex, sexual and relational behaviour or preference, civil status, or family situation". In article 2 "private life" and "the internal organisation and the practice of a religion or belief" are exempted from the prohibition of article 1. Article 4 would establish a "Council for the fight against discrimination" with investigative, mediating and advisory tasks.
- > **Norway - WRITTEN LAW**
Norway - PEOPLE
In 1981 homosexuality is added in the anti-discrimination provisions of the Penal Code. Article 349a now makes it illegal for anyone "in business or similar activities" to refuse to give goods or services (on the conditions applicable to others) to a person because of his or her "homosexual inclination, lifestyle or orientation". The maximum penalty is six months imprisonment.
According to an opinion poll (held in 1983 by Scan Fact) 81% of the population agree with the new law. [IGA-bulletin 1984, nr. 2, p. 10]
- > **France - WRITTEN LAW**
The Law of 25 July 1985 inserts the words "sex", "family situation" and "moeurs" (which means morals/habits/lifestyle, which includes sexual orientation) in some anti-discrimination provisions of the Penal Code. The original proposal did not contain the word "moeurs"; this is added by way of amendment.
Paragraph 1 of article 416 now makes it a criminal offence to refuse a good or a service to someone because of his or her sex, "moeurs", family situation, etc. The maximum penalty is one year imprisonment and a fine of 20000 francs.
Paragraph 1 of article 187-2 and paragraph 1 of article 416-1 now make it a criminal offence to make the exercise of any economic activity more difficult for someone because of his or her sex, "moeurs", family situation, etc. The maximum penalty is two years imprisonment and a fine of 40000 francs for public officials, one year and 20000 francs for others.
In 1990 the government introduces a proposal to add the words "state of health" and "handicap" in paragraph 1 of article 416 (projet de loi no. 1182). Article 3 of this proposal contains an exception for the prevention and insurance of certain health risks.
- > **Denmark - WRITTEN LAW**
On 1 July 1987 "sexual orientation" is inserted in Law 289 of 9 June 1971 (which forbids discrimination on the grounds of race etcetera). Article 1 of that law now makes it a criminal offence "to refuse, in business or public utility activity, to serve someone on the same conditions as others on account of his or her (...) sexual orientation". This article also makes it an offence to refuse - on such a ground - "to admit someone on the same conditions as others to a place, a performance, an exposition, a meeting or something similar, which is open to the public". The maximum penalty is imprisonment of six months.
- > **Ireland - ORGANISATION**
In 1989 the Irish Council for Civil Liberties publishes proposals

for legislation against discrimination on account of sexual orientation in housing, business and other fields.

[Equality Now 1990, p. 56-57]

United Kingdom - PEOPLE

In 1990 a survey among members of parliament (held for the "Guardian" newspaper and the television series "Out On Tuesday") shows that 45% of them would (and 47% would not) support the introduction of legislation to protect homosexuals against discrimination in the provision of services.

[GT 1990, April, p. 8]

Germany (West) - COURT CASE

A court considers a loan or gift contracted between homosexuals to be against public morals, and therefore void according to article 138 of the Civil Code (Amtsgericht Worms, 25 March 1982).

[Bundestag Drucksache 11/7197, p. 9]

Germany (West) - COURT CASE

On appeal, this decision is overruled (Landesgericht Mainz, 19 October 1982).

[Bundestag Drucksache 11/7197, p. 9]

6.1 EDUCATION

Great Britain - WRITTEN LAW Section 28

Isle of Man - DECLARATION

In 1990 the government of the island introduces a proposal to make it illegal for schools to "promote homosexuality".

[GT 1990, April, p. 5; GK, 2 June 1990, p. 31]

6.2 ACCOMMODATION

Germany (West) - COURT CASE

A landlord is not allowed to terminate a tenancy agreement on the ground that a partner of the same sex has moved in to live with the tenant. This has been decided in decisions of the following courts: Bundesgerichtshof (VIII ARZ 2/1984), Oberlandesgericht Hamm (17 August 1982), Amtsgericht Hamburg (NJW 1982, 2260).

[SchwIPs 1982, p. 196;

Bundestag Drucksache 11/7197, 9 July 1990, p.9]

Germany (West) - WRITTEN LAW

Germany (West) - BUSINESS

Germany (West) - DECLARATION

Public housing in general is only available to families and married couples on a low income (according to the Second Housing Law, "Zweite Wohnungsbau-gesetz"). This means that unmarried heterosexuals and lesbians and gay men (whether they live alone, in couples or with children) are dependent on the private housing market. It is the strong impression of the Green Party, that landlords use this situation to charge higher rents ("Diskriminierungs-zuschlag"), and that - especially for openly living gays and lesbians - it therefore is extra difficult to rent affordable accommodation in that market. On 14 June 1989 a legislative proposal from the Green Party (11/1955), to make public housing also available to other households than families and married couples, fails to get a majority in the Housing Committee of parliament.

[Bundestag Drucksache 11/1955, 7 March 1988, p. 4; 11/7197, 9 July 1990, p.9; Bericht 1989, p. 12-16]

Germany (West) - SOCIETY

In a survey among gay men from all over the Federal Republic (held in 1989 by the monthly magazine "Wiener"), 62% say they are having a steady relationship. Of those in a steady relationship, 42% are living together in the same house.

[GK, 26 August 1989, p. 13]

Germany (West) - SOCIETY

In a report of the Federal Department of Housing, it is estimated that around 50% of lesbian women and gay men are having a steady relationship, and that a third of these couples are living together in the same house.

The report says that the Department does not have reliable information about extra difficulties on the housing market for gay and lesbian couples.

[Bericht 1989, p. 5]

Germany (West) - COURT CASE

The Hamburg Gay Centre starts renting accommodation. Other tenants in the same building claim their flats are devalued by the presence of the gay group. They put in a claim for rent reduction. The court (Amtsgericht Hamburg, 26 September 1985, NJW 1986, 1.114) agrees that the value of their flats has gone down, because they are in danger of being seen as homosexuals themselves. The court orders the owner of the building to reduce the rent for all tenants who are not gay.

[GT 1986, March, p. 23; Bundestag Drucksache 11/7197, 9 July 1990, p.9]

Iceland - ORGANISATION

Iceland - BUSINESS

Sämtokin '78 (the national lesbian and gay organisation) is aware of a great number of people who have been thrown out of their living quarters on account of their homosexuality. This is not illegal. [Pink Book 1985, p. 62-63]

Finland - PEOPLE

In a survey among lesbian women and gay men, 1% of those questioned answer that after they came out to their parents, they have been thrown out of the house by them. [GPH, 6 October 1984, p. 6]

Belgium - PEOPLE

In 1986 the owners of a house refuse to rent their house to a gay couple. They explicitly tell the men that their homosexuality is the reason for their refusal. [GK 1986, March, p. 12; IGA-bulletin 1986, no. 2, p. 10]

Ireland - BUSINESS

In 1985 a hotel refuses to let a room to Rosemary Curb and Nancy Manahan, two lesbian ex-nuns, who are in Dublin to promote their book about sexual relationships between nuns. [Sek 1985/11, p. 7]

Italy - BUSINESS

After a regular booking for ten days in a hotel in Milan, the chairperson of the Italian transsexual movement is told - after three days - that her room had been booked previously by someone else. One of her friends calls the hotel for a reservation under a different name and is told that there are still vacant rooms. A complaint is filed with the local police.

[Babilonia 49, September 1987, p. 7]

United Kingdom - ADMINISTRATION

United Kingdom - BUSINESS

A survey conducted by the Gays and Housing Group over 1980 and 1981 shows that one person in five who called Gay Switchboard about housing, regard their homelessness or housing problem as related to their homosexuality.

[Crane 1982, p. 140]

Finland - BUSINESS

Following a sensational article about the threat of AIDS in a daily newspaper, the owner of the rooms where SETA (the national lesbian and gay organisation) holds its discos, terminates the rent contract. First he gives "fear for AIDS" as his reason for doing so. Later he says it is because of "change of activities". [Sek 1983, December, p. 31]

Norway - BUSINESS

In Trondheim, the gay and lesbian organisation DNF-48 hires a room in a hotel to hold a party. The hotel, however, does not allow DNF-48 to mention the name of the hotel in its advertising. [IGA-bulletin 1984, nr. 1, p. 19]

Norway - ORGANISATION

DNF-48 threatens to use the anti-discrimination law (article 349a of the Penal Code). The hotel retreats.

[IGA-bulletin 1984, nr. 1, p. 19]

Hungary - ADMINISTRATION

For unmarried people hardly any housing is made available. The waiting list for single people is ten years; for a family with two children it is only two years. [Sek 1983, September, p. 9]

France - BUSINESS

France - ORGANISATION

Lesbian and gay couples are frequently refused admission to nudist camping sites. [GK, 6 May 1989, p. 9]

6.3 RESTAURANTS AND ENTERTAINMENT

Belgium - BUSINESS

Two women have dinner in a restaurant. When the owner sees them sitting hand in hand, he angrily brings them their bill. [De Morgen, 12 August 1987]

United Kingdom - BUSINESS

United Kingdom - ADMINISTRATION

Two lesbians are sitting in a pub having a conversation about a lesbian club they have been to. The man sitting next to them says something to the barman. When the women go to the bar again, he refuses to serve them and threatens them with violence if they do not leave immediately. The women ask for an explanation. The men become violent towards the women. In the course of the fight some damage is caused to the pub decor. The police are called, who arrest both women. They are handcuffed and pushed around roughly in the police car. They are charged with "behaviour likely to cause a breach of the peace" and with "criminal damage". They are subjected to anti-lesbian abuse, and are told that if they do not make a statement they will be kept in the cells overnight, and that their employers will be told that they are lesbians.

[GALOP 1985, p. 12]

Iceland - BUSINESS

Homosexual are frequently thrown out of public restaurants and discos. In 1983 one disco advertises that everyone was welcome except gays. This is not illegal.

[Pink Book 1985, p. 62-63]

Iceland - BUSINESS

Iceland - ADMINISTRATION

In 1983 the State Prosecutor decides not to prosecute in case where two gay men had been refused admission to a disco. The reason for not prosecuting is, that the personnel at the disco "were aware that the two friends are members of Samtökin '78, the organisation for lesbians and gays in Iceland".

[Pink Book 1985, p. 63]

6.4 RELIGIOUS SERVICES

Italy - PEOPLE

In 1986, in Turin, a Catholic priest refuses to say a requiem mass for a gay man who had been murdered. The priest's reason for this refusal: the man had been "a sinner" all his life.

[GK June 1986, p. 9]

→ **Italy - PEOPLE**

An angry crowd of 200 mourners drag the priest to church, to force him to bless the dead man.

[GK June 1986, p. 9]

CHAPTER 7 HEALTH

health human rights

7.1 HOMOSEXUALITY AS A DISEASE

United Nations - DECLARATION WHO - ICD

—————> Council of Europe - DECLARATION

In Resolution 756 (adopted on 1 October 1981) the Parliamentary Assembly is "convinced that the theory whereby homosexuality, whether male or female, is a form of mental disturbance has no sound scientific or medical basis, and has been refuted by recent research". It notes "that the label of mental disturbance can constitute a severe handicap to homosexuals as regards their social, professional and, particularly, psychological development, and can be used in some countries as a pretext for repressive psychiatric practices". It therefore calls upon the World Health Organisation "to delete homosexuality from its International Classification of Diseases."

—————> European Community - DECLARATION

In its "Resolution on sexual discrimination at the workplace" (adopted on 13 March 1984, OJ No C 104, p. 46-48) the European Parliament considers that the classification of homosexuality as a mental illness "may have serious consequences on the life of homosexuals in society. It therefore "urges the Member States to reject the classification of homosexuality as a mental illness" and "calls on the Commission to take steps to induce the WHO to delete homosexuality from its International Classification of Diseases".

—————> Council of Europe - DECLARATION

In Recommendation 924 (adopted on 1 October 1981) the Parliamentary Assembly recommends that the Committee of Ministers of the Council of Europe should "call on the governments of the member states to ask for the cessation of all compulsory medical action or research designed to alter the sexual orientation of adults".

—————> France - ADMINISTRATION

In 1981 the Minister of Health forbids the use of the WHO's classification of homosexuality as a disease.

[Le Poing et la Rose 1989, October, p. 54]

Italy - WRITTEN LAW

In "par. 302" homosexuality is called a disease. ? ? [Sek March 1986, p. 23]

Denmark - ADMINISTRATION

All patients in psychiatric hospitals are registered with their illness in the Central Psychiatric Register. The code for homosexuality is 302.09.

[Pan 1980, nr. 1/2, p. 14]

—————> Denmark - ORGANISATION

Denmark - ADMINISTRATION

In May 1980 the national lesbian and gay organisation LBL sends a letter to the National Health Board protesting against the classification of homosexuality as a disease.

In December 1980 the Government Health Board issues a circular instructing all hospitals "that from 4 January 1981 there is no such diagnosis as homosexuality".

[Pan 1981, nr. 1, p. 3; IGA-memorandum 1981, January, p. 3]

7.2 HEALTH CARE

Denmark - BUSINESS

In 1986 the biggest insurance company in Denmark says that it will refuse insurance cover to anyone infected with HIV. All applicants will be asked if they are gay or sexually promiscuous, and then be obliged to take a blood test.

[GT 1987, January, p. 22]

Denmark - BUSINESS

Despite a non-discrimination policy of the Danish Dentists Association, several dentist insist that clients certify that they are not infected with HIV. A questionnaire among 135 HIV-infected out-patients at three hospitals reveals that 10% has been refused dental care. [AIDS Survey 1990, p. 6]

Italy - ADMINISTRATION

The local Public Health Office of Turin sends a letter to all hospital directors asking them to give notice of all serologically or bacteriologically positive medical reports "in order to get a picture of the current pathological situation in the Turin area". For every medical report they require full data about the patient (name, address and telephone). The search for antibodies of HIV is part of the serological tests. The local homosexual organisations denounce this as an attempt of registration of HIV-seropositives. [Babilonia 40, October 1986, p. 6]

Italy - ADMINISTRATION

In Livorno, in order to get blood tests for the search of Aids antibodies patients are required to state name, address and telephone number. A patient is reassured that, in order to ensure greater privacy to the patients, these data will be entered into a computer at the local Public Health office, thus making the data less accessible to non-professionals. Obviously another attempt of registration. [Babilonia 42, December 1986, p. 58]

7.3 MEASURES AGAINST COMMUNICABLE DISEASES

Greece - WRITTEN LAW

In Parliament adopts the "Law concerning the protection against venereal diseases and the settlement of relevant subjects". The "relevant subjects" are prostitution and homosexuality.? [IGA-bulletin 1981, January, p. 1; Sek 1981, January, p. 20; August, p. 15; Pink Book 1988, p. 232]

Norway - WRITTEN LAW

The government decides to change the law so as to make it possible to detain "anti-social and aggressive" people with AIDS. [GK 1987, January, p. 39]

Czechoslovakia - WRITTEN LAW

According to articles 189 and 190 of the Penal Code, it is an offence to intentionally or unintentionally spread a life-threatening disease. Under this law a twenty six year old HIV-positive gay men was sentenced to five years imprisonment in 1988, for having had sex without a condom. People with AIDS/HIV are obliged to follow certain instructions, such as informing their sexual partner(s). [AIDS Survey 1990, p. 5; GPH 1990 no. 407, p. 9]

7.4 BLOOD DONATION

Italy - ORGANISATION

Several hospitals in the Veneto region stop accepting gay blood donors, because of the growing fear of AIDS. [GK July 1984, p. 5]

Italy - ADMINISTRATION

In Padova homosexuals are forbidden to give blood. This prohibition appears in the questionnaires that must be turned in before blood donations. Following the protests of discrimination from FUORI! and Arci-Gay, the authorities state that the prohibition will remain in force because of "gay lifestyle". [Babilonia 32, January 1986, p. 37]

Italy - WRITTEN LAW

The Health Committee of the Senate approves a new law on blood donations. The principles governing blood donations rule out various groups of individuals; among them "homosexuals and their partners, both occasional and habitual". [Babilonia 74, January 1990, p. 7]

Austria - ORGANISATION

... Red Cross demands a declaration from blood donors that they are not gay
.... (HG)

7.5 CONDOMS

Ireland - WRITTEN LAW

Condoms can only lawfully be sold to people over 18 years by dispensing chemists and officially registered family planning clinics. Sales by other shops or by vending machines are illegal. The government has issued a directive stating that dispensing chemists are allowed to decide in each individual case to sell or not to sell a condom. [AIDS Survey, p. 11]

Belgium - WRITTEN LAW

Belgium - ADMINISTRATION

Parallel with the governments's campaign to promote safe sex, authorities haven been confiscating condoms, due to a failure to alter an existing law which bans their sale. [GT 1987, October]

—> **Belgium - ADMINISTRATION**

Since 1989 condoms are available in prisons. From 1990 only extra-strong condoms are sold in prisons, and no more ordinary condoms, so as to avoid discrimination against prisoners who choose the extra-strong ones. [AIDS survey, p. 3; GK, 3 March 1990, p. 11]

—> **Italy - WRITTEN LAW**

In 1987 the free sale of condoms is authorised. [AIDS Survey, p. 11]

—> **France - WRITTEN LAW**

The advertising of condoms is legalised. [AIDS Survey, p. 6]

Austria - ADMINISTRATION

The Austrian Broadcasting Corporation refuses to call the condom by its name. [AIDS Survey, p. 2]

—————> **United Nations - WRITTEN LAW**

Article 22 of ICCPR:

"(1) Everyone shall have the right to freedom of association with others (...).

(2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. (...)"

—————> **Council of Europe - WRITTEN LAW**

Article 11 of ECHR:

"(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others (...).

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, 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. (...)"

8.1 LESBIAN AND GAY ORGANISATIONS AND MEETINGS

Austria - WRITTEN LAW

Organisations which aim to promote homosexual indecency ("gleichgeschlechtliche Unzucht zu begünstigen") and which are also liable to cause public offence thereby, are illegal. Article 221 of the Penal Code threatens anyone founding or joining (or recruiting members for) such an organisation, with a penalty of up to six months imprisonment.

Austria - ADMINISTRATION

No case under article 221 has come before a court. In fact some gay/lesbian organisation are tolerated, and sometimes even officially recognised. However, on several occasions active members of these organisations were charged with breaching article 221. After police investigations these charges were dropped. [IGA-bulletin 1980, December, p. 3; Pink Book 1988, 225]

Austria - ADMINISTRATION

... the authorities forbid HOSI-Salzburg, but this ban is out of time, so the Ministry of Internal Affairs annul the decision (HG)

Austria - ADMINISTRATION

In 1989 the City of Vienna refuse the gay/lesbian youthgroup access to the publications of the youth department of the City (HG)

Austria - BUSINESS

In 1989 Austrian Airlines refuse to act as "official carrier" for the Annual Conference of the International Lesbian and Gay Association, although the normally act as such for every congress held in Austria (HG)

Liechtenstein - WRITTEN LAW

Since the abolition of the total prohibition of gay and lesbian sex in 1989, organisations which aim to promote homosexual indecency ("gleichgeschlechtliche Unzucht zu begünstigen") and which are also liable to cause public offence thereby, are illegal. Article 221 of the Penal Code threatens anyone founding or joining (or recruiting members for) such an organisation, with a penalty of up to six months imprisonment.

[ILGA-bulletin 1988, nr. 2, p. 9, 1989, nr. 1, p. 5]

—————> **Germany (East) - ORGANISATION**

Since the 1970's gay and lesbian groups are set up under the umbrella of the Evangelical church. These groups are also open to people from outside the church. Since 1985, at first in Berlin, the government encourages the setting of independent (not church-linked) gay and lesbian groups, by providing accommodation and other facilities. [Sek 1986, March, p. 22]

Germany (West) - COURT CASE

A gay association in Ingolstadt is refused to be included in the legal register of associations. The court gives the following reasons for its refusal: The aim of the association is "against public morals and therefore does not deserve the protection of the legal order"; homosexuality is a

"deviation from the sexual function", "condemned to infertility" and "against human nature" (Amtsgericht Ingolstadt, KJ 1981, 82).

[SchwIPs 1982, p. 174-175]

Germany (West) - ADMINISTRATION

In 1988 the Bavarian Minister of the Interior forbids the City of Nürnberg to subsidise gay and lesbian organisations, because the majority of the population would reject their aims as scandalous. [GK 1988, July, p. 9]

Germany (West) - ADMINISTRATION

In 1981 tax authorities in München and Berlin refuse charitable status ("Gemeinnützigkeit", which is necessary for tax relief) to two homosexual organisations, on the grounds that their aims go against the moral opinions of the majority of the population. [SchwIPs 1982, p. 167-168]

United Kingdom - PEOPLE

United Kingdom - ORGANISATION

In 1987 two lesbian organisations move to new premises. In the area around the premises there is a lot of opposition against the move. The local tenants association organises a petition against them. A fire-bomb is dropped through the window of the Lesbian Centre. Local lesbians are afraid of being seen entering the Centre. [GT 1987, August, p. 17; LIS 1987, October, p. 5]

Great Britain - WRITTEN LAW

After the enactment of Section 28 of the Local Government Act 1988 (which makes it unlawful for local authorities to "promote homosexuality", see paragraph 9.1) several local authorities use this prohibition as a reason to refuse subsidies to gay and lesbian organisations.

[Thomas & Costigan 1990, p. 4 and 22]

France - PEOPLE

Lesbian and gay activists are touring Europe in a bus to protest against "Section 28". [De Waarheid, 18 October 1988]

France - ADMINISTRATION

When crossing the German-French border, they are stopped by French customs. Customs officers search the whole bus. They confiscate various gay and lesbian magazines, and information materials about "Section 28" and other anti-homosexual laws. A tape of press-conference is erased. The people on the bus are questioned about their sexual preferences. Personal documents are photocopied. [De Waarheid, 18 October 1988]

Isle of Man - DECLARATION

In 1990 the government of the island introduces a proposal to make it illegal for local authorities, public institutions and schools to "promote homosexuality". [GT 1990, April, p. 5; GK, 2 June 1990, p. 31]

France - ORGANISATION

For the 1982 European Easter Conference of the International Gay Association, rooms in the Centre for Young Christians in Strasbourg have been hired. However, a few days before the Conference, the Bishop of Strasbourg decides not to allow the rooms to be used by homosexuals. In a press-conference about his decision, the Bishop calls homosexuals insane. (see paragraph 9)

[Sek 1982, April, p. 10; GK 1982, May]

France - ADMINISTRATION

The conference organisers have great difficulty in finding alternative accommodation. The city of Strasbourg forbids all city institutions to make conference space available to the IGA. After intervention from the Minister of the Interior, the conference is finally accommodated in army tents.

[Sek 1982, April, p. 10; GK 1982, May]

France - WRITTEN LAW

The Law of 25 July 1985 inserts the words "sex", "family situation" and "moeurs" (which means morals/habits/lifestyle, which includes sexual orientation) in some anti-discrimination provisions of the Penal Code. The original proposal did not contain the word "moeurs"; this is added by way of amendment.

Paragraph 2 of article 416 now makes it a criminal offence to refuse a good or a service to an organisation (or to members of it) because of the sex, "moeurs", family situation, etc., of its members. The maximum penalty is one year imprisonment and a fine of 20000 francs. Paragraph 2 of article 187-2 and paragraph 2 of article 416-1 now make it a criminal offence to make the exercise of any economic activity more difficult for any corporate person because of the sex, "moeurs", family situation, etc., of its members. The maximum penalty is two years imprisonment and a fine of 40000 francs for public officials, one year and 20000 francs for others.

France - DECLARATION

In 1990 the government introduces a proposal to add the words "state of health" in paragraph 2 of article 416 (projet de loi no. 1182). Article 3 of this proposal contains an exception for the prevention and insurance of certain health risks.

—————> **France - WRITTEN LAW**

The Law of 25 July 1985 also adds a provision to the Code of Criminal Procedure (article 2-6). This makes it possible for organisations whose official aim it is to combat discrimination based on sex or "moeurs" (which means morals/habits/lifestyle, which includes sexual orientation), to play a role (as "civil party") in enforcing the various anti-discrimination provisions.

—————> **France - DECLARATION**

In 1990 the government introduces a proposal to add an article 2-8 to the Code of Criminal Procedure, which would give a similar role to organisations whose official aim it is to defend or help sick or handicapped persons (article 4 of projet de loi no. 1182).

—————> **Belgium - DECLARATION**

On 23 May 1985 a socialist member of parliament introduces a proposal for an anti-discrimination law (no. 1219/1, reintroduced 29 March 1988, no. 339/1). Article 1 of this law would make it a criminal offence "to distinguish, directly or indirectly, on the ground of sex, sexual and relational behaviour or preference, civil status, or family situation". Article 4 would establish a "Council for the fight against discrimination" with investigative, mediating and advisory tasks.

On 21 February 1989 another member of parliament proposes an amendment (no. 339/2), which would give organisations whose official aim it is to combat discrimination based on any of the listed grounds, the right to play a role (as "civil party") in enforcing the various anti-discrimination provisions.

—————> **Spain - ADMINISTRATION**

In 1980 FAGC (the Gay Liberation Front of Catalonia) is the first homosexual organisation in Spain to be officially recognised by the Government. So it loses the status of "illegal organisation".

In 1983 AGAMA (Asociación Gai de Madrid) is the first homosexual organisation officially recognised in the District of Madrid.

[Sek 1980, October, p. 19; Madrid Gay 1983, September, p. 1]

—————> **Spain - ADMINISTRATION**

The Department of Social Affairs considers it as the main task of its new office for Homosexual Affairs to establish contacts with, and strengthen the lesbian and gay movement. There are also many contacts between lesbian organisations and the office for Women's Affairs in the Department of Culture.

[Sek 1984, November, p. 9]

—————> **Denmark - ADMINISTRATION**

By an amendment to the 1988 State Budget the national gay and lesbian organisation LBL is granted a general subsidy of 1.5 million crowns, for social, cultural and informative work. In 1989 a subsidy of 7.1 million crowns is granted for work on AIDS issues, but no general subsidy is granted.

[ILGA-bulletin 1988, nr. 1, p. 19; Lesbia 1989, October, p. 16]

—————> **Italy - ORGANISATION**

In 1985 many different homosexual groups decide to merge into "ARCI-Gay" (founded in 1979), which so becomes the main national political and cultural lesbian and gay organisation, with 25 branches all over the country.

[GT July 1988, p. 46]

Italy - ADMINISTRATION

In 1982 the communist Mayor of Bologna postpones the opening of the country's first Lesbian and Gay Centre, because of religious sensibilities of people living near the building of the Centre.

[GK August 1982, p. 16]

—————> **Italy - ADMINISTRATION**

In 1986 the communist Mayor of Bologna agrees to make it possible for the local group "Circolo Culturale 28 Giugno" to open a Lesbian and Gay Centre in the city.

[Sek June 1985, p. 14]

—————> **Greece - ADMINISTRATION**

In 1982 the Minister of Culture subsidises a conference on "sexualities" organised by Amphi, a gay and lesbian magazine.

[GPH 1984, nr. 146, p. 7]

—————> **Greece - ADMINISTRATION**

The Minister of Youth officially recognises AKOE, the Greek gay movement.

[GPH 1984, nr. 146, p. 7]

Spain - ADMINISTRATION

In 1983, the Commission of Culture of town council of Chamberí prohibits a meeting about "Homosexuality, another alternative". The decision (which was taken at the last minute) is probably due to an intervention from the president of the Provincial Council for the Protection of Minors, who has read a very negative newspaper report about the planned meeting.

[Madrid Gay 1983, December, p. 12-13]

Ireland - ADMINISTRATION

The Youth Service of the City of Dublin decides not to register the Youth Group of the National Gay Federation, despite the fact that the group fulfils all the conditions for registration, and that since 1981 the Youth Service had not only registered the group, but even once given a small grant. It appears that the strongest objections are based on the view that teenagers could not be sure about their sexual orientation.

[IGA-bulletin 1986, nr. 2, p. 15; Equality Now 1990, p. 48]

Germany (FRG) - ADMINISTRATION

.... the gay youthgroup of Heidelberg is refused to join the "Stadtjugendring" in 1988; they succeed after a long fight (HG)

Finland - PEOPLE

The window of the office of SETA (the national lesbian and gay organisation) is smashed a few times.

[ILGA-bulletin 1986, nr. 4, p. 16]

—————> Luxemburg - ORGANISATION

In 1985 the Initiativgruppe Homosexualität Letzebuerg is founded. This is the second gay and lesbian organisation to be started in Luxemburg. The first group was active from 1979 to 1982.

[Sek 1986, p. 22]

Hungary - ADMINISTRATION

In 1985 some people start a "gay" contact-agency in Budapest. The agency advertises in several newspapers. Most responses are of people looking for a partner of the opposite sex. After a while, on the basis of police powers to stop developments contrary to the "values and norms of social order and public decency", the agency is forbidden to use the word "gay" in its adverts. Nevertheless an increasing number of homosexuals respond to the advert. This leads to a second police investigation. The police order the agency to stop its activities.

[Sek 1986, January, p. 31]

—————> Hungary - ORGANISATION

In November 1987, in Budapest, the first informal conference is held by lesbians and gays from Eastern Europe. [GPH 1987 no. 305, p. 17]

—————> Hungary - DECLARATION

In 1987 a spokesman of the Ministry for Social Affairs and Health announces on television that homosexuals will be allowed to form their own organisations.

[GPH 1987 no. 304, p. 9]

—————> Hungary - ORGANISATION

Hungary - ADMINISTRATION

Hungary - MEDIA

In May 1988 the first Hungarian organisation of gays and lesbians ("Homeros-Lambda") is founded, with official approval of and recognition by the authorities. The news media generally responded very positively. It starts with 100 members, and by 1989 that number has risen to over 800. It runs its own social club, and organises other social events. Politically it is primarily active on AIDS issues (information, support, non-compulsory anonymous HIV-testing, etc.). The national health authorities collaborate with it in the field of AIDS policy.

[GK, 6 May 1989, p. 21;

GPH 1989 no. 378, p. 8; AIDS Survey 1990, p. 5]

Hungary - ADMINISTRATION

In March 1989 police officers carry out a raid on the club of Homeros-Lambda. A member of staff is knocked down, and two visitors are arrested.

[ILGA-bulletin 1989, nr. 2, p. 1]

—————> Hungary - ADMINISTRATION

Later the Budapest police headquarters apologise to Homeros-Lambda, blaming the incident on subordinate policemen acting without authorisation for a raid on the club.

[ILGA-bulletin 1989, nr. 3, p. 1]

Hungary - PEOPLE

Hungary - ADMINISTRATION

Hungary - BUSINESS

In 1989 people using the same building as Homeros-Lambda harass the visitors of the club, shouting obscene language at them. In October a petition circulates demanding the closure of the club. Police refuse to act against the harassment. Taxi businesses announce that they will no longer serve visitors of the club. [GK, 20 January 1990, p. 9]

—————> **Hungary - ORGANISATION**

In April 1989 Homeros-Lambda is the host in Budapest of the first official conference of gay and lesbian organisations in Eastern Europe. [GK, 6 May 1989, p. 21]

—————> **Czechoslovakia - ORGANISATION**

In 1988, after having existed unofficially since 1981, "Lambda Praha" is publicly launched as a gay and lesbian rights organisation. In 1990 a more radical organisation is founded ("HRHO"?) Neither of these organisations is officially recognised by the authorities, but both have established some contact with government officials. [GPH 1990 no. 407, p. 8-10; Sek 1990, June, p. 8-9; Tatchell 1990, p. 14]

—————> **Czechoslovakia - ADMINISTRATION**

In 1990 a representative from the gay community was appointed to the National AIDS Committee. [AIDS Survey 1990, p. 5]

Finland - ADMINISTRATION

In 1985 a National AIDS Commission was formed. The national gay and lesbian association "SETA" applied for a seat in this Commission, but this was rejected. [AIDS Survey, p. 5]

Italy - ADMINISTRATION

In 1987 a National AIDS Commission is set up. Associations of homosexuals claimed a seat in the Commission, but this was rejected. [AIDS Survey, p. 11]

8.2 BARS AND DISCOS

Spain - ADMINISTRATION

Police in Barcelona regularly check in gay and lesbian bars, whether unlicensed dancing is taking place. The authorities close one bar, and make it impossible to use the dancefloors of several others. [GK 1981, August, p. 13; Sek 1982, January, p. 9]

Spain - ADMINISTRATION

In 1984, the Mayor of Palma de Mallorca decides to close three gay bars, because their activities would be "dangerous for the youth" and "threatening the morals of society". [Mundo Gay 1985, January, p. 4]

—————> **Spain - ORGANISATION**

A few days later, members of FAGI (Gay Liberation Front of the Islands) hold a protest demonstration in front of the town hall. Solidarity activities are organised in Barcelona and Bilbao. [Mundo Gay 1985, January, p. 4]

Spain - ADMINISTRATION

In May 1989 police carry out raids on a gay disco and bar in Playa des Ingles (Gran Canaria). More than 100 foreign tourists are taken to the police station, and kept there overnight in unhygienic circumstances. They are made to sign papers in Spanish without translation. [CADH 24 May 1989; GK 23 September 1989, p. 9]

—————> **Spain - ADMINISTRATION**

After many (diplomatic and other) complaints the Governor of the Canary Islands orders a full enquiry, and meets with a delegation of Consuls from the home countries of the tourists. The police chief responsible for the raids has to resign. [ILGA-bulletin 1989, nr. 4, p. 18; GK 23 September 1989, p. 9]

Spain - BUSINESS

In 1984, many discos in Barcelona only admit men who are invited or accompanied by a woman. [Madrid Gay 1984, May, p. 24 (clipping from El País)]

—————> **France - ADMINISTRATION**

In 1981, in Paris, local measures against homosexual establishments are lifted. [Le Poing et la Rose 1989, October, p. 54]

France - ADMINISTRATION

In 1984, police order the closing down of several gay bar-discos in Paris. [GK 1985, January, p. 37]

France - ADMINISTRATION

On 13 January 1984 police in Paris invade many gay bars, checking the identity of more than 600 people. Police claim they are doing this to investigate the murder of several gay men.

[GPH 1984, nr. 103; GK 1984, April, p. 25; Sek 1985, May, p. 12]

→ France - ADMINISTRATION

After many complaints from the gay and lesbian movement, the Minister of the Interior decides to receive representatives from various homosexual organisations. In the meeting he is very critical of the police action, and he promises to appoint an official in his ministry to deal with problems between homosexuals and the police. The woman who is then appointed to the post, soon nick-named "Madame Homo" by the gay movement, sees it as her main task to ensure that the police respect the law in dealing with homosexuals. In March the Minister reissues a circular of 1981 to the commissioners of police in which he gives instructions to end discriminatory measures against places where homosexuals meet.

[GPH, 14 April 1984, p. 5-6]

France - ADMINISTRATION

In 1985 police in Paris require lights to be put on in "backrooms" in gay bars.

[GPH 1985, nr. 158; Sek 1985, May, p. 12]

France - ADMINISTRATION

In May 1985 police in Paris invade many gay bars, checking everyone's identity. Police claim the action forms part of a drive to combat youth prostitution.

[GPH 1985, nr. 170; GK 1985, July, p. 22; Sek, 1985, September, p. 9]

→ France - ORGANISATION

France - ADMINISTRATION

To discuss the various police actions against homosexual meeting places, representatives from gay organisations are received by the Paris police. In the discussion the police recognise the civil liberties of homosexuals. Contacts between gay organisations and police will be intensified.

[GK 1985, August, p. 7]

France - ADMINISTRATION

People leaving gay bars and discos are questioned by officers of a special police brigade.

[GK 1988, March, p. 34]

France - ADMINISTRATION

At Easter 1990 police carry out a raid on a disco in Strasbourg, checking everyone's identity.

[GPH, 3 May 1990, p. 16]

Belgium - ADMINISTRATION

In 1989 sixty policemen carry out a raid on the gay disco "Chateau Le Délire". Several hundreds of visitors are searched on their body, and ordered to stand with their hands against the wall. After several hours the visitors get permission to leave. Later the Minister of Justice defends the raid by saying that there were strong suspicions of the dealing and use of drugs.

[GK, 9 September 1989, p. 5; 16 June 1990, p. 7; GPH 1989, no. 386, p. 10]

Greece - ADMINISTRATION

Police regularly inspect a popular gay disco in Athens, checking identities, sometimes making arrests. On one occasion they phone the parents of a 19 year old man to check his identity.

[GPH 1984, nr. 146, p. 7]

Italy - ORGANISATION

The lesbian bar Zanzibar in Rome is the object of threats by a group called Avanguardia Nazionale. On 29 January 1982 graffiti appears both on the wall of the bar and on the ground. The following day, the lock is plastered. The managers also receive telephone threats.

[Bollettino del CLI 2, February 1982, p. 3]

United Kingdom - ADMINISTRATION

Many police raids on gay pubs and clubs have been reported. In most of these incidents the official reason for the raid relates to possible breaches of a licensing laws. However, sometimes a great number of policemen take part in these raids. Not only the managers of pub or club are questioned, but also their customers. Sometimes police even take photographs of the customer, or they threaten them with charges of helping the club owner to break the licensing laws. In 1987 several raids are reported in which the police wear rubber gloves. [Crane 1982, p. 31-33; HIM 1984, July; GALOP 1986-1987, p. 15; GK 1987, April; GT, November 1987, and November 1990, p. 7]

Austria - ORGANISATION

Neo-nazi groups make known that they are planning attacks on meeting places of gays and lesbians, to mark the 50th "anniversary" of the Nazi pogroms against the Jews, the "Reichskristallnacht". [ILGA-bulletin 1989, nr. 1, p. 4]

—> **Austria - ADMINISTRATION**

Austria - ORGANISATION

Police visit most of Vienna's gay bars and also the Centre of HOSI (the gay/lesbian organisation) to warn people of the neo-nazi plans. HOSI Wien issue a press release to protest against the anti-gay and anti-lesbian climate which is officially supported by the legal and social discrimination of homosexuals.

[ILGA-bulletin 1989, nr. 1, p.4]

—> **Hungary - ADMINISTRATION**

A few more or less gay bars are tolerated by the state.

[ILGA-EEIP 1982, p. 7; Pink Book 1985, p. 147]

—> **Czechoslovakia - ADMINISTRATION**

Gay bars are tolerated by the state.

[ILGA-EEIP 1982, p. 6; Pink Book 1988, p. 228]

Germany (East) - PEOPLE

In 1990 (on 20 April, Hitler's birthday) after riots following a football match, a group of 300 right-wing extremists, smash everything up in a gay bar in Berlin. Several people suffer severe head injury. Police make thirty arrests.

[GT 1990, June, p. 18; Elsevier, 22 September 1990, p. 52]

8.3 SAUNAS

Belgium - ADMINISTRATION

In 1984, police raid and close down the gay saunas "Macho 1" in Antwerp and "Macho 2" in Brussels. The owner, Rudi Haenen, and his partner, Michel Vincineau (professor of international law, and an active gay rights campaigner), are arrested and kept in jail for two months. They are accused of "exploitation of a house of debauchery" (paragraph 2 of article 380bis of the Penal Code). The public prosecutor claims that the term "debauchery" means "indelicacy", and that "indelicacy" covers gay sex.

[IGA-bulletin 1985, nr. 1, p. 16; De Wit 1987, p. 243-246]

—> **Belgium - COURT CASE**

The Criminal Court of Brussels disagrees with the prosecution. It considers that the term "debauchery" should be read as meaning "prostitution", as was intended by parliament. It also observes that gay sex between consenting adults can no longer be considered as "criminal indecency". On 29 May 1985 it acquits Haenen and Vincineau.

[De Wit 1987, p. 246-249]

Belgium - COURT CASE <—

The public prosecutor appeals against the acquittal. The Brussels Court of Appeal agrees with the prosecution that the term "debauchery" does not only mean "prostitution", but also covers homosexuality. It considers that: "although homosexuality is not a crime in itself, it is a derangement of sexuality because it denies the ultimate purpose of the two genders. If this purpose is abandoned and homosexuality is generalised, this can lead to the dying out of the human race. This notion leads to the assumption that the legislature has wanted to stop the promotion of homosexuality." On this basis the Court of Appeal, on 11 December 1985, sentences Haenen to six months imprisonment (suspended) and a fine of 30000 francs, and Vincineau to twelve months imprisonment (suspended) and a fine of 60000 francs.

[De Wit 1987, p. 249-253]

—> **Belgium - COURT CASE**

Haenen and Vincineau appeal to the Supreme Court. On 7 May 1986 the Supreme Court quashes the decision of the Court of Appeal, because that Court had failed to give sufficient reasons on two minor points. The Supreme Court then refers the case to the Liège Court of Appeal. This Court acquits the two men on 23 April 1987. The Court observes that in defining "debauchery" one should not discriminate against homosexuality. It therefore accepts that gay sex as such does not amount to "debauchery", even if it takes place in a sauna. However, the Court adopts a wide definition of "debauchery", which covers not only prostitution, but also sexual relations with minors, perversions and promiscuity. In the absence of evidence of the first three, the case turns on the question whether "promiscuity" (defined as "absolute indifference in partner-choice or systematic changing of partner") has been proven. In this case, the Court concludes,

there is only proof of sex taking place in a closed relaxation cabins, between not more than two adults.

[Journal des Procès no. 106, 1 May 1987; De Wit 1987, p. 253-257]

France - ADMINISTRATION

In Nice, police raid a gay sauna and charge the owner with public indecency. The sauna (together with another gay sauna and a gay bar) is closed down by the police. [GPH 1986, nrs. 186, 208, 215 and 216; GK 1986, November, p. 30]

United Kingdom - ADMINISTRATION

Some small saunas where gay men can have sex exist. Because this amounts to the criminal offence of "keeping a disorderly house", these saunas are often watched by the police and periodically raided and closed. [Crane 1982, p. 35]

United Kingdom - COURT CASE

Two men in Wales are running a sauna for gay men. In 1983 police raid the sauna. The owners are prosecuted on the charge that they allowed gay sex to take place in the sauna. After admitting to "keeping a brothel" and to possessing "obscene videos", they are each sentenced to paying a fine of 480 pounds. Because of this sentence they are later refused a license for running a restaurant they had bought.

[GT 1983, November, p. 13; HIM 1983, December p. 12]

Sweden - WRITTEN LAW

1987 law

8.4 CRUISING

England and Wales - WRITTEN LAW

It is criminal offence "for a man persistently to solicit or importune in a public place for immoral purposes" (section 32 of the Sexual Offences Act 1956). The maximum penalty is two years imprisonment. The term "persistently" is interpreted as meaning: more than once. To "solicit or importune" covers any words or gestures used in cruising and chatting-up. The term "public place" not only covers streets and parks, but also pubs, discos and public toilets. Courts have interpreted the term "immoral purposes" as covering any sex between men, even if the sex would be lawful because it would take place in private between two consenting men over the age of 21. However, some juries have taken the view that picking up another man for sex is not "immoral".

[Crane 1982, p. 15-17; Hurwitt and Thornton 1989, p. 217-218]

England and Wales - COURT CASE

From 1985 to 1989 each year more than 450 men are convicted for "soliciting or importuning". In 1989 six of them are sent to prison.

[GT 1991, February, p. 16-17]

England and Wales - ADMINISTRATION

Repeatedly police act as "agent provocateur" by standing around gay bars or public toilets, often dressed attractively, making it obvious that they are looking for sexual contacts. When they are approached by a gay man, they will charge him with "importuning". This practice is against government regulations. However, in court it will be no defence for the accused that the charge is the result of police acting as "agent provocateur".

[Hurwitt and Thornton 1989, p. 220]

England and Wales - ADMINISTRATION

Mr. D. leaves a gay bar at closing time. Outside a young man wearing a tight T-shirt and tight jeans with a rip across one buttock smiles at him. They begin a conversation. The young man asks D. whether he wants to have sex. D. suggests they go back to his place. The young man says that is too far, and suggests going to his place, just around the corner. After walking up the road, the young man and a third man identify themselves as police officers, and arrest D. At the police station, they charge him with "persistently importuning for an immoral purpose". They put pressure on him to plead "guilty", pointing out that it would be unfortunate if his employers, parents or neighbours were to discover that he is gay. They tell him that he would not receive any bad publicity if he pleaded "guilty". [GALOP 1984, p. 7]

England and Wales - COURT CASE

Mr. D. resists the pressure. Seven months later he is brought before the Crown Court. The jury reaches a verdict of "not guilty".

[GALOP 1984, p. 7]

Northern Ireland - WRITTEN LAW

Homosexual "soliciting" or "importuning" (see above) is prohibited by section 1 of the Vagrancy Act 1898. [Crane 1982, p. 17]

Scotland - WRITTEN LAW

As any homosexual conduct in public, cruising can be interpreted by the courts as the common law offence of "shameless indecency". [Crane 1982, p. 17]

Greece - ADMINISTRATION

Police regularly check identities and make arrests in parks and other outside cruising areas. Arrested people are held for about eight hours in the police station, where they are interrogated and registered.

[Sok 1982, October, p. 20; GPH 1984, nr. 146, p. 7]

Greece - ADMINISTRATION

A gay man is arrested during a police check in a park. Police threaten him with physical and psychological abuse. [IGA-bulletin 1984, nr. 1, p. 20]

→ **Greece - COURT CASE**

The man files a complaint about this and especially about a policeman who tried to rape him. In a tumultuous trial the judge decides that he should not have been arrested in the first place.

[Sok 1982, October, p. 20]

Greece - ADMINISTRATION

In a cruising area, two Danish gay men are beaten up by two men. One of the Danes gets his arm broken. After this the attackers identify themselves as police, and take the men to the police station. [Sok 1981, August, p. 15]

France - ADMINISTRATION

Paris Police form a special brigade "for safety in the parks". According to many reports, one of the main activities of this brigade is to beat up gay men who are cruising in the parks. [Sok 1981, December, p. 13; 1982, March, p. 10]

France - ADMINISTRATION

In 1983, a police-force of around twenty officers invade a public toilet along the autoroute near Montpellier, using teargas, and confiscating the identity papers of around twenty gay men. [GPH, 29 October 1983, p. 6]

France - ADMINISTRATION

In May 1985 police in Paris organise an identity check on all men in most outside cruising areas. One man, mistaking the - plain-cloths - policemen for queer-bashers, runs away, and is beaten up by the police. Police claims the action forms part of a drive to combat youth prostitution.

[Sok, 1985, September, p. 9]

France - ADMINISTRATION

Two men cruising each other in a métro station are arrested by métro officials, handed over to the police, and charged with public indecency.

[GK 1986, March, p. 24]

France - PEOPLE

On leaving a public toilet a man is approached by a man presenting himself as a "police officer", who threatens to report him for having committed gay offences, unless he pays him an immediate "fine" of 1880 francs. The man pays this sum to the "officer". [GPH, 14 July 1984, p. 6]

France - ADMINISTRATION

In Paris police regularly check the public toilets of the Gare de l'Est, where they observe, annoy and insult the gay men who are cruising there.

[GPH 1989, nr. 368, p. 8-9]

Spain - PEOPLE

In 1981, a married man, cruising in a square in Barcelona, gets in contact with two youngsters. They intimidate him, and blackmail him with threatening to tell his wife about his homosexuality. They demand 25000 pesetas.

[Lambda 1981, January, p. 7]

→ **Spain - ADMINISTRATION**

The man reports the incident to the police. The police accompany him when he is "delivering" the money to the youngsters. They are arrested.

[Lambda 1981, January, p. 7]

—————> **United Nations - WRITTEN LAW**

Article 19 of ICCPR:

"(...)

(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

(3) The exercise of the right (...) may (...) be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) for respect of the rights or reputations of others;

(b) for the protection of national security or of public order, or of public health or morals."

—————> **Council of Europe - WRITTEN LAW**

Article 10 of ECHR:

"(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. (...)

(2) The exercise of these freedoms (...) may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

9.1 INFORMATION IN GENERAL

Finland - WRITTEN LAW

The "public encouragement of fornication between two persons of the same sex" is forbidden by article 20:9:2 of the Penal Code, with a maximum penalty of six months imprisonment. [GPH, 6 October 1984, p. 6; SETA 1988, nr. 2]

Finland - ADMINISTRATION

In the 1970s the Finnish Broadcasting Company interpreted article 20:9:2 as a prohibition of all positive reporting about homosexuality. Now the interpretation is not that strict. [Pink Book 1985, p. 140]

United Nations - COURT CASE

In 1979 a complaint about censorship by Finnish radio and television was brought before the UN Human Rights Committee. The Committee decides that it is not necessary to examine the texts of the censored programmes to determine whether the censorship was (in the words of article 19(3) ICCPR) "necessary (...) for the protection of (...) public health or morals". Since standards of public morality vary considerably from one country to another, the Committee reasons that "a certain degree of discretion must be accorded to the responsible national authorities" and that it "cannot question the decision of the responsible organs of the Finnish Broadcasting Corporation that radio and television are not the appropriate forums to discuss issues related to homosexuality, as far as a programme could be judged as encouraging homosexual behaviour". [IGA-bulletin 1983, January, p. 9]

—————> **International Commission of Jurists - ORGANISATION**

The decision of the UN Committee is criticised by the International Commission of Jurists in its official organ ("The Review", nr. 28, June 1982, p. 44-46). [IGA-bulletin 1983, January, p. 9]

Finland - ADMINISTRATION

During the 1981 Gay Pride March in Helsinki a placard with the text "We encourage homosexuality" is confiscated by the police. [IGA-bulletin 1981, June, p. 5]

Finland - DECLARATION

A legislative proposal to abolish article 20:9:2 has been prepared by the government, but is not introduced. According to the Minister of Justice, answering questions in Parliament in 1988, the proposal would be unlikely to be accepted by Parliament. In an interview he added: "As the failure of this sort of bill would cause greater damage to the issue than a delay of some

time, I have not planned to propose the matter, at least not in the near future." [SETA 1988, nr. 2]
(... most parties have told SETA they will agree with abolition of art. 20:9:2 and of the higher age of consent ...)

Austria - WRITTEN LAW

It is illegal to incite publicly to homosexual indecency or to indecency with animals. It is also illegal to approve of these acts in a manner that is liable to encourage such acts. The maximum penalty is six months imprisonment (article 220 of the Penal Code).

Although article 220 forbids the production and distribution of any material which presents homosexuality in a positive way, there have been no court cases involving this law. [ILGA-bulletin 1988, nr. 4, p. 20]

Austria - ADMINISTRATION

Outside Vienne article 220 has been used to prohibit the import, sale or showing of non-pornographic gay magazines, books (including "Sumpffieber - Medizin für schwule Männer") and films (including "Taxi zum Klo").

[GK 1981, October, p. 11; Sek 1985, November, p. 9; Pink Book 1988, p. 132]

Austria - COURT CASE

In January 1988, the Youth Group of the lesbian/gay organisation HOSI Wien writes to student representatives in secondary schools in eastern Austria. The purpose of the letter is to introduce the Youth Group and to offer help to gay and lesbian students.

The police respond by summoning and interrogating the president of HOSI Wien and the representative of the Youth Group. They are charged with breaching article 220. On 18 September 1990 the court finds against HOSI.

[ILGA-bulletin 1988, nr. 4, p. 20; GT 1990, November, p. 18]

Austria - COURT CASE

GEWISTA-decision (copy, HG)

Netherlands - ORGANISATION

Austria - ORGANISATION

In December 1988, in a demonstration to protest against article 220 and other Austrian anti-homosexual laws, delegates the ILGA-conference taking place in Amsterdam handcuff themselves to the Holland-Vienna Express Train while it is ready to leave Amsterdam Central Station.

[CG, 13 January 1989, p. 10]

Liechtenstein - WRITTEN LAW

Since the abolition of the total prohibition of gay and lesbian sex in 1989, it is illegal to incite publicly to homosexual indecency or to indecency with animals. It is also illegal to approve of these acts in a manner that is liable to encourage such acts. The maximum penalty is six months imprisonment (article 220 of the Penal Code).

[ILGA-bulletin 1988, nr. 2, p. 9, 1989, nr. 1, p. 5]

Great Britain - DECLARATION

In 1986 a legislative proposal to prevent local authorities from "promoting homosexuality" is introduced and adopted in the House of Lords. It fails to be adopted in the House of Commons as well.

[Jeffery-Poulter 1991, p. 284]

Great Britain - DECLARATION

In 1987 the Prime Minister attacks the policies of some local authorities to provide "positive images" of homosexuality. She claims that children "are being taught that they have an inalienable right to be gay".

[Jeffery-Poulter 1991, p. 284]

Great Britain - DECLARATION

In 1987 a new legislative proposal to stop local authorities from "promoting homosexuality" is introduced in parliament.

[Jeffery-Poulter 1991, p. 284]

Great Britain - PEOPLE

Great Britain - ORGANISATION

The proposal leads to protests from many organisations and individuals, also from outside Britain. In January 1988 in London, ten thousand people take part in a march protesting against it. In February a similar march in Manchester attracts an even greater number of people.

[Jeffery-Poulter 1991, p. 284-285]

Great Britain - WRITTEN LAW

In spite of the protests the proposal is adopted, and comes into force on 24 May 1988, as Section 28 of the Local Government Act 1988 (which inserts a new article 2A into the Local Government Act 1986).

"Section 28" provides that local authorities shall not "intentionally promote homosexuality or publish material with the intention of promoting homosexuality" and that they shall not "promote the teaching in any maintained

school of the acceptability of homosexuality as a pretended family relationship". There is much discussion about the actual meaning of the two prohibitions. Several commentators suggest that their legal effect is probably rather limited. (See also paragraphs 5.2, 8.1, 9.4 and 9.5.)

[Colvin 1989, p. 14; Thomas & Costigan 1990, p. 18]

—> **Great Britain - ADMINISTRATION**

Several local authorities use "Section 28" as a reason or excuse to refuse subsidies or services to gay and lesbian organisations.

[Thomas & Costigan 1990, p. 4 and 22]

—> **United Kingdom - PEOPLE**

In 1990 a survey among members of parliament (held for the "Guardian" newspaper and the television series "Out On Tuesday") shows that 35% of them would (and 58% would not) support the repeal of "Section 28".

[GT 1990, April, p. 8]

Isle of Man - DECLARATION

In 1990 the government of the island introduces a proposal to make it illegal for local authorities, public institutions and schools to "promote homosexuality".

[GT 1990, April, p. 5; GK, 2 June 1990, p. 31]

—> **Hungary - MEDIA**

Several positive books, films and press features about homosexuality have been produced over the last years. In 1982 a film about a lesbian couple in Hungary in the 1950s is produced: *Egy másik úton* (Another Way) by Károly Makk.

[Tatchell 1990, p. 20; Pink Book 1988, p. 233]

—> **Czechoslovakia - MEDIA**

Since the mid-1980s discussions about lesbian and gay issues have been featured on television and in a daily newspaper for youth.

[Tatchell 1990, p. 14]

Bulgaria - SOCIETY

Bulgaria - ADMINISTRATION

Homosexuality is taboo. It is hardly ever mentioned.

In 1987 the existence of homosexuality is for the first time admitted publicly by the Deputy Minister for Health (in a newspaper interview about the spread of HIV). Homosexuality is also mentioned in a television programme on AIDS.

[Pink Book 1988, p. 228; GT 1990, August]

Italy - COURT CASE

The Court of Cassation forbids the sale of "obscene material" because it goes "against the common sense of decency".

[Babilonia 33, February 1986, p. 37]

Italy - COURT CASE

Italy - ADMINISTRATION

In a decision based on articles 528 and 529 of the Penal Code the Constitutional Court rules that the distributing and hiring of video materials that "offend the common sense of decency" is a crime. Moreover, police in Treviso require video rental shops to keep registers. This enables the police to check which people watch what sort of videos.

[Babilonia 67, May 1989, p. 10]

United Kingdom - ADMINISTRATION

In 1990 a woman in London orders three erotic lesbian videos from the United States. When they arrive in Britain they are seized by customs officials. The woman is sent a notice of seizure which says that the "goods are indecent or obscene articles which were imported contrary to (...) Section 42 of the Customs Consolidation Act 1876".

[GT 1990, December, p. 5]

—> **United Kingdom - ADMINISTRATION**

The woman lodges an appeal against the seizure. This leads to civil proceedings being started by Customs officials against the woman..... They inform her that the videos contain "scenes of cunnilingus" and "masturbation" which are "considered obscene".

..... hearing 8 April 1991 at Thames Magistrates' Court

[GT 1990, December, p. 5]

Norway - BUSINESS

A cinema-advertising agency refuses to accept a slide (for showing in cinemas) which advertises the activities of DNF-48 (national lesbian and gay organisation) in connection with the Gay Solidarity Day in June 1983. The slide pictures a gay couple embracing in public, with the caption "And so what?", and gives the dates of the gay events. The agency says it would accept the slide, if the words "And so what?" were deleted.

DNF-48 demands prosecution under article 349a of the Penal Code (see Chapter 6). The authorities refuse.

[IGA-bulletin 1984, nr. 1, p. 18-19]

Belgium - BUSINESS

In 1987, the youth group op gay organisation FWH wants to publicise its national festival through posters in the trams of Antwerp. However, the agency responsible for posters in the trams objected to the use of the words "homo", "lesbienne". The agency also refuses permission to print the full name of the "Federatie van Werkgroepen Homofilie" in big letters. The youth group therefore decided not to have posters in trams.

[De Antwerpse Morgen, 2 June 1987]

9.2 BOOKS AND PERIODICALS

United Kingdom - ADMINISTRATION

In April 1984 Custom officers raid the London bookshop "Gay's The Word", question the staff and seize more than 800 books (all imported from the USA). At the end of the year, nine directors and workers of the bookshop are charged with the criminal offence of conspiracy to import indecent and obscene books. Among the 142 titles considered "indecent" or "obscene" are books written by Jean Genet, Allan Ginsberg, Edmund White, Tennessee Williams, Kate Millet, Oscar Wilde, Patricia Nell Warren and Gordon Merrick. Other books are returned to the bookshop.

In the meantime, Customs seize five gay books on their way to the Edinburgh gay and lesbian bookshop "Lavender Menace".

[Him 1984, May, p. 13; GT 1984, December, p. 21;
ILGA-bulletin 1986, nr. 3, p. 6]

United Kingdom - PEOPLE

United Kingdom - ORGANISATION

The seizures and the criminal charges cause many protests from many authors, publishers and organisations inside and outside the United Kingdom.

After many delays, in 1986 the Custom authorities decide to drop all criminal charges against the people of the London bookshop. Most of the 142 contentious books are returned to the bookshop. Only 19 books are still considered to be "indecent" or "obscene", and are therefore sent back to the USA. [ILGA-bulletin 1986, nr. 3, p. 6]

United Kingdom - ORGANISATION

To challenge the opinion of the Custom authorities that 19 books are "indecent" or "obscene", the bookshop decides to import some of these 19 titles again, this time from the Netherlands.

[ILGA-bulletin, 1986, nr. 3, p. 7]

United Kingdom - ADMINISTRATION

United Kingdom - COURT CASE

Custom officials seize the books. The seizure is based on section 42 of the Customs Consolidation Act 1876, which forbids the importation of obscene articles. Custom authorities start proceedings against the bookshop in court. The six books involved are: "Men in erotic art", "Men loving men", "Men loving themselves", "My brother and myself", "Roman conquests" and "Below the belt".

The bookshop defends itself by claiming that the books are "for the public good" (in the sense of section 4 of the Obscene Publications Act 1959, which exempts publications which are "in the interests of science, literature, art or learning or of other objects of general concern"). The Court (Bow Street Magistrates' Court) refuses permission to introduce evidence for this claim, because the Obscene Publications Act 1959 does not apply to imported publications.

[Guardian, 11 June 1988]

United Kingdom - COURT CASE

Against the ruling of the Magistrates' Court the bookshop lodges an appeal with the Queen's Bench Divisional Court. The bookshop argues that articles 30 and 36 of the EEC-Treaty require that exactly the same rules should be applied to imported publications as are applied to British publications (including the "public good" defence of the Obscene Publications Act 1959).

This argument is first rejected by the Queen's Bench Divisional Court (12 May 1988, Regina v Bow Street Magistrates' Court ex parte Noncyp Ltd., [1988] 3 WLR 827, 3 CMLR 84).

On a further appeal, to the Court of Appeal, the bookshop's argument is rejected again (14 December 1988, Noncyp Ltd. v Bow Street Magistrates' Court and Another, [1989] 1 CMLR 634).

[Guardian, 11 June 1988; Independent, 13 January 1989]

United Kingdom - ADMINISTRATION

In 1990 another gay bookshop in London is raided by police, who (on the basis of the Obscene Publications Act) seize copies of nude magazines and of books of photography.

[GT 1990, November, p. 7]

Germany (East) - ADMINISTRATION

In 1988 a Dutch man sends a letter to an East German friend. In the letter he encloses a small book with photographs of men. A few weeks later the letter is returned. It has been opened by GDR officials, who have stuck on a sticker saying that the contents contravene the "List of forbidden objects".

[GK 1988, August, p. 7]

Spain - COURT CASE

In 1982 the editor of a gay magazine is sentenced to four months imprisonment (plus a fine) for publishing photographs of naked men. In its judgement, the Supreme Court considers homosexuality to be an "indecent practice which is condemned by our culture and the social environment".

[GK 1982, October, p. 11]

Ireland - ADMINISTRATION

On their way to the Irish distributor, copies of the British paper "Gay News" are confiscated by Customs officers in 1982.

[Sek 1986/8, p. 27]

Ireland - ADMINISTRATION

On their way to the Irish distributor, copies of the British magazine "Gay Times" are confiscated by Customs officers in 1986.

[Sek 1986/8, p. 27]

Ireland - ADMINISTRATION

In 1985 Customs officers confiscate 1500 copies of an American book about sexual relationships between nuns, written by Rosemary Curb and Nancy Manahan, two lesbian ex-nuns. Later the books are released again by higher Customs officers.

[Sek 1985/11, p. 7]

Ireland - ADMINISTRATION

In 1990 the Censorship of Publications Board bans the import and sale of the Danish book "Jennie Lives With Eric and Martin" (telling the story of a girl living with her father and his lover).

[GT 1990, October, p. 5]

France - WRITTEN LAW

Article 14 of the Law on publications aimed at the young (Law nr. 49-956 of 16 July 1949, as amended by Law nr. 67-17 of 4 January 1967) gives the Minister of the Interior the power to put restrictions on "publications of any kind which, because of their licentious or pornographic character or because of the place given to crime and violence, present a danger to the young". Thus the Minister may prohibit the sale or gift of such publications to people younger than 18 years. He may also prohibit the display of, or publicity for, such publications.

[Journal Officiel, 6 January 1967]

→ France - ADMINISTRATION

In March 1987 the Minister of the Interior threatens to use article 14 against the weekly gay information magazine "Gai Pied Hebdo".

[GPH 1987, nr. 263, p. 6]

→ France - SOCIETY

A storm of protest from the gay and lesbian movement and from many celebrities breaks out. The editors of Gai Pied Hebdo write to the Minister giving assurance that they will not break the law. As a result the Minister drops his threats five days later.

[GPH 1987, nr. 263, p. 6-18]

→ France - ADMINISTRATION

In 1988 the Minister of the Interior issues similar threats to use article 14 against "Gay International", "Playguy" and various other gay publications.

[GPH 1988, nr. 304, p. 6-7; nr. 333, p. 11-12; nr. 335, p. 12]

France - COURT CASE

On 21 December 1988 the gay magazine "Gaity" is convicted (by the 17e "chambre correctionnelle du tribunal de Paris") of breaking article 284 of the Penal Code, by publishing personal advertisements in which public attention is drawn to "an occasion of debauchery".

[GPH 1989, nr. 352, p. 11]

France - ADMINISTRATION

In 1988 the Paris postal sorting office refuses to apply reduced tariffs to a mailing of several gay publications, because the brochure is deemed to be against common decency ("bonnes moeurs").

[GPH 1988, nr. 318, p. 15]

→ Norway - ADMINISTRATION

The government (in the interest of helping in the fight against AIDS) agrees to a subsidy from the Ministry of Social Affairs to the gay/lesbian paper "Fritt Fram".

[ILGA-bulletin 1987, nr. 2, p. 23]

Norway - MEDIA

A couple of gay farmers want to get in touch with others gay farmers through an advert in a farming magazine. The advert is refused.

[IGA-bulletin 1984, nr. 1, p. 19]

→ **Norway - ORGANISATION**

The farmers refer to the anti-discrimination law (article 349a of the Penal Code, see Chapter 6), after which the magazine accepts their advert. [IGA-bulletin 1984, nr. 1, p. 19]

Hungary - MEDIA

Most periodicals refuse personal adverts of men looking for other men to form (for example) a "close friendship" with. [Sok 1986, January, p. 31]

Belgium - COURT CASE

In 1988 the publishers of the gay/lesbian magazine "Tels Quels" are prosecuted for promoting prostitution and "debauchery" (article 380quater of the Penal Code) by publishing personal adverts, although all adverts for prostitution are refused by the magazine. On 31 May 1989 they are acquitted by the Court of first instance of Brussels, which considers that homosexuality does not amount to "debauchery, and that it should be tolerated in a democratic society.

[copy of judgment; HLK 1988, November, p. 9; GPH 1989, no. 376, p. 2]

Belgium - ADMINISTRATION

In 1989 the Royal Library of Belgium refuses to stock the French magazine "Gai Pied Hebdo". When explaining this refusal, an official of the Library remarks that Belgian gay/lesbian magazines are stocked because of the legal obligations of the Royal Library as a copyright library.

[GPH 1989, no. 388, p. 12]

Belgium - ADMINISTRATION

In 1984, police seize almost the complete stock of gay books and magazines in a bookshop in Brussels. The legal basis for the seizure seems to be article 380quater of the Penal Code, which forbids the incitement of "debauchery".

[GPH 1984, no. 146, p. 7; no. 147, p. 5; GK 1985, January, p. 37]

Belgium - PEOPLE

Belgium - COURT CASE

In 1985, when gay organisations are distributing a leaflet about an information market on homosexuality at the entrance of a school, some members of a right wing party intervene by grabbing the leaflets and beating the distributors. One of the attackers, who has admitted using violence, is prosecuted. On 17 September 1987 the Court of first instance of Antwerp acquits him. The court considers his actions justifiable, arguing that "although homosexuality in the last decennia has been accepted as a lifestyle by many people, there still is a large majority in our country who is disgusted by this lifestyle and takes a defensive position, especially with regard to youngsters". [ILGA-bulletin 1988, nr. 5/6, p. 21]

→ **Belgium - COURT CASE**

On 4 October 1989 the acquittal is overruled by the Antwerp Court of Appeal. The court reaches its conclusion "considering that the care for the moral protection of the school youth, as invoked by the accused, does not legalise his acts, as he had to alarm the police services herefor if necessary". However, in the opinion of the court, the attacker's moral concern justifies a mild sentence. It sentences the attacker to pay a fine of 3000 francs, all costs of the trial, as well as damages of 1 franc to one of the gay men that he attacked. [copy of judgment; ILGA-bulletin 1989, nr. 5/6, p. 26]

Belgium - ADMINISTRATION

In 1985, police seize two gay/lesbian books ("Ook zo" and "Een ander strand") that are shown in a youth centre during a information market on homosexuality. The legal basis for the seizure seems to be article 380quater of the Penal Code, which forbids the incitement of "debauchery". [GK 1985, July, p. 22]

Greece - COURT CASE

In 1980 the gay magazine Amphi publishes a poem, which the authorities consider a violation of public decency. Both Amphi and the author of the poem are prosecuted.....? [Sok 1981, April, p. 19; Pink Book 1985, p. 146]

→ **Greece - COURT CASE**

After an appeal to a higher court the magazine is eventually acquitted.? [Pink Book 1985, p. 146]

Greece - COURT CASE

In 1982 the editor of the radical gay magazine Kraximo is prosecuted for publishing an "indecent" sketch by Jean Cocteau. The editor is acquitted by the Court. [IGA-bulletin 1984, nr. 1, p. 20-21]

Greece - COURT CASE

In 1983 the editor of Kraximo is prosecuted again, this time for an

"indecent" picture of two naked men on the front cover of the magazine. He is sentenced to four months imprisonment and a fine of 30000 drachmes.
[IGA-bulletin 1984, nr. 1, p. 20-21]

Greece - COURT CASE

In 1983 the editor of Kraximo is prosecuted once again, for "indecenty" and now also for an "insult against authority". He is sentenced to seven months imprisonment.
[IGA-bulletin 1984, nr. 3, p. 5-6; nr. 4, p. 31-33]

Greece - ORGANISATION Greece - ADMINISTRATION

The editor of Kraximo appeals against both sentences. Gay and lesbian organisations in many countries send protest letters to the Minister of Justice of Greece. Finally the authorities let the deadline pass before which the appeal trials need to be held. This means that the sen~~te~~ns~~u~~retena~~s~~884, Kraximo pan3~~de~~3~~pub~~lished pga2~~h~~

Italy - MEDIA

A regional daily - Il Gazzettino - refuses to publish the obituary of a gay man of Pordenone. In protest, some friends of the deceased and the Committee for civil rights of prostitutes occupy the editorial office.
[Babilonia 19, November 1984, p. 29]

9.3 RADIO AND TELEVISION

Iceland - ADMINISTRATION

The State Broadcasting Service refuses to carry informative announcements for lesbians and gay men (including announcements for open meetings of Samtökin '78, the national gay and lesbian organisation), because announcements must not be "against public taste and decency". Complaints to the government about this refusal have no effect.

[IGA-bulletin 1981, nr. 3-4, p. 6; Pink Book 1988, p. 61]

France - PEOPLE

In 1987, during the weekly broadcasting of a regional radio programme for lesbians and gays, a group of people burst into the studio and start smashing things up, hurting several of the broadcasters. [Lesbia 1987, September, p. 8]

France - ADMINISTRATION

In 1983 the radio-station "Fréquence Gaie" obtains permission to broadcast 24 hours a day. [Le Poing et la Rose 1989, October, p. 54]

Germany (West) - MEDIA

When the radioplay "Adonis" (written by Von Praunheim) is to be broadcast on Bavarian radio, a scene in which two men kiss each other is cut following instruction from the directors of the channel. [GK, 25 February 1989, p. 17]

Belgium - COURT CASE

In 1988 the editors of the gay/lesbian radio channel "Antenne Rose" are prosecuted for promoting prostitution and "debauchery" (article 380quater of the Penal Code) by broadcasting personal adverts, although all adverts for prostitution are refused by the magazine. On 31 May 1989 they are acquitted by the Court of first instance of Brussels, which considers that homosexuality does not amount to "debauchery, and that it should be tolerated in a democratic society.

[copy of judgment; HLK 1988, November, p. 9; GPH 1989, no. 376, p. 2]

9.4 INFORMATION IN SCHOOLS

Ireland - ORGANISATION

The great majority of young lesbians and gay men in schools are silent about their identity, and they feel the pressure of living in a homophobic society. Irish education reinforces this pressure maintaining "that heterosexuality is the only imaginable way". If homosexuality is mentioned, "it is only to deny their possible acceptance. Though negative images may well be promoted, more usually it is by their omission from curricula, texts and discussions that homosexuals are invalidated."

[Equality Now 1990, p. 47]

Italy - ADMINISTRATION

In 1984 the Minister of Education issues a circular forbidding schools to invite homosexuals and prostitutes, after a school in Castelmaggiore had invited a few homosexuals and prostitutes to come and talk to students about their experiences.
[GK March 1984, p. 16]

Italy - ADMINISTRATION

After protests from some concerned parents, the books of Giovanni Comisso (a gay novelist) are banned from school libraries in Treviso.

[Babilonia 37, June 1986, p. 7]

Spain - ORGANISATION

The book "Jenny lives with Eric and Martin" (about a young girl growing up with two gay parents), which has caused a scandal in the United Kingdom because of its alleged use in schools, is published in a Catalan translation by Institut Lambda (Institute for the study and documentation of homosexuality) in Barcelona. [clipping from: El País, 30 September 1986, in Lambda 1986, November, p. 9]

Great Britain - WRITTEN LAW

Section 28 of the Local Government Act 1988 provides that local authorities shall not "intentionally promote homosexuality or publish material with the intention of promoting homosexuality" and that they shall not "promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship" (see paragraphs 9.1 and 9.5). The Section does not contain prohibitions for schools and teachers, but it may serve as an encouragement for school authorities to stop their teachers from providing their pupils with "positive" information about homosexuality.

[Colvin 1989, p. 44 and 52]

United Kingdom - ADMINISTRATION

In 1988 a teacher is dismissed from his job at a Birmingham secondary school, on the ground that he "promoted homosexuality" by dealing with the issue of homosexuality in sex education classes. [GT 1990, April, p. 7; August, p. 5]

United Kingdom - COURT CASE

The teacher, who is not gay, takes his case to court. The Industrial Tribunal decides that his dismissal has been unfair, and that the education authorities have been guided by prejudice. The teacher is awarded compensation of 12500 pounds (but does not get his job back).

[GT 1990, April, p. 7; August, p. 5]

United Kingdom - COURT CASE

The Birmingham education authority launches an appeal against the decision. The Employment Appeal Tribunal overturns the decision, on the ground that the Industrial Tribunal has used the wrong "test of reasonableness" in judging the fairness of the dismissal. The teacher loses the compensation.

[GT 1990, August, p. 5]

Iceland - ADMINISTRATION

Homosexuality is not dealt with in school education, apart from occasional visits by the School Information Group of Samtökin '78 (national gay and lesbian organisation). And even these visits are sometimes forbidden by the authorities.

[Pink Book 1985, p. 61]

9.5 INFORMATION ABOUT AIDS

France - ADMINISTRATION

Homosexuals are totally neglected in the AIDS information campaigns.

[AIDS Survey, p. 6]

Austria - ADMINISTRATION

The "Österreichische Aidshilfe" has produced safe-sex posters portraying two men (thus suggesting homosexuality). The Minister of Health forbids the Austrian AIDS Foundation to use these posters in a planned AIDS education campaign, because they would be in breach of article 220 of the Penal Code.

[ILGA-bulletin 1988, nr. 4, p. 20; GK 1988, September, p. 5]

Italy - ADMINISTRATION

Homosexuals are completely neglected in the official information campaigns of the National AIDS Commission.

[AIDS Survey, p. 12]

Italy - ORGANISATION

Since 1985 gay groups have initiated several small information campaigns on AIDS.

[AIDS Survey, p. 12]

Great Britain - WRITTEN LAW

Section 28 of the Local Government Act 1988 provides that local authorities shall not "intentionally promote homosexuality or publish material with the intention of promoting homosexuality" and that they shall not "promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship" (see paragraphs 9.1 and 9.4).

These vague prohibitions could be used as a reason or an excuse to restrict the distribution of detailed information about how to prevent the spread of HIV and AIDS. However, paragraph 2 of Section 28 states that it "shall not be taken to prohibit the doing of anything for the purpose of treating or preventing the spread of disease". [Colvin 1989, p. 26]

9.6 ARTS

Italy - ADMINISTRATION

The film "Taxi zum Klo" by F. Ripploh fails to obtain the authorisation of the Board of Censors for public showing: "the love scenes between homosexuals are such as to offend public decency". [Babilonia 8, November 1983, p. 31]

→ Italy - ADMINISTRATION

A year later, the Board of Censors gives the film the authorisation for public showing. [Babilonia 15, June 1984, p. 31]

Italy - ADMINISTRATION

In 1985, after pressure from local business, the Mayor of Riccione (a resort on the Adriatic coast) withdraws his permission for an international gay and lesbian film festival. [Haagsche Courant, 14 August 1985]

Portugal - ADMINISTRATION

In 1986, several gay/lesbian films appear on the programme of the filmfestival "Lisboa 86". However, after interventions of the Mayor of Lisbon and the Portuguese audiovisual federation, the films are scrapped from the programme. [GPH 1986, no 249/250, p. 13; GK 1987, February, p. 17]

Greece - ADMINISTRATION

The screening of the British gay film "Nighthawks" is forbidden by the film censor commission. The commission gives the following reasons: "The film contains a detailed description of the abnormal life of a homosexual, followed by scenes of homosexual relations described in such detail that the film promotes the spread of homosexuality. Moreover, the hero of the film is a teacher who, when his students hear about his homosexuality, does not only not deny it, but even cynically admits it. Therefore the conclusion is that content and scenes of this film undermine the healthy traditions of the Greek people, and will have a negative effect upon the Greek youth." [Sek 1980, May, p. 20]

France - ADMINISTRATION

In 1983, the paintings of an exhibition held at the gay centre of Rennes are seized by the police because they were "licentious" and "capable of disturbing public order". The paintings are of nude men. Later they are returned to the painter, with the advice of the police not to exhibit them again. [GPH, 3 December 1983, p. 8]

CHAPTER 10 OPINIONS AND INCITEMENT

- > **United Nations - WRITTEN LAW**
Article 5 of CEDW:
- > **European Community - DECLARATION**
In its "Resolution on sexual discrimination at the workplace" (adopted on 13 March 1984, OJ No C 104, p. 46-48) the European Parliament notes "that certain sections of society still maintain a discriminatory attitude towards homosexuals which may have serious consequences", but "that all countries are witnessing a change in attitude which has also prompted adjustments to the legislation on sexuality".
- > **United Nations - WRITTEN LAW**
Article 17 of ICCPR:
"(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
(2) Everyone has the right to the protection of the law against such interference or attacks."
- > **United Nations - WRITTEN LAW**
Article 19 of ICCPR:
"(1) Everyone shall have the right to hold opinions without interference.
(2) Everyone shall have the right to freedom of expression; this right shall receive freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
(3) The exercise of the right provided for in paragraph 2 if this Article may (...) be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
(a) for respect of the rights or reputations of others;
(b) for the protection of national security or of public order, or of public health or morals."
- > **Council of Europe - WRITTEN LAW**
Article 10 of ECHR:
"(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. (...)
(2) The exercise of these freedoms (...) may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."
- > **Germany (East) - MEDIA**
In 1986, the official press agency of the German Democratic Republic publishes an article in which it calls for an end to anti-homosexual discrimination, and encourages the growing tolerance towards lesbians and gay men. [GK 1986, June, p. 36]

10.1 VERBAL ABUSE

- > **Norway - WRITTEN LAW**
Norway - PEOPLE
In 1981 homosexuality is added in the anti-discrimination provisions of the Penal Code. Article 135a now makes it illegal to publicly "threaten or deride, or to incite to hatred, persecution or contempt against" persons on account of their "homosexual inclination, lifestyle or orientation". The maximum penalty is two years imprisonment.
According to an opinion poll (held in 1983 by Scan Fact) 81% of the population agree with the new law. [IGA-bulletin 1984, nr. 2, p. 10]
- > **Denmark - WRITTEN LAW**
On 1 July 1987 "sexual orientation" is inserted in an anti-discrimination provision of the Penal Code. Article 266b now makes

it illegal "to utter publicly or deliberately, for the dissemination in a wider circle, a statement or another remark, by which a group of people are threatened, derided or humiliated on account of their (...) sexual orientation". The maximum penalty is two years imprisonment.

Denmark - PEOPLE

In a letter to the editor of a newspaper a woman writes: "For how long may a thief be called a criminal? Is a homosexual not a thief? Does he not steal his neighbour's honour, and maybe his life, by exploiting him and perhaps infecting him with AIDS?" And: "Homosex is the most foul form of fornication." [Ringkjøbing Amts Dagblad, 1 June 1989]

Denmark - COURT CASE

At the request of the national lesbian and gay organisation LBL the woman is prosecuted under article 266b of the Penal Code. On 16 January 1990 she is acquitted by the Court of Skjern. The public prosecutor appeals against the decision.

On 29 March 1990 the appeal is dismissed by the Court of Appeal (Vestre Landsret, 7. afdeling) by three votes to three. Three judges find that the statements made cannot be considered an offence under article 266b. The three other judges, however, find that the statements cannot be considered "as being of minor nature or as having been made in a serious discussion", and that "regard for the protection of homosexuals against insulting and degrading statements of the kind mentioned weighs heavier than regard for the principal that such statements should be capable of being freely made in an open, public discussion".

The director of public prosecutions asks for permission to appeal to take the case to the Supreme Court. In 1990 the Minister of Justice refuses this permission.....

[letter LBL to Iceberg, 18 April 1990, with translation of appeal judgement]

Greenland - DECLARATION

Article 71a of the Criminal Code [as Article 266b of the Penal Code of Denmark, see above] (proposal dropped during parliamentary debates?) Royal Decree based on article 4.2 of Law 357 of 3 June 1987 ?

Ireland - WRITTEN LAW

The "Prohibition of Incitement to Hatred Act 1989" makes it a criminal offence to incite hatred on the basis of sexual orientation. The original proposal for this law only covered incitement on the basis of race, colour, religion, ethnic or national origin, or membership of the travelling (gypsy) community. However, an amendment introduced by Senator David Norris to add sexual orientation, was adopted by government and parliament.

[Equality Now 1990]

Belgium - DECLARATION

On 23 May 1985 a socialist member of parliament introduces a proposal for an anti-discrimination law (no. 1219/1, reintroduced 29 March 1988, no. 339/1). Article 3 of this law would make it a criminal offence ("in the circumstances mentioned in Article 444 of the Penal Code.....") "to incite to discrimination, hate or violence against a person, a group or members of a group" on the ground of "sex, sexual and relational behaviour or preference, civil status, or family situation". To insult a group or members of a group on these grounds in commercial advertising would also become a criminal offence.

Germany - WRITTEN LAW

According to article 130 of the Penal Code incitement to hatred and violence against parts of the population that can be defined from the majority of the population by racial, religious, ethnic or other features is a criminal offence. The maximum penalty is 5 years imprisonment. According to the Embassy of the FRG in London "homosexuality" is covered by the words "other features".

[letter from Embassy, 26 February 1990]

Iceland - MEDIA

The case of a gay murderer is reported by the media in very anti-homosexual terms. [Pan 1982, nr. 1, p. 4-5]

Greece - PEOPLE

Greece - ADMINISTRATION

Greece - COURT CASE

Four foreign lesbian women are sitting in a cafe bar, when a man from the next table starts pestering them. After the quarrel, police arrive, who order the women to follow them to the police station. When the women refuse, the police take them into the police car by force. In the police station they are beaten

up. The next day in court, the judge refuses to take into account the evidence given by other women who were present. For "resistance and insults against Authority" each is sentenced to paying a fine of 600 dollar.

[LIS December 1989 / January 1990, p. 11]

Belgium - MEDIA

On 5 May 1990 a "Pink Saturday" is being organised by the gay and lesbian movement in Antwerp. The right wing paper "Pallietkerke" advises its readers to keep their children safely indoors that day. [GK, 2 June 1990, p. 11]

France - PEOPLE

In a television programme on 13 February 1987 the leader of the extreme right wing party "Front national", Le Pen, calls homosexuality "a biological and social anomaly". [GPH, 25 February 1984, p. 5-6]

Iceland - PEOPLE

The common word for homosexuality is very derogatory: **kynvilla** (sexual aberration). The Vocabulary Committee of the Teachers Training College has launched a slightly less derogatory word to replace it: **kynhvörf** (sexual inversion). [Pink Book 1985, p. 59-60]

→ Iceland - ORGANISATION

With mixed results, **Samtökin '78** (the national gay and lesbian organisation) is promoting the use of objective words: **lesbia** (lesbian), **hommi** (gay), **samkynhneigð** (same-sex-orientation). [Pink Book 1985, p. 60]

10.2 RELIGIOUS OPINIONS

Belgium - ORGANISATION

The synod of the United Protestant Church in Belgium decides not to admit gays and lesbians in church functions.

[La Meuse, 26 May 1987; GK 1987, January, p. 21; July, p. 42]

Belgium - ORGANISATION

In 1990, in a television interview, the Roman Catholic archbishop of Brussels says that "a homosexual lifestyle and practice can in no way be regarded as equal to a 'normal' way of life". [GK, 3 November 1990, p. 16]

→ Belgium - ORGANISATION

In protest, the gay/lesbian organisation **FWH** issues a statement saying that "it considers as good and equal all ways of life in which the partners involved respect each other's dignity". [GK, 3 November 1990, p. 16]

Norway - ORGANISATION

A religious book suggests that in future one would experience homosexuals as a scourge of humanity, raiding and murdering. The Public Prosecutor decides not to prosecute the publishers of the book under article 135a, because he considers that this anti-discrimination law should give way to the constitutionally protected freedoms of religion and of expression.

[IGA-bulletin 1984, nr. 1, p. 18]

Norway - PEOPLE

A fundamentalist lay-preacher (who would later publish a book called "Be Aware of the Homosex Mafia") holds a meeting to warn against homosexuals. Circulars with titles like "The Blessing of the Church - the Curse of the Homosexuals" are distributed. Gays and lesbians appear among his public. The police arrest 30 to 40 gays and lesbians, but charges against them for "disturbing a public meeting" are dropped. The authorities also decide not to prosecute the preacher under article 135a.

[IGA-bulletin 1981, nr. 3-4, p. 9-10; 1984, nr. 1, p. 18-19]

Norway - MEDIA

In 1983, on his own local radio station, a fundamentalist preacher urges "all Christians to break the diabolical power of the homosexuals" and prays that all homosexuals "be removed from leading positions in the country". Some time later, on national radio, in a discussion with a lesbian member of parliament, he reaffirms his views.

[Sek 1984, September, p. 25; FF 1987, nr. 3]

→ Norway - COURT CASE

He is prosecuted under article 135a of the Penal Code. On 15 June 1984 he is acquitted by the Oslo City Court. On 6 December 1984, this decision is overturned by the Supreme Court, which considers that the freedoms of religion and of expression cannot be used as an

alibi for breaking the anti-discrimination law. Eventually he is sentenced to ?

[FF 1987, nr. 3; Sek 1985, January, p. 8; GK 1986, April, p. 28]

Greece - ORGANISATION

In a press release the bishops condemn divorce, homosexuality and "gymnismos" (nudism). [GK 1982, January, p. 9]

France - ORGANISATION

In 1982 the Bishop of Strasbourg declares that he "respects homosexuals as sick people" and that he does not agree with the wishes of homosexuals to transform their "sickness into health".

[Boutet 1988, p. 50; GK 1982, April, p. 25; August, p. 21]

→ France - COURT CASE

Angry homosexuals take the Bishop to court over this remark. In December 1982 the Court of Strasbourg dismisses the case. On appeal, the Court of Colmar argues that the remark was only general, and that no one in particular was insulted. Furthermore, it considers that the angry reactions following the Bishop's remarks have damaged his reputation. It therefore orders the homosexual organisation involved to pay damages of 20000 francs to the Bishop (judgement of 27 June 1983, D.1983.J.550).

[Boutet 1988, p. 50; GK 1983, April, p. 25; August, p. 21]

→ France - PEOPLE

In the magazine "Gai Pied" the Roman Catholic bishop Gaillot says that it is very important to consider homosexuals as equal members of the church.

[GK 25 February 1989, p. 9]

Ireland - ORGANISATION

In 1990 the Archbishop of Dublin calls homosexuality a disease. He regrets that this "disease" is no longer presented as a disease, because now - due to the current acceptance of homosexuality - some young people are trapped in a fate they would otherwise have grown out of, he claims.

[Trouw, 26 January 1990]

10.3 OPINION POLLS

→ Germany (West) - PEOPLE

In a survey among gay men from all over the Federal Republic (held in 1989 by the monthly magazine "Wiener"), 84% say they are happy with being gay, and 12% say they find it terrible to be homosexual.

[GK, 26 August 1989, p. 13]

Italy - PEOPLE

According to an opinion poll (held by the institute Demoskopie) 42% of the population consider homosexuality as a serious mental problem, 17% as a "vice" and only 24% consider it as a normal expression of sexuality.

[GPH 1983, no. 84, p. 15]

→ Italy - PEOPLE

According to an opinion poll (held six years later by the Institute of economic, political and social studies) 50% of the population are of the opinion that society should defend the rights of homosexuals, and that society should guarantee them the same dignity as other citizens. Only 10% think of homosexuality as being a "disease", and 2% consider it a "perversion".

[GPH 1989, no. 370, p. 14]

→ Spain - PEOPLE

According to the results of an opinion poll (held in April 1985 on the suggestion of AGAMA, Asociación Gai de Madrid, and published by the national Association for Human Rights in Madrid) two thirds of the Spanish population agree that homosexuality should be recognised as an elementary human right. Only 23% object and think that not all jobs should be open for homosexuals. More than one third of parents say they would have no problems with their child being homosexual. Only six percent of parents is afraid that their child will turn out to be homosexual.

[Mundo Gay 1985, September, p. 8, 13-19; GK 1985, November, p. 6]

→ Spain - PEOPLE

According to an opinion poll for the League for Human Rights in Madrid, 25% to 45% of the population reject homosexuality.

[Pink Book 1988, p. 240]

Spain - PEOPLE

According to a survey of the State Institute for Sociological Research 50% of the population condemns gay and lesbian relations. Only 16% consider these to be socially acceptable behaviour. [De Volkskrant, 10 October 1988]

—————> **Finland - PEOPLE**

According to opinion polls 25% to 45% of the population disapprove of homosexuality. [Pink Book 1988, p. 229]

Greece - MEDIA

Greece - PEOPLE

In an opinion poll organised by a Greek magazine 600 people are asked what it would mean to them if they knew that their son was gay. According to 58% it would be a calamity for the family; 37% answer "it is something bad which however happens nowadays"; 3% say that it is a perfectly normal thing and that they would not mind at all. Women are slightly more negative than men. Of people younger than 30 years, 60% give the second answer. The magazine calls the results a "liberal opinion". The magazine does not ask what it would mean to people if they knew that their daughter was lesbian. [IGA-bulletin 1984, nr. 4, p. 33]

Greece - PEOPLE

According to opinion polls 55% to 75% of the population disapprove of homosexuality. [Pink Book 1988, p. 233]

France - PEOPLE

According to an opinion poll (held in 1986 by IPSOS for the magazine Gai Pied Hebdo) 72% of the population agree that gays and lesbians have the same right to live together as everyone else (21% disagrees). [GPH 1986, nr. 243, p. 23]

France - PEOPLE <—————

According to the same poll only 35% of the population think that homosexual couples living together should have the same rights as heterosexual couples living together (53% disagrees), and only 23% is in favour of allowing homosexual couples to adopt children (69% is opposed to such adoption). [GPH 1986, nr. 243, p. 23]

France - PEOPLE

According to an opinion poll (held in 1987 by IPSOS for the magazine Gai Pied Hebdo) 62% of the population are against allowing homosexuals to adopt children (25% are in favour), 41% are against allowing unmarried women to have artificial insemination (40% in favour), and 42% are against giving homosexual parents the same custody rights as heterosexual parents (40% are in favour). According to this poll 41% of the population do not feel that the problem of persecution and imprisonment of homosexuals in other countries concerns them, and 20% think that the French government should not interfere in these countries. However, 32% of the population are in favour of an international charter obliging those countries where to change their laws. Only 4% are in favour of giving asylum to homosexuals persecuted in those countries. [GPH 1987, nr. 260, p. 23]

—————> **France - PEOPLE**

According to the same poll 49% are in favour of extending the law against racist incitement in the press to cover incitement against homosexuals (33% are against). [GPH 1987, nr. 260, p. 23]

France - PEOPLE

According to an opinion poll (held in 1987 by Sofres for Le Nouvel Observateur) 36% of the population considers homosexuality to be "an acceptable way to live one's sexuality". In earlier opinion polls 29% of the population gave a similar opinion in 1981, and 41% in 1984. [GPH 1987, nr. 298, p. 9]

France - PEOPLE

According to opinion polls (held by Le Monde, France Culture and PUF) the percentage of students who consider homosexuality as "morally condemnable" has risen from 13% in 1986 to 23% in 1988. [GPH 1988, nr. 345, p. 19]

France - PEOPLE

According to opinion polls (held by IPSOS for Gai Pied Hebdo) a majority of the population is in favour of systematic medical control of homosexuals in the fight against AIDS (57% in favour and 38% against in 1985, 53% in favour and 27% against in 1988). [GPH 1988, nr. 333, p. 58]

—————> **France - PEOPLE**

According to the same polls the great majority of the population is against more severe anti-homosexual measures in the fight against AIDS, such as:

- prohibition of gay sex between adults (65% against and 16% in favour in 1985; 67% against and 20% in favour in 1988);

- prohibition of gay magazines (69% against and 13% in favour in 1985; 71% against and 20% in favour in 1988);
 - isolation of homosexuals (66% against and 16% in favour in 1985; 74% against and 15% against in 1988);
 - exclusion of homosexuals from certain professions in sports, health or education (76% against and 14% in favour in 1988).
- [GPH 1988, nr. 333, p. 58]

—————> **France - PEOPLE**

An opinion poll (held in 1990 for Le Figaro) shows that 60% of the population is against the adoption of legislation to suppress homosexuality (22% in favour), and that 65% is against the isolation of people with AIDS in specialised institutions (25% in favour).

[GHP, 3 May 1990, p. 15]

—————> **United Kingdom - PEOPLE**

In October 1981 a National Opinion Poll shows that 63% of the population think that homosexual relations between consenting adults should be legal (25% disagree).

[Jeffery-Poulter 1991, p. 163]

United Kingdom - PEOPLE <—————

The same poll shows that 67% of the population disapprove of homosexuals working as prison officers, 66% disapprove of homosexuals working as junior school teachers, 50% disapprove of them working as doctors, and 41% disapprove of homosexuals being allowed in the armed forces.

[Jeffery-Poulter 1991, p. 163]

—————> **Norway - PEOPLE**

According to an opinion poll (held in 1983 by Scan Fact) half the population accept that homosexuals be allowed to live openly as such; only 17% consider homosexuality to be wrong or immoral, and 32% regard it as all right as long as it remains in the dark. According to the same poll only 27% think that homosexuals should do all they could to fight their inclinations. And 69% say they would accept a homosexual tenant or close acquaintance, while even more people would accept a homosexual work-mate. (See also Chapters 3, 5, 6 and 10.)

[IGA-bulletin 1984, nr. 2, p. 10]

—————> **Norway - PEOPLE**

According to an opinion poll (held in 1984) more than 80% of the population accepts homosexuality, and less than 20% oppose equal rights for gay and lesbian relationships.

[GPH, 10 March 1984, p. 6; Pink Book 1988, p. 238]

—————> **Norway - PEOPLE**

According to an opinion poll (held in 1989 by Scan Fact) only 3% of the population thought that homosexuality should be illegal, and 60% think that children at primary school should be ~~educated about~~ ~~taught~~ ~~informed~~ ~~about~~ ~~it~~.

→ **Council of Europe - DECLARATION**

In Recommendation 924 ("on discrimination against homosexuals", adopted on 1 October 1981) the Parliamentary Assembly recommends that the Committee of Ministers of the Council of Europe should "call on the governments of the member states to ask prison and other public authorities to be vigilant against the risk of rape, violence and sexual offences in prisons."

Finland - PEOPLE

Of gay men and lesbian women, one in seven is a victim of violence. For heterosexuals this ratio is one in seventeen. The difference may be partly explained by the bad relations between the police and homosexuals.

[GK 1987, July, p. 37]

11.1 ASSAULT

Ireland - PEOPLE

One evening two women friends are walking home, their arms around each other. A man comes over to them and starts to hassle them, calls them "dirty lesbians". One of the women starts arguing with him. He tries to hit her. The other woman pushes him away. He then starts hitting her, knocking her over, kneeling on top of her, beating her around face and head. [OfO 1986, p. 198]

Italy - PEOPLE

Many incidents of assault and robbery, sometimes cause serious injury, and of personal threats are reported from different parts of the country.

[Babilonia 1984, no. 13, p. 14-15; no. 18, p. 28; 1987, no. 47, p. 6; no. 48, p. 11; 1988, no. 61, p. 9]

→ **Italy - ADMINISTRATION**

In the parks of Reggio Emilia a gang of eight youngsters (most of them under 18) is arrested on the charges of assault and robbery. They also carry knives and short whips in order to restrain their victims.

[Babilonia 38, July/August 1986, p. 11]

→ **Italy - ORGANISATION**

At a press conference the Verona branch of Arci Gay presents a dossier on the growing violence against gays. In one year (April 1986/1987) there were one murder, 7 assaults, 3 threats to individuals, various phone threats to the office of the Arci Gay and its members by the neofascist group "Fronte della gioventù", shooting and stoning of cars. Arci Gay complains about the indifference and slackness of police forces when asked to intervene.

[Babilonia 48, July/August 1987, p. 11]

Spain - ADMINISTRATION

Spain - BUSINESS

In 1980 in Barcelona, a man is arrested in a cinema (after having been pointed out to the police by an employee of the cinema). When he says that he is homosexual, and that he does not see why he should be arrested, he is taken to another room. There the policeman hits him with a stick, on his back, his face, his knees, and on his genitals. The policeman tries to make him fall down the stairs.

The man does not succeed in finding a lawyer willing to sue the police over this.

[Lambda 1980, November, p. 2]

Spain - ADMINISTRATION

Spain - PEOPLE

In November 1983 three members of AGAMA (Asociación Gai de Madrid), after having attended the trial against a military parachutist accused of gay sex (see chapter 5), are waiting for a bus. They meet three members of the military police of the parachute brigade. In the bus the gay men are pushed, pulled by the hair, and abused by the policemen. When changing from bus to metro they are attacked and threatened again by them. The gay men do not fight back. They run to get in a train and get away.

[Madrid Gay 1983, December, p. 9]

France - PEOPLE

Many cases of violence against gay men and lesbians are reported. For example:

France - PEOPLE

In 1982 a man, feeling bored, visits a lesbian party, insulting and threatening the women. He carries out one of his threats by returning a little

later armed with a rifle. After loading the rifle, he shoots at the first woman leaving the party, seriously wounding her. [GPH, 18 February 1984, p. 8]

France - PEOPLE

France - COURT CASE

Four young men are operating as a gang beating up gay men in a cruising area in Nancy. In court they declare: "We are there to attack homosexuals." The court sentences them to 18 to 36 months imprisonment. [GPH 1988, nr. 334, p. 16]

Hungary - PEOPLE

Several incidents of violent attacks on gay men have been reported. [Sek 1986, January, p. 31]

Belgium - PEOPLE

In 1986 a gay man is assaulted by two young men (with whom he had been in school). Bleeding heavily, he finally finds refuge in a snackbar. [GK 1986, August, p. 9]

Belgium - PEOPLE

Belgium - COURT CASE

Two men, who had beaten and seriously wounded a gay man who had made a pass at them, are acquitted. The court considers that they had acted in self-defence and that there had been a danger of their honor being injured. [Belang van Limburg, 5 May 1987]

Belgium - PEOPLE

At the Central Station of Brussels, a man meets another young man, with whom he goes to a nearby parking to make love. However, there the other man beats him up (breaking his nose) and steals his leather jacket. [GK 1987, February, p. 15]

—> **Belgium - PEOPLE**

Belgium - ADMINISTRATION

The next day the victim reports the incident to the police. Together with a police officer they go back to the station, where they recognise and arrest his attacker. [GK 1987, February, p. 15]

Denmark - PEOPLE

A woman tells that when she was 14 years old she was beaten by her parents because she had a relationship with another girl. They kept her at home against her will and with force. Later the girlfriend was once allowed to stay overnight, but they were not allowed to sleep in the same room. During the night her father tried to have sex with her girlfriend, but without success. [Pan 1981, nr. 2, p. 5]

Denmark - PEOPLE

When cruising a park in Copenhagen, late at night, a gay man is surrounded by seven men. One points a knife at him, asking for his money. After the man replies that he does not have any on him, the search him and find his wallet. They kick him a couple of times, tell him to run, run after him, grab him, kick him in the face. The man escapes and calls the police. They arrive after 15 minutes. [Pan 1980, nr. 4, p. 10]

Denmark - PEOPLE

A gay man is stabbed to death in a park in Copenhagen which is used as a cruising area. [Pan 1980, nr. 5/6, p. 3]

Denmark - PEOPLE

During a period of a few months guests of a gay/lesbian club in Århus are frequently attacked outside the club. Several of them have to be taken to hospital. Finally the leading attacker is arrested and sentenced to 10 months imprisonment. [Pan 1983, nr. 4, p. 5]

United Kingdom - PEOPLE

Many incidents of anti-lesbian and anti-gay violence ("queer-bashing") are reported. Often the attacks are the work of gangs of two or more "queer-bashers". Only in a minority of cases the attackers are arrested and brought to court. [CHE 1980; Meldrum 1983; GT 1991, January, p. 16]

United Kingdom - PEOPLE

On 15 July 1988 four men force entry into a women only club. Inside they start beating up the women. Around 30 women are left badly injured. [LIS 1988, August, p. 4]

————> **United Kingdom - ADMINISTRATION**

United Kingdom - DECLARATION

In 1990, following several demonstrations and widespread media coverage highlighting anti-homosexual violence, officers of London police have a first meeting with representatives of 11 lesbian and gay organisations. After the meeting the officers issue the

following press statement: "Violence against homosexuals is a serious matter which the Metropolitan Police find as unacceptable as any other assault". [GT 1990, November, p. 13]

Germany (West) - PEOPLE

In 1984 a public meeting of a homosexual organisation in München is disrupted by right-wing extremists. First they heckle the speaker (a openly gay member of parliament), then throw beer bottles at him. They threaten members of the audience. Several fights break out. One of the extremists two times fires a smoke-bomb gun, the second time directly in the face of the speaker. Police manage to arrest one of the extremists - a 16 year old boy.

[Him 1984, July, p. 23]

Germany (West) - PEOPLE

Germany (West) - COURT CASE

In April 1990, in small wooded area popular with gay men in Düsseldorf, more than 20 men are attacked by two men armed with sticks and clubs. Some of the gay men suffer serious injury (broken nose, concussion, broken jaw, etcetera). Later, the two attackers are prosecuted for assault, both by the public prosecutor and by some of the victims. In court, the judge does not challenge the explanation of the two: they felt threatened and annoyed by the gay men, and being drunk they had hit one or two of them. Without continuing the trial, and in spite of protests by the private prosecutors, the judge then offers the two attackers a conditional discharge (consisting of a total fine of 3100 mark, plus the prosecution costs of the victims). The two accept.

[Die Zeit, 7 December 1990]

Germany (East) - PEOPLE

In 1990 small groups of right-wing extremists frequently beat up gay men in Berlin. [Elsevier, 22 September 1990, p. 52]

11.2 RAPE

—————> **France - WRITTEN LAW**

In 1980 the definition of rape ("viol") is extended so as to include homosexual rape. [GPH, 22 December 1989, p. 32]

—————> **Netherlands - WRITTEN LAW**

From 1 December 1991 the definition of rape includes homosexual rape (amendment of article 242 of the Penal Code). [Law of 9 October 1991, Staatsblad 519]

Austria - WRITTEN LAW

Until 1989 the maximum penalty for homosexual rape is five years imprisonment, whereas the maximum for heterosexual rape is ten years (articles 201 etc. of the Penal Code).

—————> **Austria - WRITTEN LAW**

On 1 July 1989 the difference in maximum penalty is abolished (HG)

—————> **Isle of Man - DECLARATION**

In 1990 the government of the island introduces a proposal to make homosexual rape a criminal offence. [GK, 2 June 1990, p. 31]

11.3 MURDER

Belgium - PEOPLE

Two women are shot dead by a the boyfriend of one of them, after he has learned that his girlfriend is going to leave him to live with the other woman. [Nieuwe Gazet, 10 August 1987; GK 1987, October, p. 41]

Belgium - PEOPLE

In 1985 a gay man is killed by his colleague.

—————> **Belgium - COURT CASE**

On trial, the colleague convinces the court that he killed the man because he had made a pass at him. The court sentences the killer to three years imprisonment and a fine of 6000 francs. A gay and lesbian organisations criticises this sentence as being too lenient. [De Antwerpse Morgen, 3 March 1987]

Ireland - PEOPLE

In August 1982 Declan Flynn, when walking in the gay cruising area of Fairview Park, is beaten to death by a gang of five young men. He is the fourth gay man to be murdered that year in Dublin. Many more had been beaten and robbed in the park. Later the five claim to have been trying to keep gay men out of the park. [OfO 1986, p. 195; Sek 1983/5, p. 31]

Ireland - COURT CASE

When the case comes to court in February 1983, the judge says: "This could never be regarded as murder". The five are then convicted on the lesser charge of manslaughter, and given suspended sentences only. [OfO 1986, p. 195]

Ireland - ORGANISATION

Ireland - PEOPLE

On 19 March 1983 the Dublin Lesbian and Gay Men's Collectives organise a march to protest against anti-gay violence, and especially against the judgement, which was seen as encouraging and condoning such violence. Many organisations and individuals from outside the lesbian and gay movement take part in the march. [GPH 1983, nr. 70, p. 22; OfO 1986, p. 195-196]

Scotland - PEOPLE

In 1989 and the first months of 1990 several three gay men are murdered in Glasgow, two of them near a public toilet known as a gay cruising area. The dead body of a fourth gay men is found near the same place; his death is considered "suspicious". In two of the cases the murderer is found, and sentenced to life imprisonment. [GT 1990, July, p. 9]

Italy - PEOPLE

A great number of gay men are murdered in different regions of the country. In addition, many gay men are driven to suicide (sometimes by blackmail). According to reports in Babilonia the numbers of anti-gay murders per year are as follows: three in 1980, three in 1981, seven in 1982, fourteen in 1983, two in 1984, three in 1987, three in 1988, seven in 1989.

[Babilonia 1983, no. 1, p. 16; no. 2, p. 23; no. 3, p. 24; no. 9, p. 30; 1984, no. 10, p. 29; no. 13, p. 14-15; no. 17, p. 16; no. 18, p. 28; 1987, no. 47, p. 6; no. 48, p. 9-11; 1988, no. 60, p. 6; no. 61, p. 9; 1989, no. 65, p. 8; no. 67, p. 8; no. 70, p. 7]

Italy - ORGANISATION

In Bologna (after a gay man is murdered in his car by an organized gang that uses good-looking men to lure gays to isolated places where they are robbed and/or blackmailed) Arci Gay organises a press conference to denounce acts of violence and crimes against homosexuals; it also sets up a hot line (Telefono Azzurro) for those wishing to report and file complaints while remaining anonymous. [Babilonia 61, nov. 1988, p. 9]

Greece - PEOPLE

Greece - MEDIA

In a gay cruising area two gay men are murdered with knives. In the some month a gay transvestite is strangled. In the press the killings are reported with headlines like: "An abnormal has been executed" and "Third assassination of someone of the third sex". [GPH 1983, nr. 58, p. 15]

Greece - ORGANISATION

AKOE, the Greek lesbian and gay movement, decides to sue the newspaper which has been most negative in its reporting.

[IGA-bulletin 1984, nr. 4, p. 33]

France - PEOPLE

France - COURT CASE

From 1987 to 1989 more than 13 times cases of gay men being murdered are reported by the magazine "Gai Pied Hebdo". Some of these murders are so serious that (if the murderers are found) the courts give sentences of up to 20 years imprisonment. [GPH 1987, nrs. 259, 260, 287 and 290; 1988, nrs. 312, 324, 325, 339 and 340; 1989, nrs. 355, 389 and 398]

France - PEOPLE

Three soldiers of the foreign legion kill a fellow-soldier, because they belief him to be a homosexual prostitute. The three are sentenced to 4 to 7 years imprisonment. [Sek 1984, May, p. 10]

United Kingdom - PEOPLE

According to research by the magazine "Gay Times" at least 48 gay men are murdered in the period from December 1986 to September 1990. Of these murders, 17 have not been solved by September 1990. [GT 1990, October, p. 13]

Spain - PEOPLE

A homosexual chaplain of the armed forces is killed by a man with ultra-rightwing sympathies. The killer claims the chaplain tried to "force" him, but

the neighbours have heard "the noise that a bed characteristically makes when two people are not casually sleeping in it", and the man had been in the chaplain's house for several hours. [Lambda 1983, April, p. 4-5]

Spain - PEOPLE

A Belgian man living in Madrid is robbed and killed in his flat by three young men, after a night out with two of them. [Madrid Gay 1983, December, p. 10-11]

Spain - PEOPLE

A gay man in Madrid is killed. His body is found naked, full of cuts of a knife, his hands tied together. [Mundo Gay 1985, January, p. 5]

Spain - PEOPLE

A 63 year old man and a 23 year old man have a few drinks in a bar. After leaving the bar together, the older man proposes to have sex in exchange for 500 pesetas. Later the older man is found dead. [Mundo Gay 1985, January, p. 5]

Spain - COURT CASE

The younger man is convicted of killing the man, and sentenced to six years imprisonment (which is the minimum sentence). [Mundo Gay 1985, January, p. 5]

Spain - PEOPLE

Spain - ADMINISTRATION

A policeman of the Guardia Civil is accused of having killed a transvestite. Although the policeman is in prison, the Minister of the Interior does not think he should be expelled from the Guardia Civil. [Mundo Gay 1985, June, p. 5]

Spain - PEOPLE

A 16 year old man and a 51 year old man spend an evening drinking together. The older man accompanies the youngster on his way home. When the older man makes him "dishonourable propositions", he loses control and hits and stabs the other to death. [Mundo Gay 1986, April, p. 7]

Spain - COURT CASE

The young man is sentenced to six years imprisonment. [Mundo Gay 1986, April, p. 7]

Germany (East) - PEOPLE

In Leipzig a gay man is seriously assaulted by a man and his girlfriend, and then left to drown in a river. [GK, 20 May 1989, p. 14]

Germany (East) - COURT CASE

The murderer is sentenced to life imprisonment. [GK, 20 May 1989, p. 14]

Hungary - PEOPLE

In 1985 two homosexuals are murdered. [Sek 1986, January, p. 31]

11.4 ROBBERY

Belgium - PEOPLE

Gay men in and around the Central Station of Antwerp are approached by members of a gang of young men, who lure their victims to a bar, where they pour a sleeping drug into their drinks. After this they rob the men, and dump them somewhere in the streets. In 1987 the police arrests the leader and seven other members of the gang. [GK 1987, October, p. 18]

Belgium - PEOPLE

Belgium - COURT CASE

In 1990, three men are given sentences of two to three years imprisonment for robbing gay men on a cruising area in Bruges. [GK, 7 April 1990, p. 9]

Spain - PEOPLE

Spain - ADMINISTRATION

In 1983 in Sitges two officers of the Guardia Civil blackmail two gay men who were meeting each other in a doorway. The officers force them to pay a "fine", without giving any receipt. The same officers have also assaulted and insulted gay men. [Madrid Gay 1983, December, p. 10]

Spain - ADMINISTRATION

The Barcelona Governor of the Guardia Civil confirms the information. One of the blackmailing officers is posted to another town. [Madrid Gay 1983, December, p. 10]

Spain - PEOPLE

In the Obelisc park, a gay cruising area in Madrid, a man repeatedly extorts money from his victims (usually homosexuals) by threatening them with a knife. This goes on for many months in 1984. [Madrid Gay 1984, April, p.24]

France - PEOPLE

Gay men are often the victims of robbery. For example:

France - PEOPLE

Men visiting outside cruising areas in the South West of the country are frequently stopped by young men who force them to hand over their money and valuables. Because these robberies are seldom reported by the victims, the police only rarely arrests the criminals. [GK 1986, November, p. 17]

France - PEOPLE

In 1988 two young men are arrested. They were specialised in attacking gay men, who were first attracted by the prettiest one of the two, and then robbed by the strongest of the two. [GPH 1988, nr. 312, p. 18]

France - PEOPLE

In 1989 three young men in Dijon attack a gay man. Threatening him with a knife they force him to hand over his watch, his wallet and his "jeu de boules" game. Before the three run away, the man is beaten on his head with the balls of the game. One month later, the three are arrested. [GPH 1989, nr. 351, p. 14]

11.5 ARSON AND BOMBING

Italy - ORGANISATION

In 1983 six people die in a fire in a gay eros centre. Responsibility for the fire is claimed by a neo-nazi group ("Ludwig"), who wanted "to get rid of dishonourable people". [Sek 1983, August, p. 13]

Italy - PEOPLE

In 1985, a group of neighbours attacks a lesbian couple, under the pretext that they were responsible for a theft. The neighbours throw a can of petrol into the house, setting it on fire. One woman is severely injured by the arson. [Bollettino del CLI, April 1985, p. 16]

Italy - PEOPLE

In 1986 an anonymous arson attack is made on the apartment of the editor in chief of the gay magazine "Babilonia". [Babilonia 37, June 1986, p. 6]

France - PEOPLE

The offices of the "Centre du Christ Libérateur" (a group working for sexual minorities) are severely damaged in an arson attack. [GK 1984, August, p. 11]

Spain - ORGANISATION

In 1985 a bomb explodes in a gay sauna in Barcelona. Among the debris, pamphlets of the Catalan Militia and religious ultra-rightwing organisation [Mundo Gay 1985, September/October, p. 9]

Spain - ORGANISATION

In 1986 a gay sauna forms the scene of skirmishes, caused by unknown individuals, who left behind pamphlets of Catalan Militia, a religious ultra-rightwing organisation which has also attacked other gay bars and saunas. [El Periódico, 2 July 1986]

Germany (West) - PEOPLE

On 25 September 1990 a letter bomb is discovered at the postal sorting office. The letter, addressed to a homosexual organisation in Dortmund, contains enough explosives to kill a person. [Rühr Nachrichten, 26 September 1990]

Ireland - SOCIETY

"Declaring their sexuality for lesbians and gay men can often mean rejection at home, school and by friends. Rejection at home can often result in a young person leaving home and becoming powerless, with no economic and social support." [Equality Now 1990, p. 46]

—————> **France - WRITTEN LAW**

The Law of 25 July 1985 inserts the words "sex", "family situation" and "moeurs" (which means morals/habits/lifestyle, which includes sexual orientation) in some anti-discrimination provisions of the Penal Code. The original proposal did not contain the word "moeurs"; this is added by way of amendement. Article 187-1 now makes it a criminal offence for public officials to knowingly refuse someone the benefit of a legal right because of his or her sex, "moeurs", family situation, etc. The maximum penalty is two years imprisonment and a fine of 40000 francs.

—————> **France - DECLARATION**

In 1990 the government introduces a proposal to add the words "state of health" and "handicap" in article 187-1 (projet de loi no. 1182).

Germany (West) - SOCIETY

In a survey among gay men from all over the Federal Republic (held in 1989 by the monthly magazine "Wiener"), 58% say they feel that they are discriminated by society. According to 48% the situation for homosexuals has got worse over the last years. [GK, 26 August 1989, p. 13]

—————> **Germany (East) - WRITTEN LAW**

After the peaceful revolution of November 1989 a new Electoral law and a new Law on political parties and associations are made. Both laws contain provisions against discrimination based on "sexual orientation". [Bundestag Drucksache 11/7544, 9 July 1990, p. 2]

12.1 POLICE REGISTRATION

—————> **Council of Europe - DECLARATION**

In Recommendation 924 (adopted on 1 October 1981) the Parliamentary Assembly recommends that the Committee of Ministers of the Council of Europe should "call on the governments of the member states to order the destruction of existing special records on homosexuals and to abolish the practice of keeping records on homosexuals by the police or any other authority".

—————> **European Community - DECLARATION**

In its "Resolution on sexual discrimination at the workplace" (adopted on 13 March 1984, OJ No C 104, p. 46-48) the European Parliament "urges the Member States to ban the keeping of special records on homosexuals by the police or any other authority".

Ireland - ADMINISTRATION

After a gay man is murdered in 1982, the police begin an intensive investigation. The scale of the investigation, the intimidation of many gay men which came with it, and the type of questions asked, suggest that the police is more concerned with compiling a file on gay men than with solving the murder. Eventually 1500 gay men are questioned, photographed and fingerprinted. Interrogations stop after protests organised by the Gay Defence Committee. No guarantees are given by the police that the files are destroyed. [OfO 1986, p. 192-194]

Italy - ADMINISTRATION

In Florence a round-up of prostitutes by the police reveals that the majority of the people involved are transsexual men. Although forbidden by the law, the police often keep records on them. [Babilonia 6, sept. 1983, p. 33]

Italy - ADMINISTRATION

In connection with the murder of a young gay man in 1983 it becomes clear that the Turin police is keeping a register of known homosexuals. [Babilonia 15, June 1984, p. 31; ILGA-bulletin 1984, no. 5, p. 21]

—————> **Italy - ORGANISATION**

The gay and lesbian group FUORI! has presented a petition (59/83) to the European Parliament denouncing the illegal practice of keeping registers of homosexuals. The European Parliament has declared the

petition admissable and has handed it to its Legal Commission for examination. [ILGA-bulletin 1984, no. 5, p. 21]

United Kingdom - ADMINISTRATION

From time to time police make large files on all known gays in a particular area. Such operations are known as "trawls", which typically are undertaken in the course of murder inquiries. Sometimes the files are kept for many years. [Crane 1982, p. 53-55; Galloway 1983, p. 114-116; GT 1990, November, p. 5, December, p. 7]

Germany (West) - ADMINISTRATION

Railway police in Köln keep a list with the names of men they have forbidden to be in the station. The names of homosexual men are specifically marked on the list.

After a gay man is murdered in the station in May 1988, the city police use the "pink list" of the railway police to interrogate 250 gay men.

[GK 1988, July, p. 23; August, p. 16]

Germany (West) - COURT CASE

In protest against the existence and the use of the "pink list", the Gay Liberation Front of Köln lodges a complaint with the Commissioner for Data Protection (Landesdatenschutzbeauftragter). The Commissioner concludes that the railway police had breached the law by compiling the list, and that the city police breached the law by using it. [GK 1988, July, p. 23; August, p. 16]

Germany (West) - ADMINISTRATION

After a gay man is murdered in Stuttgart in 1989, the police summon 60 gay men to the police station for interrogation. There they are photographed, and fingerprints are taken and filed. Because no one of the 60 had any connection with the murder, the gay movement assumes that the police have been working on the basis of a "pink list". [GK, 1 July 1989, p. 15]

Germany (West) - ADMINISTRATION

In reply to parliamentary questions (Drucksache 11/4299), the government admit that the secret services and the federal police (Bundeskriminalamt) keep extensive files with data on homosexuals.

[Bundestag Drucksache 11/7197, 9 July 1990, p. 13]

Spain - ADMINISTRATION

Police registration of homosexuals takes place.

[Pink Book 1988, p. 240]

France - ADMINISTRATION

In 1981 a circular from the Minister of the Interior forbids the registration and discrimination of homosexuals, and especially all anti-homosexual suspicions. The special group of the police for the control of homosexuals is disbanded.

In 1984, after the first official reception of a gay organisation by a French minister, the measures of the circular are reaffirmed. A special official (soon nick-named "Madame Homo") is appointed by the minister to deal with problems between homosexuals and the police.

[GPH 1984, nr. 115, p. 6; Le Poing et la Rose 1989, October, p. 54]

France - ADMINISTRATION

In 1990 newspapers reveal the existence of a cell within one of the intelligence services ("Renseignement Généraux") charged with watching and phone-tapping the homosexual movement. In a meeting with a delegation from the homosexual movement, the Minister of the Interior denies the existence of such a cell. [ILGA-bulletin 1990, nr. 5, p. 22]

Greece - ADMINISTRATION

Police keep files on homosexuals whose identity they have checked in parks, discos, bars, cinemas, etcetera.

[GPH 1984, nr. 146, p. 7]

Greece - ORGANISATION

AKOE, the Greek Gay Liberation Movement, sticks posters all over the centre of Athens, in which it protests against police registration and arrests of homosexuals. While sticking posters, one of the members of AKOE is surrounded by people who insult her and tear up some posters. [IGA-bulletin 1984, nr. 4, p. 33]

Czechoslovakia - ADMINISTRATION

Police keep files on homosexual whose identity they have checked in outside cruising areas, at private parties, etc. Especially in smaller towns the consequences of police registration can be awkward.

[Lambda Nachrichten, January 1981, p. 20; April 1983, p. 29]

Denmark - ADMINISTRATION

When trying to solve the murder of a bisexual man, the police in Esbjerg create a file with details of hundred gay men. Afterwards it appears that none

of the gay men is involved in the case. Nevertheless, the police refuse to destroy the file. [Sek 1980, June, p. 15]

→ **Denmark - ORGANISATION**

Denmark - PEOPLE

In a letter of protest to the Minister of Justice, thousands of gay men demand that the Minister order the destruction of the file. When the police ask the assistance of the national lesbian and gay organisation LBL in solving the murder of another gay man, LBL takes the precautionary measure of removing all its membership files from its head office. [Sek 1980, June, p. 15; Pan 1980, 5/6, p. 30]

12.2 IMPRISONMENT

Greece - COURT CASE

In 1976 a 19 year old gay man had been forced by his five year older friend to prostitute himself. In despair the young man had killed his friend, and had given himself up to the police. Because at that time he was doing his military service, his case came before a Court Martial. He was sentenced to life imprisonment, an exceptionally long sentence for a case with such strong mitigating circumstances. Normally, sentences for similar heterosexual crimes of passion range from 11 to 20 years.

[Sek 1987, March, p. 25; Pink Book 1988, p. 233]

Greece - ADMINISTRATION

After ten years the man petitions the President of Greece to reduce his sentence to 20 years. January 1987, the President rejects the request.

[ILGA-bulletin 1987, nr. 1, p. 4-5; Pink Book 1988, p. 233]

→ **Greece - PEOPLE**

Greece - ORGANISATION

Greece - DECLARATION

Greece - COURT CASE

In protest, the man goes on hungerstrike. A protest demonstration of 3000 people is held. Public opinion, the press, and even the Government are in favour of reducing his sentence. Many Greek organisation and celebrities urge the President to change his mind. ILGA and gay and lesbian organisations in many countries send letters to the President.

A court orders the sentence to be suspended for a month, to let the man recover in hospital from his hungerstrike which has lasted 70 days.

[Sek 1987, February, p. 27; March, p. 25]

Greece - ADMINISTRATION

The President does not change his mind. He issues a communiqué in which he defends his refusal, by emphasising, among other things, that the man is a "passive" homosexual. ("Passive homosexuality" is considered far more perverse by the Greek population than "active homosexuality".)

The authorities refuse the prisoner's request to be transferred to a rural prison, where living and working condition would be more humane. They also forbid him to receive gay magazines.

[Rotterdams Nieuwsblad, 4 February 1987; ILGA-bulletin 1987, nr. 4, p. 4]

→ **Greece - ADMINISTRATION**

In 1989 the Council for Pardon of the Ministry of Justice proposes the reduction of the man's sentence to twenty years. The President agrees to reconsider the case. [ILGA-bulletin 1989, nr. 5/6, p. 3]

→ **Greece - ADMINISTRATION**

In 1990 the President signs an Order converting the life sentence to imprisonment for 20 years. On 13 September 1990 Christos Roussos is finally released.

[Kathimerini, 14 September 1990]

Belgium - ADMINISTRATION

In 1983 a gay man in prison is not allowed to read the Dutch magazine "De GAY Krant". [GK 1983, October]

→ **Belgium - ADMINISTRATION**

After a complaint from the prisoner the Inspector-General voor prisons rules that prisoners have the right to subscribe to magazines like "De GAY Krant".

[GK 1984, January, p. 11]

Belgium - ADMINISTRATION

In 1984 the Human Rights Ligue finds out that once again a prisoner has been denied the right to read "De GAY Krant".

[GK 1984, September, p. 9]

12.3 REFUGEES

-----> United Nations - WRITTEN LAW

1951 Geneva Convention on the status of refugees..... "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion".....
[Wong 1988, p. 1]

Portugal - SOCIETY

Netherlands - ADMINISTRATION

In 1979, a Portuguese gay man who was frequently harassed by the police and other people in his home country came to live in The Netherlands. In 1981 he requests political asylum. The Dutch government refuses this, twice. In 1983 the man lodges an appeal with the Council of State. In 1987 the Council rules that although the policy of the government was too restrictive, the man has no right to asylum. In its reasoning the Council mentions the increasingly democratic regime in Portugal, and also the fact that Amnesty International has no objections against the situation of homosexuals in Portugal.
[GK 1987, October, p. 5]

Denmark - ADMINISTRATION

Persecution for reasons of sexual orientation is not considered to amount to persecution in the sense of the Geneva Convention.
[Wong 1988, p. 2]

-----> Denmark - WRITTEN LAW

Denmark - ADMINISTRATION

A homosexual refugee may be permitted to remain in Denmark when "for reasons similar to those listed in the Geneva Convention or for other weighty reasons, (he) ought not to be required to return to his home country" (article 7 of the Aliens Law). A homosexual refugee may also be permitted to stay for "exceptional reasons" (article 9).
[Wong 1988, p. 2]

Sweden - ADMINISTRATION

Persecution for reasons of sexual orientation is not considered to amount to persecution in the sense of the Geneva Convention.
[Wong 1988, p. 2]

-----> Sweden - WRITTEN LAW

Sweden - ADMINISTRATION

A homosexual refugee may be permitted to remain in Sweden for "humanitarian reasons" (article 31 of the Aliens Regulation).
[Wong 1988, p. 2]

Hungary - SOCIETY

Many gays and lesbians have left the country in the hope of finding a more tolerant and understanding environment abroad.
[ILGA-EEIP 1982, p. 7]

Iceland - SOCIETY

A considerable number of lesbians and gays emigrate to another country. They feel forced to do so by the oppressive anti-homosexuality of Icelandic society.
[Pink Book 1985, p. 62]

-----> Austria - ADMINISTRATION

In 1984 (and again in 1986) the Austrian authorities grant refugee status to a gay man from Iran (a country where gay men and lesbian women can be given the death penalty). According to the authorities the Geneva Convention is applicable to people who are persecuted in their own country because of their homosexuality.
[IGA-bulletin 1984, nr. 3, p. 10; Sek 1986, March, p. 15]

-----> Germany (West) - COURT CASE

In august 1986 a court Hessen decides that a gay man from Iran should be given asylum.

Germany (West) - COURT CASE

After a government appeal, the supreme administrative court rules that the Hessen court was right in awarding asylum to the man, but that in general persecution on grounds of sexual orientation will not be enough to qualify for asylum (Bundesverwaltungsgericht, 15 March 1988).
[GK 1988, May, p. 11; Bundestag Drucksache 11/7197, p. 13]

-----> Germany (West) - ADMINISTRATION

In 1989 the "Land" of Berlin decides that refugees who have reason to fear persecution on the grounds of their homosexuality, will be allowed to stay in Berlin.
[GK, 26 August 1989, p. 16]

Cyprus - SOCIETY

United Kingdom - ADMINISTRATION

In 1989 a gay man from Turkish Northern Cyprus (where all gay sex is forbidden) asks asylum in the United Kingdom. He claims that if he lived with a male friend in Cyprus he would be shunned and made fun of and would risk being sent to prison. According to a spokesperson for the London based Cypriot Lesbian and Gay Organisation, gay life in Cyprus is "difficult and very underground" because the "moral majority in the Greek orthodox half of Cyprus is very anti-gay, and in the Muslim half of the country it is apparently even worse."

The British Government decides not to grant asylum. It argues that the risk of prosecution is small, that the man can reduce this risk by not openly behaving "in a homosexual manner", and that the consequences of a possible prosecution (a few months in prison) would be "not particularly dire".

[TPP, 5 August 1989, p. 1]

United Kingdom - COURT CASE

The man appeals against the decision. The High Court dismisses the appeal. The judge agrees with the government that an arrest for a private homosexual act between consenting adults would not amount to "persecution". The judge further considers that the government "was entitled to recognise that the risk of prosecution would be avoided by self restraint".

[TPP, 5 August 1989, p. 1]

Czechoslovakia - PEOPLE

Czechoslovakia - ADMINISTRATION

On finding out that her son is gay, a mother informs the security police. She tells them that her son is planning to flee to Turkey during his forthcoming holiday in Bulgaria. Before flying to Bulgaria the man is arrested at the airport. After being interrogated and searched he is released. However, he is forbidden to leave the country, because it would be against the interest of the State to be represented abroad by a man who is "that way".

[Lambda Nachrichten, April 1983, p. 30]

12.4 REMEMBRANCE

Belgium - ORGANISATION

In the former nazi concentration camp "Breendonk" a poster explains the meaning of the different symbols used by to mark the camp prisoners. However, the only explanation given for the pink triangle is "\$ 175". Moreover, gays and lesbians are never admitted to the official remembrance ceremony in September. The governing body of the "Breendonk" memorial also refuses permission for the gay/lesbian organisation FWH to have a separate remembrance ceremony on another day.

[GK 1984, August, p. 23]

Belgium - ORGANISATION

Nevertheless the FWH organises such a ceremony. More than hundred lesbians and gays turn up, and are welcomed by the staff of "Breendonk" who admit to being unhappy with the decision of the governing body.

[GK 1984, August, p. 23]

Ireland - ADMINISTRATION

In 1984 the prime minister refuses the National Gay Federation permission to lay a wreath at the Garden of Remembrance in Dublin. The Federation had planned to mark Armistice Day (11 November) by remembering the millions of victims of anti-homosexual persecution and violence.

[GT 1984, December, p. 10]

France - ORGANISATION

France - PEOPLE

Gay and lesbian groups who want to lay wreaths in commemoration of homosexual men and women who died in the concentration camps of World War II, are prevented from doing so, both by the organisers and by the people attending the remembrance ceremonies. This happens in Paris in 1981, in Nantes, Lille and Nancy in 1984, and in Besançon in 1985.

[Sek 1985, June, p. 14]

Germany (East) - WRITTEN LAW

In 1984 it becomes illegal to wear a pink triangle. Lesbian women and gay men who nevertheless put one on, can be charged with "disturbing the socialist society". The authorities also try to stop remembrance ceremonies for homosexual victims of the Nazi-regime, at the former concentrations camps Sachsenhausen and Buchenwald.

[Lambda Nachrichten 1984, nr. 4, p. 30-31]

Germany (West) - WRITTEN LAW

In 1987 the Federal Parliament decides to make 300 million marks available for "Wiedergutmachung" to be paid to "forgotten" victims of the nazi regime, including homosexuals.

[GK 1988, January. p. 14]

Austria - ADMINISTRATION

For having had gay sex, a man was sentenced in 1941 to two years imprisonment. After these years he was transferred to a concentration camp, where he lived until the end of the war. In 1982 he retires and claims pension over the 27 months that he has spent in the concentration camp. The state pension fund refuses. Together with the gay and lesbian organisation HOSI he takes his case to the Minister of Social Affairs. The Minister also refuses, because the man's "crime" was already a crime before the nazi period. [Sek 1983, March, p. 9]

—> **Austria - ORGANISATION**
Austria - ADMINISTRATION

HOSI and ILGA organise protests against the refusal of the pension. After these the Minister eventually declares that in cases where the war time conviction was for gay sex between two adults, pension will now be also paid over the time spent in a concentration camp. This new policy does not help the man involved, because he was convicted for sex with a man under 18, which is still illegal in Austria. [IGA-bulletin 1983, nr. 7, p. 12]

Austria - WRITTEN LAW

Politicians repeatedly refuse to include homosexuals as a persecuted group in the "Opferfürsorgegesetz" - the law providing for pensions for victims of persecution under the nazi-regime. The main argument for this is that gay sex has been a crime before and after that regime..... (HG)

————> **Austria - ORGANISATION**
Austria - ADMINISTRATION

The first memorial for the victims of the nazi persecution of homosexuals is unveiled in 1984, in the former concentration camp Mauthausen. The granite triangle (with the text: "Totgeschlagen - totgeschwiegen. Den homosexuellen Opfern des National-Sozialismus") is officially approved by the Minister of the Interior, but paid by the gay and lesbian movement. [Sek 1985, February, p. 29]

Germany (West) - ORGANISATION

In May 1986 the International Dachau Committee refuses permission for a memorial commemorating the homosexual victims of the nazis to be placed in the main memorial room of the former concentration camp in Dachau.

[IGA-bulletin 1986, nr. 6, p. 4; GK 1988, July, p. 12]

————> **Germany (West) - ORGANISATION**

In 1988, when the Committee is still refusing permission, the Evangelical Church gives permission for the memorial (with the same text as the one in Mauthausen, see above) to be placed in its church on the site of the camp. [GK 1988, July, p. 12]

Austria - ADMINISTRATION

In November 1988 the "Monument against War and Fascism" is unveiled. A group of 20 lesbian and gay activists - as representatives of one of the many groups of victims - join the unveiling ceremony. They silently stand during the ceremony holding a banner which reads "Thousands Of Homosexual Victims Of Concentration Camps Are Still Waiting For Rehabilitation". After a while, the police request (without giving any reason) that the banner be put away. When this is refused, 30 policemen tear down the banner using force, injuring two of the activists and trying to arrest one of them.

In a response to a protest letter about the police's behaviour, the Lord Mayor of Vienna chastises the group of lesbians and gays for carrying out an "unbefitting demonstration". [ILGA-bulletin 1989, nr. 1, p. 4]

————> **Italy - ORGANISATION**
Italy - ADMINISTRATION

In 1990, a memorial for the victims of the nazi persecution of homosexuals is unveiled in Bologna. The local council of Bologna had decided to erect this memorial - a pink triangle - after a proposal from the organisation Arci-gay.

[Lesbia 1989, November, p. 7; GPH 3 May 1990, p. 18]

APPENDIX I GLOSSARY

I.A LABELS

WRITTEN LAW	=	(anti-) discrimination contained in treaties, constitutions, acts of parliament, regulations, or local byelaws
COMMON LAW	=	(anti-) discrimination contained in judge-made law (unwritten law)
COURT CASE	=	judicial and quasi-judicial decisions about (anti-) discrimination
ADMINISTRATION	=	(anti-) discriminatory decisions and activities of international, national, regional, or local government administrations (including the police)
DECLARATION	=	(anti-) discriminatory non-binding declarations, statements, resolutions, motions, advice, and rejected or not-yet-adopted proposals of legislative or administrative bodies
PEOPLE	=	(anti-) discriminatory activities and opinions of (groups of) individuals
BUSINESS	=	(anti-) discriminatory activities and opinions of commercial businesses
ORGANISATION	=	(anti-) discriminatory activities and opinions of non-governmental non-profit organisations
MEDIA	=	(anti-) discriminatory activities and opinions of press, radio and television
SOCIETY	=	any combination of most of the eight labels described above

I.B COUNTRIES

The **Council of Europe** consists of 26 countries: the 12 member states of the European Community, plus the following 14countries:

1. Austria
2. Czechoslovakia (Czechoslovakia joined the Council of Europe in)
3. Cyprus (North and South Cyprus)
4. Finland (Finland joined the Council of Europe in 1989.)
5. Hungary (Hungary joined the Council of Europe in 1990.)
6. Iceland
7. Liechtenstein
8. Malta
9. Norway
10. Poland (Poland joined the Council of Europe in 1991.)
11. San Marino (San Marino joined the Council of Europe in)
12. Sweden
13. Switzerland
14. Turkey

The **European Community** consists of the following 12 countries:

15. Belgium
16. Denmark (The Faerøer Islands and Greenland are part of the Kingdom of Denmark. The Faerøer Islands and - since 1985 - Greenland are not part of the EC.)
17. France
18. Germany (The Federal Republic of Germany (FRG) until 1990 did not include the German Democratic Republic (GDR), which did not form part of the EC. In this report the FRG from before 3 October 1990 is indicated as "Germany (West)" and the GDR as "Germany (East)".) (Greece joined the EC in 1981.)
19. Greece
20. Ireland
21. Italy
22. Luxemburg
23. Netherlands
24. Portugal (Portugal joined the EC in 1986.)
25. Spain (Spain joined the EC in 1986.)
26. United Kingdom (The "United Kingdom of Great Britain and Northern Ireland" consists of England, Wales, Scotland and Northern Ireland. The first three are collectively known as "Great Britain". The Isle of Man and the Channel Islands (Guernsey, Jersey, Sark and Alderney) are not part of the United Kingdom. They are more or

less self-governing dependencies of the British Crown. The Isle of Man does not form part of the EC. Gibraltar is a - fully dependent - colony of the United Kingdom.)

Still outside the Council of Europe are the following countries:

27. Andorra
28. Monaco
29. Vatican City
30. Albania
31. Bulgaria
32. Rumania
33. the six republics (Bosnia-Hercegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia) and two autonomous provinces (Kosovo and Vojvodina) which formed the "Socialist Federal Republic of Yugoslavia",
34. Estonia
35. Latvia
36. Lithuania
37. the other twelve republics which formed the "Union of Socialist Soviet Republics"

The cities, provinces, autonomous regions and dependent territories in Europe of these 37 countries will be mentioned separately where appropriate.

I.C INTERNATIONAL ORGANISATIONS

Governmental organisations:

United Nations	includes the specialised organisations such as WHO, ILO, UNESCO
European Community	consists of 12 countries; the main institutions of the EC are: Council, Commission, European Parliament, Court of Justice
Council of Europe	consists of 26 countries; the main institutions of the Council of Europe are: Council of Ministers, Parliamentary Assembly, European Commission of Human Rights, European Court of Human Rights
Nordic Council	consists of 5 countries;
ECSC	

Non-governmental organisations:

Amnesty International
Helsinki Citizens' Assembly
International Commission of Jurists
International Humanist and Ethical Union
International Lesbian and Gay Association

I.D ALPHABETICAL LIST OF USED ABBREVIATIONS AND PUBLICATIONS

AIDS Survey	AIDS, HIV Seroprevalence and AIDS Policies by the European States - a Survey , by Aart Hendriks, 1990
AGAMA	
De Antwerpse Morgen	Asociación Gai de Madrid (Spain)
Avui	Belgian daily newspaper
Babilonia	daily newspaper in Catalonia (Spain)
Belang van Limburg	monthly Italian gay and lesbian magazine
Bericht 1989	Belgian daily newspaper
	Bericht über die Probleme der Wohnversorgung von unverheirateten Paaren und sonstigen Lebens- und Wohnungsgemeinschaften , Der Bundesminister für Raumordnung, Bauwesen und Städtebau, 5 December 1989 (report from the Federal German Housing Department on housing problems of unmarried people)
B&F	Constitutions of the Countries of the World , A.P. Blaustein & G.H. Flanz (eds.), loose-leaf, Oceana Publications, Dobbs Ferry, NY
Bolletino del CLI	(?)monthly newsletter of
Boutet 1988	Annabelle Boutet, La position du droit face à l'homosexualité en France , Mémoire de licence en Droit Public, Université de Perpignan, année 1987-1988
Brabants Nieuwsblad	Dutch regional daily newspaper
Bundestag Drucksache	papers published by the Federal Parliament of Germany
Capital Gay	weekly gay newspaper in London
CEDW	Convention on the Elimination of all Forms of Discrimination against Women, treaty of 1979 (New York)
CG	Capital Gay (a weekly paper in London)
CHE	Campaign for Homosexual Equality (British organisation)
CHE 1980	Attacks on gay people . A Report of the Commission on Discrimination of CHE, Second Edition, London 1980, ISBN 0-9504429-5-X
CHE 1981	What about the gay workers? A Report of the Commission on Discrimination of CHE, London 1981, isbn 0 9504429 6 8
CMLR	Common Market Law Reports
COC	Nederlandse Vereniging tot Integratie van Homoseksualiteit COC (Dutch Organisation for Integration of Homosexuality)
Colvin 1989	Madeleine Colvin, Section 28 - A practical guide to the law and its implications , National Council for Civil Liberties, London 1989, ISBN 0-946088-32-2
Crane 1982	Paul Crane, Gays and the Law , Pluto Press, London 1982, ISBN 0-86104-386-3
Daly 1983	Mike Daly, At work, in: Prejudice and Pride - Discrimination against gay people in modern Britain , Bruce Galloway (ed.), London 1983, ISBN 0-7100-9916-9, p. 35-61
D&R	Decisions and Reports (of the European Commission of Human Rights)
DDHÖS 1989	Diskussionsgrundlagen und Dokumente zur Homosexualität im österreichischen Strafrecht , zusammengestellt von Mag. Helmut Graupner und Mag. Kurt Krickler, Stand 1.7.1989, Homosexuelle Initiative Wien, Vienna 1989.
Diario 16	Spanish daily newspaper
Dose 1990	Ralf Dose, Der § 175 in der Bundesrepublik Deutschland (1949 bis heute), in: Die Geschichte des § 175 - Strarecht gegen Homosexuelle , Verlag rosa Winkel, Berlin 1990, ISBN 3-921495-46-6, p. 122-143
Drucksache	papers published by the Federal Parliament of Germany
Durrell 1983	Anna Durrell, At home, in: Prejudice and Pride - Discrimination against gay people in modern Britain , Bruce Galloway (ed.), London 1983, ISBN 0-7100-9916-9, p. 1-18
EEC	European Economic Community, one of the three communities forming the EC
EEC-Treaty	Treaty European Economic Community, treaty of 1957 (Rome)
EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms, treaty of Rome, 4 November 1950 (also referred to as European Convention on Human Rights)

EComHR	European Commission of Human Rights (in Strasbourg); the number after "D&R" refers to the volume of the series "Decisions and Reports" of the Commission
ECrthHR	European Court of Human Rights (in Strasbourg); the number after "Vol." refers to the volume of "Series A" of the "Publications of the European Court of Human Rights" in which the judgment has been published
Elmer & Larsen 1990	M. Elmer and M. Lund Larsen, Explanatory article on the legal consequences etc., of the Danish Law on Registered Partnership, Translated from the Danish law journal "Juristen" no. 3, 1990
Elsevier	Dutch weekly news magazine
Emborg 1989	The Danish Law on registered partnership. How it works , by Mikkel Emborg, paper 1989.
Equality Now 1990	Equality Now for Lesbians and Gay Men , published by the Irish Council for Civil Liberties (ICCL), Dublin 1990, ISBN 0-9515425-0-8
FF	Fritt Fram (Norwegian gay and lesbian-monthly paper)
FRG	Federal Republic of Germany (West Germany as it existed until 3 October 1990; the country re-united on that day is referred to as "Germany")
Frowein & Stein 1987	Die Rechtsstellung von Ausländern nach staatlichem Recht und Völkerrecht - The Legal Position of Aliens in National and International Law , J.A. Frowein & T. Stein (eds.), Springer Verlag, Berlin 1987.
GALOP	Gay London Police Monitoring Group (1st Annual Report, April 1984; 2nd Annual Report, June 1985; 3rd Annual Report, 1986-1987)
Gazette du Palais	French law reports
GCN	Gay Community News (Irish periodical)
GDR	German Democratic Republic (East Germany as it existed until 3 October 1990)
GK	De Gay Krant (Dutch bi-weekly paper)
GLEN	Gay and Lesbian Equality Network (an Irish organisation)
GPH	Gai Pied Hebdo (French weekly magazine)
De Groot 1988	Gerard-René de Groot, Staatsangehörigkeitsrecht im Wandel - Eine rechtsvergleichende Studie über Erwerbs- und Verlustgründe der Staatsangehörigkeit , T.M.C. Asser Instituut, The Hague 1988 (also published by: Carl Heymans Verlag KG)
GT	Gay Times (British monthly magazine)
Guardian	British daily newspaper
H&E 1983	Homoseksualiteit en Europa - wetsteksten , PvdA-Homogroep, november 1983 (publication of gay & lesbian group of Dutch labour party; contains "Texts of the legislation applicable to homosexuals in the countries of the European Community")
Haagsche Courant	Dutch regional daily newspaper
Hauer 1984	Gudrun Hauer and others, Rosa Liebe unterm roten Stern - Zur Lage des Lesben und Schwulen in Osteuropa (on the situation of lesbians and gays in Eastern Europe, Homosexuelle Initiative (HOSI) Wien, Hamburg 1984 / Kiel 1986?)
Him	British monthly gay magazine
Homostudies	Interfacultaire Werkgroep Homostudies (the Department of Gay and Lesbian Studies of the University of Utrecht, the Netherlands)
Hurwitt & Thornton 1989	Malcolm Hurwitt and Peter Thornton, Civil Liberty: the Liberty/NCCL Guide , Fourth edition, Liberty / National Council for Civil Liberties, London 1989
ICCPR	International Covenant on Civil and Political Rights, treaty of 1966 (New York)
Iceberg	the ILGA project to uncover and combat discrimination in Europe
ICESCR	International Covenant on Economic, Social and Cultural Rights, treaty of 1966 (New York)
IGA	International Gay Association (name since 1986: ILGA)
IGA-memorandum	bi-monthly newsletter of IGA
IGA-bulletin	bi-monthly newsletter of IGA
ILGA	International Lesbian and Gay Association (name until 1986: IGA)
ILGA-bulletin	bi-monthly newsletter of ILGA
ILGA-EEIP	(report of the) Eastern Europe Information Pool of ILGA, run by Homosexuelle Initiative Wien
ILGA-Military	Report on the Legal Situation of Homosexual Men & Women in the Armed Forces , by Casimir Elsen, ILGA

ILIS	Information Pool on Gays and Lesbians and the Military, 1987 (plus later updates)
ILIS-bulletin	International Lesbian Information Service
The Independent	monthly newsletter of ILIS
IRLR	British daily newspaper
JCP	Industrial Relations Law Reports (British)
Jeffery-Poulter 1991	 (French law reports Stephen Jeffery-Poulter, Peers, Queens & Commons - The Struggle for Gay Law Reform from 1950 to the Present , Routledge, London 1991, ISBN 0-415-05760-4
Journal des Procès	Belgian law reports
Journal Officiel	French official journal, in which laws are published
JH	Journal of Homosexuality (American three-monthly journal)
JT	 (Belgian Law Reports)
Kathimerini	Greek daily newspaper
KJ	Kritische Justiz (German law journal)
Lambda	monthly information bulletin of Institut Lambda (institute for the study and documentation of homosexuality) in Barcelona
Lambda Nachrichten	monthly (.....?) magazine of Homosexuelle Initiative
LBL	Landsforeningen for bøsser og lesbiske - Forbundet af 1948 (the national Danish organisation for gays and lesbians)
LIS	Lesbian Information Service (.....?)
Madrid Gay	monthly information bulletin of AGAMA (since 1985 the bulletin is called "Mundo Gay")
Meldrum 1983	Julian Meldrum, On the streets, in: Prejudice and Pride - Discrimination against gay people in modern Britain , Bruce Galloway (ed.), London 1983, ISBN 0-7100-9916-9, p. 62-77
De Morgen	Belgian daily newspaper
Mundo Gay	monthly information bulletin of AGAMA (until 1985 the bulletin was called "Madrid Gay")
NJCM	NJCM-bulletin (Dutch magazine for human rights)
NJW	Neue Juristischen Wochenschrift (German law journal)
Ofo 1986	Out for Ourselves . The Lives of Irish Lesbians & Gay Men, Dublin Lesbian and Gay Men's Collectives, Dublin 1986, ISBN 0-947802-35-5
OJ	Official Journal of the EC (in part L legislative texts are published, in part C other texts)
Pan	Danish-monthly gay and lesbian magazine
El País	Spanish daily newspaper
El Periódico	Spanish daily newspaper
Pink Book 1985	IGA Pink Book 1985 - a global view of Lesbian and Gay oppression and liberation, International Association of Lesbians, Gay Women and Gay Men (an old name of ILGA), COC-magazijn, Amsterdam 1985, ISBN 90-6753-011-5
Pink Book 1988	Second ILGA Pink Book - a global view of lesbian and gay liberation and oppression, International Lesbian and Gay Association, Utrecht Series on Gay and Lesbian Studies nr. 12, Interfacultaire Werkgroep Homostudies, Rijksuniversiteit Utrecht, Utrecht 1988, ISBN 90-6839013-9
Prakke 1988	L. Prakke, Het Koninkrijk Spanje, in: Het staatsrecht van de landen der Europese Gemeenschappen , L. Prakke en C.A.J.M. Kortmann (eds.), Kluwer, Deventer 1988, ISBN 90-268-1782-7, p. 607-672
Le Poing et la Rose	magazine of the French Socialist Party
Rechtskundig Weekblad	Belgian weekly law journal
RF	Rosa Flieder, German-monthly gay magazine
Ringkjøbin Amts Dagblad	Danish regional daily newspaper
RvdW	Rechtspraak van de Week (Dutch law reports)
Rotterdams Nieuwsblad	Dutch regional daily newspaper
Rühr Nachrichten	German regional daily newspaper
SchwIPs 1982	SchwIPs - die schwulen Juristen, Recht schwul - Rechtsratgeber für Schwule , Verlag rosa Winkel, Berlin 1982, ISBN 3-921-495-11-3
Sek	monthly magazine of COC, the Dutch Organisation for Integration of Homosexuality
Selbstbestimmt 1989	Selbstbestimmt Schwul - § 175 ersatzlos streichen , G. Dworek & R. Kühn (Red.), Die Grünen im Bundestag, Bonn 1989
SETA	-monthly magazine of SETA, the national Finnish lesbian and gay organisation
SHRG	Scottish Homosexual Rights Group
Soir	Belgian daily newspaper

Spartacus	Spartacus '90/91 guide for gay men , 19th edition, edited by Bruno Gmünder and John D. Stamford, Berlin 1990, ISBN 3-924163-51-0
Staatsblad Steenbeek 1988	Dutch official journal, in which laws are published J.G. Steenbeek, Het Koninkrijk Denemarken, in: Het staatsrecht van de landen der Europese Gemeenschappen , L. Prakke en C.A.J.M. Kortmann (eds.), Kluwer, Deventer 1988, ISBN 90-268-1782-7, p. 67-111
Stonewall	The Stonewall Group, a United Kingdom lesbian and gay organisation based in London
Tatchell 1990	Peter Tatchell, Out in Europe . A guide to lesbian and gay rights in 30 European countries, published by Channel 4 Television, London 1990, ISBN 1-85144-010-0
Tatchell 1992	 (criminal statistics)
taz	?
Thinius 1990	Bert Thinius, Verwandlung und Fall des Paragraphen 175 in der Deutschen Demokratischen Republik , in: Die Geschichte des § 175 - Strarecht gegen Homosexuelle , Verlag rosa Winkel, Berlin 1990, ISBN 3-921495-46-6, p. 145-162
Thomas and Costigan 1990	Philip Thomas & Ruth Costigan, Promoting Homosexuality - Section 28 of the Local Government Act 1988 , Cardiff Law School, Cardiff 1990, ISBN 0-9516976-0-9
TPP	The Pink Paper, a British gay weekly newspaper
Trouw	Dutch daily newspaper
UDHR	Universal Declaration of Human Rights (declaration of the General Assembly of the United Nations, adopted on 10 December 1948 in Paris)
UK	United Kingdom of Great Britain and Northern Ireland
Unità	Italian daily newspaper
Utrechts Nieuwsblad	Dutch regional daily newspaper
Vol.	Volume (of Series A of the Publications of the European Court of Human Rights)
De Volkskrant	Dutch daily newspaper
De Waarheid	Dutch daily newspaper
Warner 1983	Nigel Warner, Parliament and the law , in: Prejudice and Pride - Discrimination against gay people in modern Britain , Bruce Galloway (ed.), London 1983, ISBN 0-7100-9916-9, p. 78-101
De Wit 1987	J. de Wit, De zaak Haenen-Vincineau. Homoseksualiteit als wettelijk strafbare ontucht in België , in: Recht en Kritiek 1987, p. 243-258 (Recht en Kritiek is a Dutch law journal)
WLR	Weekly Law Reports (British)
Wong 1988	Christopher Wong, Immigration rights for lesbians and gays , paper, Stockholm 1988
Die Zeit	German weekly newspaper

> end of 16.12.1991 draft <

INDEX

For the convenience of the user, five indexes have been made, each for a small group of (somewhat related) chapters. See page 99 and 100 for the meaning of the labels, and for the complex composition of the United Kingdom and Yugoslavia.

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