



June 10, 2009

Mr. Arunas Valinskas, Speaker of Seimas, Lithuania

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Mr. Gintaras Steponavicius, Minister of Education and Science, Lithuania

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Your Excellencies:

I am writing you on behalf of the International Gay and Lesbian Human Rights Commission (IGLHRC) to urge you to advocate for the rejection of the legislative amendment outlawing the distribution of information related to homosexuality through any medium to which children have access. This would prohibit information relating to lesbian, gay, and bisexual people from being distributed to the public and would prevent the discussion of these issues in schools.

We have learned that on June 11, 2009 the Seima will have a final vote on the draft "Law on the Protection of Minors Against the Detrimental Effect of Public Information," which was amended on June 2, 2009 to include this repressive limitation.

This amendment would codify discrimination based on sexual orientation, deny freedom of expression, and would inhibit children's rights to education, information, health, and life, violating international and European human rights law and jurisprudence, to which Lithuania is subject.

### **Rights to Nondiscrimination and Freedom of Expression**

This amendment would impermissibly discriminate on the basis of sexual orientation by rendering lesbian, gay, and bisexual people invisible and mute in any public sphere, solely because of their sexual orientation.

The United Nations Human Rights Committee included sexual orientation among the nondiscrimination grounds of Articles 2 and 26 on equality in the International Covenant on Civil and Political Rights (ICCPR) (*Toonen v. Australia*, 1994). Other UN human rights treaty bodies have spoken against discrimination on the basis of sexual orientation, including the UN Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Elimination of Discrimination Against Women (CEDAW), and the Committee Against Torture (CAT).

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The European Court of Human Rights has found, generally, that the protection of the European Convention on Human Rights in Article 14 on nondiscrimination regarding any right stipulated by the Convention includes sexual orientation (*Salgueiro da Silva Mouta v. Portugal*, 1999; *L. and V. v. Austria*, *S.L. v. Austria*, 2003; *Karner v. Austria*, 2003).

In the European Union, discrimination based on sexual orientation is expressly prohibited by Article 13 of the Treaty of the European Community (Amsterdam) and Article 21(1) of the Charter of Fundamental Rights in the European Union.

Furthermore, this amendment would the freedom of expression of all people who wish to engage in public discussion of non-heterosexual sexual orientations, from political marches to public education, in violation of Article 19 of the ICCPR, Article 13 of the Convention on the Rights of the Child, and Article 10 of the European Convention on Human Rights. If lesbian, gay, and bisexual people are prevented from discussing their sexual orientation in the public sphere, and therefore, politically, they are facing discriminatory treatment under the law.

Discriminatory laws send the message that a state grants an inferior status to lesbian, gay, and bisexual people; this way, citizens are encouraged to discriminate on their turn. As shown in the recent study by the EU Fundamental Rights Agency,<sup>1</sup> discrimination based on sexual orientation currently exists in Lithuania and 47% of respondents to a study conducted in the country considered homosexuality as an illness and believed that homosexuals should be treated immediately. An amendment such as the one proposed could only increase peoples' ignorance about lesbian, gay, and bisexual issues, leading to further discrimination on the basis of sexual orientation.

### **Children's Rights to Education, Information, Health, and Life**

This amendment is specifically drafted with children in mind and would particularly burden the human rights of children in Lithuania, beyond exposing them to increased discrimination and suppressing their right to expression. It would limit their education and the information they have access to through their schools. Preventing schools from providing comprehensive and accurate sexual education, including information about sexual orientation denies vital information to all young people—including young lesbian, gay, and bisexual people— and limits their access to a full understanding of sexuality.

The Human Rights Committee has asked to “ensure that schools include accurate and objective sexuality education in their curricula,” linking this obligation to the right to life under the ICCPR (Human Rights Committee, *Concluding Observations: Poland*, para. 9, U.N. Doc. CCPR/CO/82/POL. (2004)). Likewise, in General Comments, the Economic, Social and Cultural Rights Committee and the Committee on the Rights of the Child have found that rights to health and information require that states refrain from “censoring, withholding or intentionally misrepresenting health-related information, including sexuality education and information, as well as from preventing people's participation in health-related matters.” (CESCR Comm., *General Comment 14: The Right to the Highest Attainable Standard to Health*, para. 34, U.N.

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<sup>1</sup> “Homophobia and discrimination on grounds of sexual orientation and gender identity in the EU Member States: Part II - The Social situation”; European Union Agency for Fundamental Rights, 2009 ([http://fra.europa.eu/fraWebsite/products/publications\\_reports/pub\\_cr\\_homophobia\\_p2\\_0309\\_en.htm](http://fra.europa.eu/fraWebsite/products/publications_reports/pub_cr_homophobia_p2_0309_en.htm))



Doc. E/C.12/2000/4 (2000); CRC Comm., *General Comment 3: HIV/AIDS and the Rights of the Child* (2003).)

The Committee on the Right of the Child has also stated that adolescents “have the right to access to adequate information essential for their health and development” and that states must ensure “that all adolescent girls and boys, both in and out of school, are provided with, and not denied, accurate and appropriate information on how to protect their health and development and practise healthy behaviours.” (CRC Comm., *General Comment 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child*, para. 26, U.N. Doc. CRC/GC/2003/4 (2003).)

Given this right to adequate and appropriate sexuality education and information and the Committee on the Rights of the Child’s concerns that “homosexual and transsexual young people do not have access to the appropriate information, support and necessary protection to enable them to live their sexual orientation” and “at the rising incidence of sexually transmitted diseases among young persons,” and its recommendations that a State party “provide adequate information and support to homosexual and transsexual young people” (CRC Comm., *Concluding observations: United Kingdom of Great Britain and Northern Ireland*, CRC/C/15/Add.188, October 9, 2002), a law that explicitly prevents information relating to sexual orientation from being discussed in schools would violate this right for all children.

The government has a responsibility to reduce societal prejudice and a duty to respect, protect, and fulfill the rights of all people, including lesbian, gay, bisexual, and transgender people, regardless of age. This amendment does the opposite, increasing prejudice and violating rights.

We urge you to advocate for the rejection of the amendment.



Cary Alan Johnson  
Executive Director, IGLHRC

The International Gay and Lesbian Human Rights Commission’s mission is to advance human rights for everyone, everywhere to end discrimination based on sexual orientation, gender identity, and gender expression. A non-profit, non-governmental organization, IGLHRC is based in New York, with offices in Cape Town and Buenos Aires.  
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