



June 17, 2009

Mr. Valdas Adamkus, President of Lithuania
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Your Excellency:

I am writing you on behalf of the International Gay and Lesbian Human Rights Commission (IGLHRC) to urge you to refer back to the Seima the “Law for the Protection of Minors against the Detrimental Effect of Public Information,” now before you for promulgation. The Law was adopted by the Seima on June 16, 2009 and includes discriminatory provisions based on sexual orientation and gender identity.

The “Law for the Protection of Minors against the Detrimental Effect of Public Information,” outlaws the distribution of positive information related to homosexuality through any medium to which children have access. In effect, this law 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 and in the media. While in the Seima, the debate was strongly dominated by references to Christian and family values which apparently are incompatible with homosexuality. However, this law would codify discrimination based on sexual orientation, deny freedom of expression, and inhibit children’s rights to education, information, health, and life, violating international and European human rights law to which Lithuania is a party.

Rights to Nondiscrimination and Freedom of Expression

This law would impermissibly discriminate on the basis of sexual orientation, by rendering lesbian, gay, and bisexual people invisible and mute in the 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).

The European Court of Human Rights has found 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).

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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 violate the freedom of expression of all people who wish to engage in public discussion of non-heterosexual sexual orientations, from publication of such information 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. The related UN treaty bodies and the European Court of Human Rights will likely find these provisions of the “Law for the Protection of Minors against the Detrimental Effect of Public Information” as violating these human rights treaties. 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 also encouraged to discriminate. As shown in the recent study by the EU Fundamental Rights Agency,¹ discrimination based on sexual orientation currently exists in Lithuania. 47% of respondents to a study conducted in the country considered homosexuality to be an illness and believed that homosexuals should be subject to treatment. A law 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 law is specifically drafted with children in mind and would actually burden the human rights of children in Lithuania, exposing them to discrimination, suppressing their right to expression, and limiting their access to important information about human sexuality and diversity in 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 humanity.

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

¹ “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).

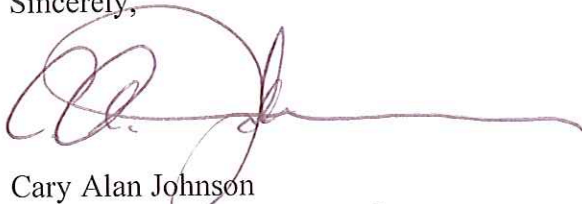
The Committee on the Rights of the Child has also stated that adolescents “have the right to access to adequate information essential for their health and development” and that states must ensure “that all adolescent girls and boys, both in and out of school, are provided with, and not denied, accurate 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).)

A law that explicitly prevents information relating to sexual orientation from being discussed in schools would violate all children’s rights to adequate and appropriate sexuality education. The Committee on the Rights of the Child expressed 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.” The Committee recommended 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).

The government of Lithuania 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. This law does the opposite, increasing prejudice and violating rights.

We urge you to return the law to the Seima with these human rights arguments and ask for the elimination of the provisions that are discriminatory.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Cary Alan Johnson', with a long horizontal flourish extending to the right.

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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