



June 23, 2009

Mr. Georgi Parvanov, President of the Republic of Bulgaria

Mr. Sergei Stanishev, Prime Minister of the Republic of Bulgaria

Mr. Mihail Mikov, Minister of Interior of the Republic of Bulgaria

Mr. Boiko Borisov, Mayor of Sofia

Your Excellencies:

For only the second time ever, lesbian, gay, bisexual, and transgender people in Sofia are attempting to exercise their human rights with a “Rainbow Friendship Rally” on June 27th, 2009, as they did last June 28th with the “Me and My Family” LGBT march. In exercising their rights, however, LGBT Bulgarians and their supporters attending the march are once again facing the threat of organized violence, intimidation, and discrimination.

We are writing on behalf of the International Gay and Lesbian Human Rights Commission (IGLHRC) and the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe) to protect the rights of everyone without discrimination based on sexual orientation or gender identity. The government must ensure these human rights defenders’ freedoms to expression, assembly, association, and security under European and international law.

Attacks on LGBT March

Last year, a week before the first LGBT march, the Bulgarian National Alliance (BNA) called for a “Week of Intolerance,” with the slogan “be normal, be intolerant.” The BNA encouraged other nationalist groups to organize against the right of LGBT Bulgarians and their supporters to march peacefully. This resulted in violence during the march: BNA members and other neo-Nazis threw rocks, Molotov cocktails, and small explosives at the marchers. Many of the attackers, including the head of the BNA, Boyan Rasate, were arrested for the violence surrounding the march.

We have learned from Bulgarian LGBT groups that this year neo-Nazi groups are once again organizing against the march and that this intolerance and potential violence are being publicly encouraged by parties in Parliament, such as the Veliko Makedonska Revolucionna Organizacia (VMRO), which characterizes LGBT marches as “blackmail” and “strongly opposes” them in an

official statement, and Ataka, which has called upon Bulgarian men to “beat up the gays.” The government must ensure the security of the marchers and to do so, officials must not incite this violence either explicitly or indirectly by encouraging intolerance on the basis of sexual orientation and gender identity. On the contrary, political leadership should support LGBT marches to change societal prejudice and ensure the protection of LGBT people.

LGBT Marches and Public Demonstrations Under International and European Law

Under European and international human rights law, Bulgaria has a duty to protect the right of LGBT people to participate freely in LGBT marches and demonstrations by defending the rights and freedoms of expression and association, nondiscrimination, and human rights defenders. To respect, protect, and fulfill these rights, States must permit LGBT-related demonstrations and must ensure the security of all people voicing their opinion, whether the demonstration is authorized or not.

International Law

The Universal Declaration of Human Rights (UDHR) and the International Convention on Civil and Political Rights (ICCPR) recognize the right to freedom of expression and freedom of assembly (UDHR Articles 19 & 20, ICCPR Articles 19 & 21) inherent in all nonviolent marches and demonstrations. The right to freedom of assembly and association are also protected by the declaration on human rights defenders adopted by the General Assembly in 1998 which states that everyone has the right to “meet or assemble peacefully”¹ and a 2005 UN Commission on Human Rights Resolution on the rights to freedom of assembly and association which “[c]alls upon Member States to respect and fully protect the rights to assemble peacefully and associate freely of all individuals, including those espousing minority or dissenting views or beliefs.”²

Banning marches, denying them effective protection, and attacking them are forms of discrimination, which is impermissible on the basis of sexual orientation under Article 2 and 26 of the ICCPR and the Human Rights Committee decision in *Toonen v. Australia*.³ The statement made in the General Assembly on human rights, sexual orientation and gender identity on 18 December 2008, and signed by 66 states, including Bulgaria, further indicates that such discrimination on the basis of sexual orientation and gender identity is impermissible.⁴

Participants in LGBT marches and demonstrations are human rights defenders, standing up for the human rights of LGBT people. The Special Representative of the Secretary-General on the situation of human rights defenders has expressed concern for “reported threats and harassment of human rights defenders campaigning for equality and against discrimination based on perceived sexual orientation” in LGBT marches and demonstrations in Israel, Latvia, Moldova, and Poland, and has expressed concern at statements and demonstrations against LGBT marches

¹ Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental rights, Adopted by General Assembly Resolution 53/144 of 9 December 1998.

² UN Commission on Human Rights, Human Rights Resolution 2005/37: Promoting the Rights to Peaceful Assembly and Association, 19 April 2005, E/CN.4/RES/2005/37.

³ *Toonen v. Australia*, Communication No. 488/1992, 4 April 1994, para 8.7.

⁴ U.N. General Assembly, 70th and 71st plenary meeting, December 18, 2008. Text of declaration available at <http://www.droitslgbt2008.fr/documents/?mode=download&id=2>.

by authorities in Poland and Russia.⁵

European Law

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, which also protects the freedoms of expression, assembly and association (Articles 11 and 12).

Member States of the Council of Europe must implement the European Convention on Human Rights, including the decision of the European Court of Human Rights that failure to authorize an LGBT march violated the European Convention (Articles 11, on freedom of association and assembly, 13 on the right to an effective remedy, and 14 on non-discrimination).⁶ Under the Court's jurisprudence, the State also incurs positive obligations to secure "the genuine and effective respect" of these freedoms, including the obligation of the police to ensure the security of all people voicing a political message in the street, whether in an authorized demonstration or not, and whether or not the majority shares the same view.⁷

The Council of Europe Parliamentary Assembly Recommendation on freedom of assembly and expression for lesbians, gays, bisexuals and transgendered persons calls on states to "take a public stand against discrimination on the grounds of belonging to a sexual minority," to investigate all cases of violence during LGBT-related events, and to take other positive steps to ensure the rights of LGBT persons.⁸ The Council of Europe's European Code of Police Ethics speaks explicitly about the role of the police that goes beyond recognizing human rights to safeguarding them. Additionally, the Council of Europe Commissioner for Human Rights has stated that, "lack of action or inappropriate response by authorities, courts or Ombudspersons goes hand in hand with intolerant speech or worse, incitement to hatred."⁹

Significance of LGBT Marches and Demonstrations

Demonstrations, marches, and other public events are organized by LGBT people and supporters in many parts of the world, as a means to claim space in civil society and to draw attention to the human rights violations they regularly confront. This exercise of free expression, assembly, and association has become a core vehicle for social change for LGBT people. Through these public events, society can learn about differences, in general, and about different sexualities and gender identities in particular, leading to the diminishment of prejudice and misconceptions about LGBT people. By witnessing or taking part in these events, LGBT people who live in fear can

⁵ Report of the Special Representative of the Secretary-General on the situation of human rights defenders, para. 374, 402, 559-60, 568 UN Doc. A/HRC/4/37/Add.1, March 27, 2007.

⁶ *Baczowski and Others v. Poland*, European Court of Human Rights, Application no. 1543/06, Judgment 3 May 2007.

⁷ *Platform 'Ärzte für das Leben' v. Austria*, European Court of Human Rights, No. 139, Judgment of 21 June 1988.

⁸ Council of Europe, Parliamentary Assembly, Recommendation 211 (2007) on freedom of assembly and expression for lesbians, gays, bisexuals and transgendered persons, 26 March 2007. Available at, <https://wcd.coe.int/ViewDoc.jsp?id=1099699&Site=Congress&BackColorInternet=e0ceel&BackColorIntranet=e0ceel&BackColorLogged=FFC679>.

⁹ Statement by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, "Thinking Globally, Acting Locally" ILGA Europe conference, CommDH/Speech(2008)16, Vienna, 31 October 2008, available at <https://wcd.coe.int/ViewDoc.jsp?id=1365221&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>.

regain their confidence, dignity, and hope by taking part in building the community.

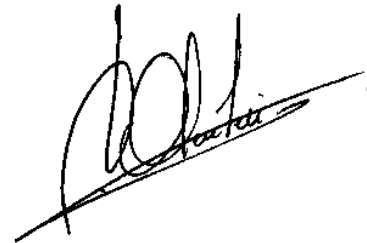
Marches and demonstrations are of utmost importance to the LGBT community. There are groups within Bulgaria who wish to destroy the ability of LGBT people to express themselves, and take away the right of LGBT people to feel safe. This must be strongly denounced by the government and also prevented by the police.

We count on your support for ensuring that the rights to security of the person and free expression and assembly of everyone, including LGBT people and their supporters, will be respected and protected.

Sincerely,



Cary Alan Johnson
Executive Director, IGLHRC



Dirk De Meirleir
Executive Director, ILGA-Europe

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.
www.iglhrc.org

ILGA-Europe is the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), a nongovernmental umbrella organization which represents over 222 member organizations at the European level. ILGA-Europe works towards a world in which the human rights of all people are respected and everyone can live in equality and free from discrimination on the grounds of sexual orientation, gender identity or expression.
<http://www.ilga-europe.org/>