



August 31, 2009

Mr. Stasys Šedbaras, chairman of the Committee on Legal Affairs

Dear Mr. Šedbaras:

The International Gay and Lesbian Human Rights Commission (IGLHRC) would like to express our deep concern that the proposed amendments to the Criminal Code XIP-668(2) and the Administrative Code XIP-667(2) will violate the human rights to freedom of expression and assembly, and to equality and non-discrimination of lesbian, gay, bisexual, and transgender (LGBT) people and their defenders in Lithuania under European and international law. I ask you to ensure that these amendments are not adopted.

These amendments make a criminal offense of and establish serious penalties for ‘promoting homosexual relations’ in a public place or funding such endeavors. This vague and leading language does not exclude any public expression or actions taken to protect or promote the human rights of LGBT people and criminalizes truthful discussions of human sexuality.

### **Rights to Equality and Non-Discrimination**

These amendments discriminate against LGBT people and their allies by increasing invisibility, stigma through the introduction of new and far-reaching criminal penalties based on sexual orientation. The United Nations Human Rights Committee includes sexual orientation among the nondiscrimination grounds of Articles 2 and 26 in the International Covenant on Civil and Political Rights (ICCPR) (*Toonen v. Australia*, 1994) and other human rights treaty bodies have also included sexual orientation in grounds of nondiscrimination as well. Under European law, the European Court of Human Rights (ECHR) has found that the protection of Article 14 of the European Convention on Human Rights 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. These amendments effectively criminalize people on the basis of their sexual orientation, and would create a constant fear for all LGBT people and their supporters who express themselves honestly and publicly.

### **Right to Freedoms of Expression and Assembly and Protection of Human Rights Defenders**

Groups that promote the human rights of LGBT people, individuals who speak out on this issue, and those who fund LGBT human rights defenders will find themselves to be considered criminals or paying large fines under these amendments. In international law, the right to the freedoms of assembly and expression are ensured under Articles 19 and 20 of the Universal Declaration of Human Rights (UDHR) and Articles 19 and 21 of the ICCPR. The Declaration on human rights defenders adopted by the General Assembly in 1998 also states that everyone has the right to “meet or assemble peacefully” and a 2005 UN Commission on Human Rights Resolution on the rights to freedom of assembly and association “[c]alls upon Member States to respect and fully

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protect the rights to assemble peacefully and associate freely of all individuals, including those espousing minority or dissenting views or beliefs.”

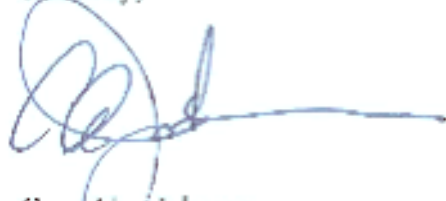
These rights and protections include the expression, assembly, and human rights defense of LGBT rights under the principles of nondiscrimination and equality. The Special Representative of the Secretary-General on the situation of human rights defenders has additionally expressed concern for threats and statements against LGBT marches and demonstrations, even where there is not categorical prohibition on such assemblies. In the European Union, the Charter of Fundamental Rights protects the freedoms of expression, assembly and association (Articles 11 and 12). The ECHR has also held 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: *Baczowski and Others v. Poland* (2007)). These amendments would likely categorically deny authorization of all LGBT marches and put all people who meet publicly to support LGBT rights at risk of arrest.

### **Homophobia in Lithuania**

A recent study conducted in Lithuania by the EU Fundamental Rights Agency found that 47% of respondents considered homosexuality to be an illness and believed that ‘homosexuals’ should be subject to medical treatment. Amendments such as these could only further increase Lithuanians’ lack of understanding about lesbian, gay, and bisexual issues, leading to further discrimination.

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. These amendments do the opposite, increasing prejudice, limiting free expression, and criminalizing all public expressions of LGBT people’s identities. I ask you to ensure that they are not adopted and to support all efforts to end discrimination against LGBT people in Lithuania.

Sincerely,

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

Cary Alan Johnson  
Executive Director, IGLHRC

CC:

Mr. Arminas Lydeka, chairman of the Committee on Human Rights

Ms Aušrinė Burneikienė, Ombudsperson for Equal Opportunities

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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](http://www.iglhrc.org)

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