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STATEMENT*

to the

OSCE CONFERENCE ON

RACISM, XENOPHOBIA, AND DISCRIMINATION

Vienna, 4-5 September 2003

Session 2: The Role of Governments and Civil Society in Promoting Tolerance

ILGA-Europe would like to address discrimination on the grounds of sexual orientation and gender identity and, in the context of this workshop, one specific, but important aspect:

We think that the role of governments should also be to monitor closely and, where appropriate, implement the human rights standards established through the jurisprudence of the European Court of Human Rights – even in those cases where judgments concern other states.

This can be illustrated by the following example: On 24 July of this year, the Strasbourg Court, for the first time, ruled that the different treatment in law of same-sex partners compared with unmarried opposite-sex partners is a violation of the European Convention on Human Rights. The case – *Karner v. Austria* – was about the right to succeed in the tenancy of an apartment after the partner's death. This case may seem very trivial, but this historic ruling of the Court means – in analogy – that any difference in treatment of same-sex partnerships compared with opposite-sex partnerships in any legal field would constitute a violation of the Convention.

Thus, this judgment could have great potential in the fight against discrimination. It could have enormous immediate repercussions if all member states of the Council of Europe honoured it and brought their legislation in line with it. Since only 12 out of the 45 Council of Europe member states do have some sort of legal recognition of same-sex partnerships, 33

governments in Europe should implement this recent jurisprudence without waiting until their own citizens file complaints in Strasbourg. We know, only the Austrian Government has a legal obligation to implement the judgment but all other 32 governments do have a moral obligation to also change their legislation accordingly. And in doing so, they would also prevent the Strasbourg Court from being flooded with identical and similar cases from many countries – thus, contributing enormously to the Court's efficiency and effectiveness.

However, there was one state that reacted almost immediately: the Vatican. Only one week after this historic judgment, the Vatican released a document calling upon Catholic politicians around the world to oppose pro-actively any legislation that would give legal rights to same-sex couples – legislation that would be in line with the recent jurisprudence of the Strasbourg Court.

The Vatican document qualifies homosexual behaviour as “immoral”. In the German version, the upbringing of children by lesbian and gay couples is equated with “rape”. Such language and action by the Vatican is not acceptable and must be denounced as what it is: incitement to hatred and blatant discrimination – and must be rejected unequivocally.

In view of these recent attacks by a Vatican institution, which – by the way – is the direct successor to the Holy Inquisition, we must seriously question the role the Vatican is allowed to play in international organisations such as the OSCE or the UN. We strongly doubt that the Vatican, with such attitudes, can really make any credible and convincing contribution to the international human rights and anti-discrimination discourse.

* This statement was prepared as an oral intervention in the working group session but due to the long speakers' list, there was no time left to give it. Therefore, it is distributed in written form to delegates and participants.