

**Analysis of the Situation of  
Lesbian, Gay, Bisexual and  
Transgender Minority in the  
Czech Republic**

*This report was created through the combined efforts of members of the Working Group for the Issues of Sexual Minorities of the Minister for Human Rights and National Minorities, MUDr. Džamila Stehlíková.*

*The group was created within the framework of activity of the European Union “European Year of Equal Opportunities for All (2007)”. It became a common platform for the meeting of representatives of the main non-governmental LGBT organizations and experts dealing with this issue on an academic level, as well as certain representatives of state administration.*

*And so thanks belong to the members of this working group for their participation in compiling this report. Participants in the workgroup’s efforts include: PhDr. Olga Pechová, Mgr. Martina Štěpánková, JUDr. Mgr. Jan Wintr, Ph.D., Ing. Slavomír Goga, MUDr. Ivo Procházka, Mgr. Czeslaw Walek, Mgr. Jitka Gjuričová, JUDr. Petr Kodl, Jiří Louženský, Věra Sokolová, Ph.D., Martin Strachoň, JUDr. Jana Nová, Kateřina Beňová, Mgr. Jiří Hromada and Mgr. Lucie Otáhalová.*

*This report was elaborated from April to October 2007.*

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## INTRODUCTION

The national strategy of the Czech Republic for the European Year of Equal Opportunities<sup>1</sup> stated that acceptance of a law on registered partnership is one of the many steps towards suppressing discrimination of gay and lesbian minorities. The strategy also expressed the stipulation that “in the Czech Republic, stereotypes persist in relation to sexual orientation”. The following report relates to these two basic ideals, and its basis is the fact that still today, people with differing sexual orientation and transgender people represent a marginalized minority.

At the very beginning, it is important to clarify the terms used in the text. The title uses the concepts “lesbian, gay, bisexual and transgender minority”. The problem of sexual minorities therefore was simplified for the average reader who is unfamiliar with the problem. The full spectrum of sexual minorities, mainly abroad, is known as LGBTI (lesbian, gay, bisexual, transgender and intersexual) minority, and of course this report deals with all of these minorities.

Differing sexual orientation in this and other contexts means sexual orientation other than heterosexual, i.e. the majority. For persons emotionally and sexually oriented towards the same sex (gays and lesbians), the term “homosexuals” has always been and still is used. This term nevertheless does not include those persons who are emotionally and sexually oriented towards both sexes (bisexual), individuals having the feeling of permanent belonging to the opposite sex than their somatic gender (trans people), or individuals who were born with biological traits of both sexes (intersexuals). Therefore in the course of the years, a permanent group of terms was created, “lesbian, gay, bisexual, transgender and intersexual minority”. For the sake of practicality, the acronym was eventually introduced including all five of these terms, LGBTI minority. The term “homosexuals”, although appearing at times in this report, may to a certain extent be considered to be antiquated and obsolete; it appears here mostly in passages dealing with the history of the problem. The reason why this term still is used amongst the majority of society is most certainly the generally lower consciousness of the existence of “a minority within a minority”, i.e. persons who are bisexual, intersexual and transsexual. The problem of intersexuality, despite being nothing new, was until recently lesser known. Still today, it is almost always spoken of on a professional level.

The Analysis of the Situation of Lesbian, Gay, Bisexual and Transgender minority in the Czech Republic (hereinafter “Analysis”), therefore is derived from the expectation that for the majority of Czech society, in terms of sexual minorities, significant confusion has so far persisted, as has misunderstanding of the actual situation. This manifests itself in homophobic feelings and unfounded prejudice. This approach logically moves into the sphere of legislative and executive power, i.e. to the areas of public life, which determine the approach of the state towards minorities, including sexual minorities. It is then logical that from these spheres, signals resonate indicating the thesis of the type, “discrimination of homosexuals does not exist”.

As the awareness and knowledge of the wider Czech public about the LGBTI minority in society is low, or superficial and gained mainly from the media, it's not

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<sup>1</sup> [http://www.vlada.cz/cs/vlada/stehlikova/errp/narodni\\_strategie.html](http://www.vlada.cz/cs/vlada/stehlikova/errp/narodni_strategie.html)

possible to expect it to understand the problems that members of this minority face regularly.

The aim of this Analysis is to provide explanation in an understandable and clear manner of what exactly is the LGBTI minority and community. It also explains how it has been viewed through the history, what problems it faces today, what are its relations with society's heterosexual majority are like and how it is usually perceived by this society. From the formal aspect, it would be appropriate to state that using the acronyms "LGBTI", "LGBT" or "LGB" is not random, and always illustrates which group of sexual minorities the particular question deals with.

The Analysis concludes with recommendations that relate to each passages of the text. These recommendations are directly derived from critical areas, which the text points out, and indicate how individual areas of the rights of the LGBTI minority should develop, what would be appropriate to change and what steps the government should take in this respect.

## **A. LGBT MINORITY AND COMMUNITY**

### **1. Community, minority and coming out**

It's quite difficult to define the term lesbian, gay and bisexual (LGB) minority and community, because the definition of sexual orientation itself has undergone historical development.<sup>2</sup> Today for example, a debate still exists as to whether bisexual orientation exists or not. Also, the boundaries between transgender people and the LGB community are not quite obvious, although this is mainly valid for the outside observer. In this report, however, a separate subchapter is dedicated to the transgender community, since the practical differences are significant, albeit many commonalities exist.

The majority of people with differing sexual orientation remained hidden for centuries of existence of religiously shaped Christian civilization. They lived their lives in utter isolation or in a deeply illegal subculture. The tendency towards this hidden lifestyle, however, persists in today's civil society for various reasons. For this reason, it's appropriate to differentiate the terms minority and community. It is possible to consider every member of the minority sexual orientation as a member of the LGB community regardless of whether the member "consciously" considers him/herself as such. But does the individual become a part of the LGB community automatically just by his/her minority sexual orientation, or is such a member only a person who considers him/herself as such a member, or who actively takes part in a public "gay and lesbian life"? There exists no definitive answer to this question; nevertheless, the most acceptable answer is that a member of the community is someone who believes that he/she is such a member.

There are people who, although they had or have a relationship with a person of the same sex, have only very weak ties in their minority. In their case, it is possible only to speak of their affiliation with the minority, but not that they belong to the community. Then there are many homosexuals who have very strong social ties within their minority without desiring to present themselves to the majority as a member thereof or even take part in public life as such. Undoubtedly, these people form a community, but do not take part in a public "gay and lesbian life". The majority of the Czech LGB community falls into this very group, because public involvement of LGB people is still not the norm in our lands. Members of the LGB minority have, in general terms, as opposed to members of ethnic minorities, a certain "advantage", as they may be relatively successful in hiding their sexual orientation, thereby avoiding automatic identification with this minority by the mainstream society. For this reason, for them it is often easier to hide amongst the majority rather than find protection in active and involved members towards the community.

This closely relates to the topic of active claiming of affiliation towards homosexual or bisexual orientation, popularly known as "coming out". Coming out of

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<sup>2</sup> A number of specialized works deal with this topic. As an introduction to this issue, it is possible to recommend:  
Rupp, L.J. (2001): *Vytoužená minulost* [Desired past]. Prague, One Woman Press. Further also: Spargo, T. (2001): *Foucault a teorie podivného* [Foucault and the theory of the strange]. Prague, Triton.

course is possible to define in various terms, including admitting to one's self, that "I am one of them" (internal coming out), as well as informing this fact to one's surroundings (external coming out). Many specialists even consider coming out as a lifelong process, which is never really finished. For the social image of gays and lesbians, external coming out is fundamental, especially when it does not exclude one's closest friends.

It is this very visibility of open gays and lesbians that is crucial for acceptance of this minority in society. The willingness to come out, however, is very limited in the Czech Republic. This applies to both unknown persons as well as to public figures. For example, it is quite difficult indeed to believe that there would be no lesbians and only a few gays amongst persons well known through the media in the Czech Republic. Fear from lack of understanding and rejection may certainly explain plenty, albeit in a relatively liberal country such as the Czech Republic. It is often possible to cast doubt upon the justifiability of such fears.

So it is possible for every member of the minority sexual orientation to consider themselves a member of the LGB minority without regard to the fact of whether such a member "consciously" considers him/herself as such, or to what degree such person has "come out". Even such a definition does not make any easier the answer to the question of how many gays and lesbians there actually are. Various studies relating to the used methodology arrive at seriously differing estimates on representation of homosexuals in the population. Such results normally fluctuate between one and ten percent of the population. The average of these figures is probably accurate. If we were to assume to be true the very popular yet unfounded data claiming four percent, it would mean that in the Czech Republic, there live four hundred thousand gays and lesbians, of which only part is at an active age and only a fraction thereof openly profess their orientation.<sup>3</sup>

## **2. Bisexuality and the bisexual community**

A specific problem is then the question of the existence of bisexuality as its own sexual orientation. The term bisexuality itself is not as entirely clear as is the term homosexuality. At the beginning of the 20<sup>th</sup> century, bisexuality, under the meaningful influence of Havelock Ellis and Sigmund Freud became a synonym for androgyny. This was supposed to be the primary mental state of the person. Only later did this term come to mean erotic or sexual attraction towards people of both biological sexes.<sup>4</sup>

Only around the 1980s did the renowned experts Eli Coleman<sup>5</sup> and Vivien Cass<sup>6</sup> give any significant meaning to the term bisexuality and its existence as an orientation all to its own. According to few available studies, it seems that bisexuality

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<sup>3</sup> Pechová, O. (2005): *Sexuální minority [Sexual minorities]*. Olomouc, Dept. of Psychology, Philosophical Faculty, Palacky University, Rigorosis diploma thesis .

<sup>4</sup> George, S. (1993): *Women and bisexuality*. London, Scarlet Press.

<sup>5</sup> Coleman, E. (1990): *Toward a synthetic understanding of sexual orientation*. In McWhirter, D.P., Sanders, S.A., Reinsch, J.M. (1990): *Homosexuality/heterosexuality: concepts of sexual orientation*. New York, Oxford University Press. 267-276.

<sup>6</sup> Cass, V.C. (1996): *Sexual orientation identity formation: a Western phenomenon*. In Cabaj, R.P., Stein, T.S. (eds.) (1996): *Textbook of homosexuality and mental health*. Washington, American Psychiatric Press. 227-251.



is basically more frequent amongst women, and there even appears the opinion that in the true sense of the word, it appears only amongst women. The term bisexuality, however, is still very vaguely defined, and many authors prefer to avoid it altogether.

Amongst sexologists there exists a dispute about whether life-long bisexually oriented people form their own independent group, or if this is a matter of an insignificant exception. In Czech sexual science, this opinion is especially lively thanks to the influence of Kurt Freund<sup>7</sup>. His opinions on the existence of bisexuality as its own orientation were extremely critical. For example, based on their clinical experience, Czech sexologists Brzek and Pondělíčková-Mašlová<sup>8</sup> expressed the conviction that there are very few such cases, because even people feeling like bisexuals are not normally attracted to both sexes at one time. Like certain foreign authors, they point out that normally, bisexuality is only a temporary development phase, which is replaced in time by a tendency to one of the two sexual orientations.

For many experts, this opinion is still authoritative, but in recent years there have been heard voices that refute this simplification and call for recognition of bisexuals as their own group. They also point out that the existence of a binary system of sexual orientation is very simplifying. They also point out the low validity of data, on the basis of which the concept arose of bisexual people as exceptional cases. The fact is that what contributed to a certain extent to refuting the existence of bisexually oriented people were certain activist gay and lesbian organizations. Such organizations considered all bisexuals as the product of a system of suppression of homosexuals<sup>9</sup>. There also exist studies illustrating the fact that amongst psychological wellness experts and other groups of the population, bisexuals are considered as less acceptable and more problematic than homosexuals.<sup>10</sup>

Whether we defend any opinion on bisexuality, its definition and its very existence, it is not possible to ignore that many people consider themselves bisexuals, and it is necessary to respect this as a social fact. In the world (especially in Anglo-Saxon nations), there has existed for roughly a quarter century a movement of bisexuals who, despite frequent perepetia, have succeeded in integrating into the at-first sceptical lesbian and gay movements. It continues, however, to be relatively weak, since the majority of bisexual women integrate themselves into the lesbian movement, without any compelling need to stress their differentiation. The same thing is occurring in the case of the movement of gay men, where this phenomenon is only strengthened by the apparently much smaller existence of bisexuality amongst men. The fact that bisexuals may hide amongst the heterosexual majority easier than gay men and women adds to their lack of visibility. Also deterring are the aforementioned negative connotations of bisexuality, which are very strong amongst gay and lesbians. The often highly aggressive debates on this topic held over the Internet prove this. So in the Czech Republic, it is factually impossible to speak of the existence of a bisexually oriented community per se. There are a number of bisexual

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<sup>7</sup> Freund, K. (1962): Homosexualita u muže [Homosexuality amongst men]. Prague, Státní zdravotnické nakladatelství.

<sup>8</sup> Brzek, A., Pondělíčková-Mašlová, J. (1992): Třetí pohlaví? [Third gender?] Prague, Scientia medica. s.14-18

<sup>9</sup> Witt, L. a kol. (1995): Out in All Directions: Almanac of Gay and Lesbian America. New York, Warner Books. s.404-405

<sup>10</sup> Levay, S., Valente, S.M. (2002): Human sexuality. Sunderland, Sinauer Associates. s.438

women active in lesbian organizations, but no specialized organization or section has ever been created that would associate with bisexual women.

### **3. The communities and their representation**

The previous section described the complicated relations between the homosexual movement and bisexuals. Relations between the gay and lesbian community are also complex, because aside from certain similar interests, there exist a number of differences. The gay and lesbian minority moreover in principle may develop utterly independently of one another, and often this is truly the case. It is therefore no surprise that both communities often arrive at conflicts or work in parallel. This situation has appeared in LGB movements since their very beginnings.

The most meaningful reason for the strong separation of the lesbian and gay movements was the unwillingness of the gay community to accept lesbians as an equal force. There also appeared a second wave of feminism,<sup>11</sup> which continued to stress the differences between the communities. Cooperation between activists from both camps is essential for effective presentation of common interests, but in many directions, such emphasis differs. It is apparently not possible to ever expect that gay activism will be strongly feminine. Differences, however, are in entirely practical topics, since for example reproduction rights (in vitro fertilization) are only important for the lesbian community.

For the lesbian and gay community in the Czech Republic, a low level of organization is typical, as are vast differences between individual generations and regions. Principle differences exist, such as religious conviction, willingness to be active outside the community as well, or the relationship towards feminism. Also the relationship towards bisexuals and transgender people often varies greatly on a local level. There exist a relatively large number of local groups, but these often don't work together nearly enough, and so they don't attain forces for larger social and political activity. Activists of course are willing to join together and develop intensive efforts if it is necessary for implementing some significant common interest, such as the law on registered partnership.

What's missing here is a tradition of long-term work in building a civil society, which is visible in the life of the gay and lesbian communities in Western Europe and the USA. This condition mainly damages the minority or socially challenged segments of the lesbian and gay minority, which are vulnerable to a higher degree. Thanks to this, it is true that in the Czech Republic there are many socially strong and well-positioned gays and lesbians, but also the situation of many gays and lesbians is very dissatisfactory. Groups at risk include for example LGBT seniors, those who are ill, members of ethnic minorities, socially outcast teenagers and generally people living in rural areas.

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<sup>11</sup> The feminist movement has experienced several "waves" in the past. The so-called first wave of feminism mainly strived to attain equal rights under the law (voting rights and equal access to education). The second wave of feminism dates back to the beginning of the 1960s and concentrated on two circles of problems, which are considered the sources of inequality between the sexes: culture ("The cultural system, in which we live, is of a patriarchal nature.") and the psychological issue of forming gender identity. Source: [www.feminismus.cz](http://www.feminismus.cz), [www.novezeny.eu](http://www.novezeny.eu).

#### **4. The transsexual and transgender community<sup>12</sup>**

Transsexual and transgender people form a minority, whose numbers sometimes lead to relatively confused speculation. The cause is mainly the extremely vague meaning of the word transgender, whereas transsexuality is relatively clearly defined by the desire for the legal and somatic change of sex. It is stated that transsexuals in the population make up one tenth of a percent, which in the Czech Republic would amount to around one thousand people. In the Czech Republic there does not exist precise statistical data on the number of people, who undergo the so-called sex-change operation or are striving to do so. It is possible, however, to estimate that this could truly reach around one thousand persons who fulfil this condition. Today around fifty people per year undergo a legal change of sex, but constantly taking part in this number are older transsexual people who are taking advantage of the current more favourable situation in medicine and society.

It is also very hard to determine of course how the number mentioned above has a relationship to the total population of trans people. If transsexuality is marked by the effort for the so-called sex change, then the transgender population is defined mainly by transgressing gender roles and identities. This, however, is very non-specific. People living partially or permanently in the role of the opposite gender than their legally established one are then labelled transgender people, but often there is also an unspecified quantity of other people, who do not claim anything to do with a trans-identity. The interests of these individual communities then differ greatly in relation to factors such as the relation to a sex-change operation, their current gender role or sexual orientation. Moreover, these factors may, in certain cases, undergo a certain change in time.

There are then vast differences between the community of trans people MtF (male-to-female) and FtM (female-to-male). MtF people are people who, plainly put, undergo a change from man to woman, or are people whose identification is mainly female, despite the dominating biological characteristics of the male sex. On the other hand, FtM people have biological characteristics that are primarily female, but they undergo a “change to a man”, or their identification is mostly male. The differences between the situations of these two communities are at least of the same importance as the differences between the situation of gays and lesbians. Also a hot topic of discussion is the size ratio of these two populations. Research has indicated that the numerical ratio of FtM and MtF transsexual people differs dramatically not only between individual countries, but also between individual generations. In the Czech Republic after several decades there was found a strong dominance of FtM transsexual people, but in the last few years this situation has begun to change. It is again a question, what the relationship is of this data to the overall (and also unknown) population of trans people.

It is much more difficult to define the situation of other groups categorized amongst trans people. In the case of persons living mainly in the gender role relating to the sex that is opposite their chromosomal or legal sex, their problems are strongly

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<sup>12</sup> Information in this chapter presents a simplified form of the applicable part of the following work: Pechová, O. (2005) *Sexuální minority [Sexual minorities]*. Olomouc, Dept. of Psychology, Philosophical Faculty, Palacky University, Rigorosis diploma thesis.

similar to those of transsexual people. What is missing here of course is the motivation to the necessary medical and legal steps, which on one hand simplifies their situation, but on the other hand leads to permanently increased risk of discrimination. But it is not possible to state how many such people live in the CR; it does seem, however, that there are basically fewer than transsexual people.

Another group included sometimes amongst trans people are transvestites (TV) and cross-dressers (CD), who only change their gender role from time to time, and are not striving for a permanent gender change. CD/TV people mostly form an independent subculture, which differs greatly from the transsexual community, although some individuals go beyond the limits of these subcultures. It is very difficult to determine the number of CD/TV individuals, because they are much harder to identify and less organized than transsexual people. Their low visibility is also aided by their dominating heterosexual orientation and often even relatively successful adaptation in marriage. Also specific to this subculture is the allegiance to the male biological (chromosomal) sex, which is certainly an interesting phenomenon from the aspect of sexological and gender theories. It is only possible to estimate without accuracy that CD/TV people are many times more numerous than transsexual people.

Some authors then also include amongst trans people certain gender-nonconforming segments of the gay and lesbian community (butch lesbians, feminine gays), which may also encounter increased resentment within the majority and even the homosexual minority. If, however, they consider themselves mainly lesbian and gay (or queer identity), then it is very problematic to include them in the trans community.

## **5. Brief history of public life of the LGBT community in the Czech lands**

Emotional and erotic relations between persons of the same sex have been documented since the dawn of history. Homosexuality has been mentioned since the 19<sup>th</sup> century as a relatively permanent sexual preference in legal, medical, psychological and generally social contexts. By the end of the 19<sup>th</sup> century, associations began to crop up, dealing with homosexuality and endeavouring to first remove criminality of homosexuality, and then to end pathologisation and discrimination of homosexuals. The first such organization was the German Wissenschaftlich-humanitäre Komitee from 1897 under the leadership of one of the founders of modern sexology, Magnus Hirschfeld. Since that time, we may speak about the true public life of LGBT people, since these communities began arising from secrecy up till that time, and began declaring their rights.

At that time, the topic of homosexuality is reaching public space in the Czech lands as well. Already by 1895, articles in the magazine *Modern Revue* stood behind Oscar Wilde, who was sentenced to jail for two years in England. During the period of the First Republic, a magazine entitled *Voice of the Sexual Minority* and the closely related magazine *New Voice* were published. But homosexual behaviour remained a crime pursuant to Section 129 of the Crimes Code from 1852, despite the fact that amending this paragraph was often the subject of intense discussions.<sup>13</sup>

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<sup>13</sup> Fanel, J. (2000): *Gay historie [Gay history]*. Prague, Dauphin.

In Nazi-controlled Europe, people suspected of homosexuality were systematically persecuted. After the Second World War, however, the fate of homosexual prisoners was kept secret. Only in the 1980s did people begin to half-heartedly discuss these victims of Nazism. Homosexual prisoners had a huge mortality rate, and most of them did not survive the war. Most of those who did survive never awaited social rehabilitation or even compensation.<sup>14</sup>

It's true that during the communist era, the general culpability of homosexuality fell by the wayside (with the new penal code in 1961), but culpability remained in Section 244 for sexual intercourse with a person of the same sex younger than 18 years of age, homosexual intercourse creating a public nuisance, misuse of the dependence of persons of the same sex and homosexual intercourse with a person of the same sex for payment (revoked in 1990), which enabled at least police bullying. In the pre-war and post-war period there existed known places, mainly in Prague, where the homosexual minority congregated, but it is only possible to speak of truly free development of the lesbian and gay community after the revolution in 1989.

After the Second World War, the centre of the movement for rights of sexual minorities moved from Europe to the USA, from where then new trends are returning back to Europe. The international movement became radical at the end of the 1960s, and mainly in the 1970s. A post-Velvet Revolution movement then appeared in an entire new era and atmosphere, which instilled in the world the tendency towards cooperation of LGBT people.

In the 1990s, a number of groups, clubs, bars, discotheques and other activities of the LGBT community arose in Prague, Brno and other Czech cities. The Internet has played a fundamental role in the life of the LGBT community starting in the second half of the 1990s. The LGBT issue still continues to permeate mainly into public media (weekly magazine ČRo 1 Bona Dea, the regular magazines ČT LeGaTo and Q). In the Czech Republic, film festivals take place with the main or important representation of films with a LGBT topic (Mezipatra, Febiofest). In the 1990s, other important gay and lesbian social events took place (Apriles, Karlovy Vary Rainbow Festival, Gay Man). There are more and more sports, cultural and social LGBT groups which, however, expire as quickly as they spring up, and the face of the movement is constantly changing.

The Association of Organizations of Homosexual Citizens (SOHO) played an important role in the 1990s in getting the LGB community together. In 1990, an umbrella organization was created of roughly thirty associations from across the CR. SOHO endeavoured to create political visibility (its president J. Hromada ran for office in 1990 in the Federal Assembly), to remove homosexuality from the list of illnesses (which occurred on an international level by the decision of the WHO in 1994), to remove discrimination of LGB persons, and to implement registered partnership of persons of the same sex. SOHO played an important role in AIDS prevention, and when helping HIV-positive persons. It operated a help hotline, and issued educational brochures. Under the heading SOHO, for ten years the social monthly periodical SOHO Revue was published (later SOHO ABSOLUTE Revue and

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<sup>14</sup> Pechová, O. (2005): Lidé s růžovým trojúhelníkem [People with a pink triangle].  
<http://www.translide.cz/ruzovy-trojuhelnik>

Gayčko). SOHO published books with LGB topics, it organized events within the framework of the World Day of the Fight Against AIDS, and supported a wide range of activities of the LGB community. In 2000, SOHO transformed into the Gay Initiative, and at the end of 2006, when after ten years of efforts it helped get a law passed on registered partnership, it terminated its activities.<sup>15</sup>

From 1995 to today, the group in Brno named STUD has functioned (member of SOHO 1995-2000). This association has greatly expanded the boundaries for the region and has a wide field of activity (aside from others the Mezipatra Film Festival). In 2003, together with other long-term activities and newly functioning organizations and personalities (e.g. Vladimír Hrubý), it created a platform striving to make registered partnership a law and to remove discrimination of the LGB minority - the Gay and Lesbian League. Through its intensive work with the media and the close cooperation with the politicians who submitted the bill for registered partnership, it played a vital role in seeing this bill get passed.

In the 1990s the lesbian community developed in a strongly independent way, where gradually several organizations were established (L-klub Lambda, Promluv, A-klub), which significantly differed in their understanding of the lesbian community and in relation to feminism. The most important activity of the lesbian movement was the holding of the Apriles festival. Aside from this, magazines began being published including Promluv (1993-1998), Alia and Inkognito. The portal lesba.cz played an important role on the Internet. Due to technical problems, however, this portal radically limited its activities in summer, 2005. Today, some of its functions are represented by the Website bengales.cz. Also, the festival Apriles took place for the last time in 2003, but it has been replaced since 2005 by the more modest festival, Elnadruhou.<sup>16</sup>

The civic association Transforum, which has existed since 1998, represents the interest of trans people in the Czech Republic. Since this time, it has undergone significant personnel and ideological changes. But throughout this period, it has remained active as the only Czech organization representing the interests of trans people. Amongst activities outside of the community, it is worth mentioning for example the awarding of the prizes Transpřítel [Transfriend] or the effort to push forwards the interests of trans people during creation of the Antidiscrimination Act. The associations develop activity mainly in Prague, where there is a significant concentration of trans people coming here from other regions in order to seek adequate therapy, contacts with the community and also to reap the benefits of the tolerant environs of the big city. In Prague, community meetings are held each month, attended by ten to thirty people. Similarly as to other places in the world, also in the CR, mainly MtF transsexual people are active in the community. This is probably given by their easier identifiability and the greater social issues that are associated. On the contrary, an organization that should be aimed at bringing together other segments of the population of trans people has never existed in this country. This may of course be a reason and a consequence of their low visibility.

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<sup>15</sup> Fanel, J. (2000): Gay historie [Gay History]. Prague, Dauphin.

<sup>16</sup> Kotišová, M., Vampolová, V. (2006): České lesby: daleko k hnutí, daleko k feminismu. [Czech lesbians: far from a movement, far from feminism] In Hašková, H., Křížková, A., Linková, M. (2006): Mnohohlasem: vyjednávání ženských prostorů po roce 1989. [Many voices: negotiating female areas after 1989] Prague, Sociology Institute, Academy of Sciences of the Czech Republic.

The trans-community is very active in the area of Web projects, which is given, among other things, by the need to exchange a quantity of very specific information. For around three years, the most active was the Web project [www.translide.cz](http://www.translide.cz). The Webmaster has currently ceased activities, and the Website is updated only in exceptional cases. This Website, however, remains without a doubt the most extensive group of texts with trans topics on the Czech Internet. The discussion forum then moved to the Website [www.translide.com](http://www.translide.com). For many years, the Website [www.transforum.cz](http://www.transforum.cz) has also existed, which is only very sporadically updated.

## **6. LGBT people and religion**

Gays and lesbians of religious conviction urge the parishes that accept them without problems to bless same-sex unions. This blessing ceremony could have the validity of civil registration the same as it is upon entering marriage. Therefore, they would welcome legislation that would offer the possibility of choosing between a “civil” or “religious” ceremony to conclude registered partnership.

Within the framework of the prepared Antidiscrimination bill, there exists an exception for the church and religious associations, which have the right due to internal reasons in labour and legal relations to validate different treatment of persons, and in relation to their sexual orientation. The question is, whether by this, churches and religious associations are given too much room for homophobic behaviour – e.g. the right to refuse a gay or lesbian when seeking employment, which does not immediately relate to professions within the clergy (as opposed to the legal standard, which rules out this discrimination in employment).

The relevant ministries should pay attention to the method by which future teachers, instructors, and members of the clergy are trained in their work. All of these persons may encounter in their practice a coming-out of minority sexually oriented people. They have a large responsibility towards these people in this case.

## **7. LGBT seniors**

LGBT senior citizens are experiencing similar worries as seniors in general; nevertheless, aside from this, they suffer their own specific problems. One of the biggest problems is loneliness, which is often felt deeper than amongst the rest of the population. Gays often live without family. They were often outcast by their family because of their homosexual orientation, and they didn't form their own family, so they have no children. Their friends start to die, and they're generally not able to create new relations. The younger generation of gays basically is not interested in communicating with them.

Concerning lesbians, this situation may be different mainly in the sense that women, as opposed to men, have greater possibilities in forming a family; lesbians may therefore be less threatened by loneliness in their old age than gay men. Generally, the role of the woman and of the mother is very often considered as one. A number of women therefore may feel that they are under some kind of social pressure

to fulfil their social role. Thus, the vast majority of today's lesbian seniors got married and formed a family. It is logical that these marriages often fell apart; the freer social situation of recent years certainly played its role as well. Lonely women with children then look to women for forming a partnership.

Based on available statistics, women still have lower salaries than men. Lower pay in old age leads to lower social security remuneration, which in the event that her partner dies, may bring her to the edge of poverty. Even lesbians living in registered partnership do not have the right today to widowhood security after their partner dies. Other disadvantageous factors stemming from their gender role may play a role in lesbian seniors. Since women generally live longer than men, it is also possible to anticipate that the population of lesbian seniors will be greater than the population of gay male seniors.

But it is necessary to emphasize that these statements are more like impressions. Lesbian-seniors are one of the less "visible" segments in the LGBT minority. They are not very active in public areas, and as a rule they don't admit to their sexual orientation. Therefore all "assertions" on their social situation are closer to estimates.

What is possible to state with certainty is that LGBT seniors remain "out of the field of vision" of the younger generation, which basically is not aware of their problems. If they live in institutional care for seniors, then they often encounter discrimination and a lack of understanding, because in society the opinion prevails that homosexuality does not relate to seniors. The effort to maintain or start a same-sex relationship at this age is looked down upon much more than relations of their heterosexual peers.

From interviews in the field it was found that some people would welcome the existence of a certain community centre for lesbians and gays providing, amongst other things, care services. Similar services already exist abroad, although they are built mainly from private initiatives. Of course the affects of improving the standards of care in already existing state facilities would also improve the situation.

Resolution of this situation just by forming a new institution is of course not a panacea. It would be most desirable to motivate (e.g. by means of an offer for grant programs with such an aim) the existing LGBT organizations towards an active approach to questions relating to aging. The interest in the issue of aging shouldn't remain a privilege of a narrow group of individuals. Popularising study fields from the area of social work, with emphasis on work with senior citizens, may be one of the ways of how to build the interest of the general public, mainly of the younger generation, in this issue.

## **8. LGBT and ethnic minorities<sup>17</sup>**

What is practically uncharted territory is the situation of the LGBT position amongst ethnic minorities in the Czech Republic. Although the need exists to concern

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<sup>17</sup> The text in this chapter was created on the basis of a field study performed by MUDr. Ivo Procházka.



ourselves with marginalized groups within the LGBT community, there is neither research nor studies that would provide enough information to take up this debate. It is generally possible to say that like the situation in other countries, social discourse is limited to LGBT amongst the majority society and to investigating the differences between LGBT and the majority.

LGBT amongst the ranks of ethnic minorities are at the same time exposed to multiple discrimination not only by society's majority (due to ethnicity and sexual orientation), but also on the part of individual communities (differing sexual orientation is more or less stigmatised, so within the LGBT community, members of ethnic minorities are viewed in a discriminatory manner. This situation then casts LGBT from the ranks of ethnic minorities into a certain vacuum (when they don't make contact even amongst themselves), which is already today partially overcome thanks to the Internet. In the Czech Republic, no organization exists that would deal with this topic systematically and over a long period, and would work with LGBT from amongst ethnic minorities (e.g. help hotline specifically designed for ethnic minority LGBT; specific part or discussion group on a Website dedicated to this problem, etc.).

There is information partially available about gays from amongst the Roma community in the CR, and information on other Roma groups (LBT) and on LGBT of other ethnic/nationality minorities (e.g. Vietnamese, Polish) is utterly nonexistent. The problems that gay and lesbian Roma encounter in their families relate more to what emphasis is placed on the importance of family, and partiality on religion and lower level of education. The second problem that Roma gays and lesbians may come across is acceptance in the actual LGBT community itself. As the results or research performed by the "focus group" method have shown, in which the problematic of the view of Roma towards gays was examined, the Roma community does not generally view homosexuality and gays as a problem. But what hinders acceptance of a Roma child or relative is shame and fear of rejection by the extended family, which amongst Roma has stronger ties and cohesion than the majority society. Also, the traditional social structures of Roma society place greater emphasis on acceptance by the surroundings (especially within its own community). Also, possible greater religious faith of Roma may play its own role. These phenomena lead to partial hiding of homosexual orientation in the family, including entering into marriage. Similarly, the desire for children is an influencing aspect.

Research also points out the problem of homosexual prostitution, by which (similarly to the majority society) heterosexually oriented young men without family (from foster homes) make a living. Because the proportion of these people of Roma ethnicity is higher, their representation amongst prostitutes is also higher. In certain communities, it is acceptable for an egodystonic (not come to terms internally with one's sexual orientation) man or boy to rationalize his sexual behaviour as merely commercial, rather than as a statement of his sexual orientation. Nevertheless, in the Roma community, this type of prostitution is unconfirmed.

These conclusions, however, cannot be used as a blanket for discussion on the position of LGBT from amongst ethnic minorities in the Czech Republic; thus for it to start, it is necessary to perform research to map its situation. Alongside this, however, should be supported the effort of the LGBT organizations to systematically deal with this problematic over the long term.

## **B . POLITICAL - LEGISLATIVE LEVEL**

### **1. Discrimination on the basis of sexual orientation**

The legal amendment of prohibition of discrimination in the Czech system of law is fragmented and disparate. Therefore the level of protection from discrimination depends mainly on what area of life and for what reason the discrimination occurred. On the constitutional level, the ban on discrimination is contained in Art. 3, Para. 1 of the Charter on Basic Rights and Fundamental Freedoms<sup>18</sup>, which anchors an even-handed approach to a series of rights without discrimination for many specific reasons or a different status. It is possible to categorize sexual orientation under the term “other status”. This Article of the Charter is derived from Art. 14 of the European Convention on Protection of Human Rights and Basic Freedoms<sup>19</sup>, which is binding for the CR, and is what the European Court for Human Rights bases its decisions upon. Explicitly, discrimination on the basis of sexual orientation is also prohibited by European Union law, specifically in Art. 13 of the Treaty Establishing the European Community in the wording of the Amsterdam Treaty of 1997.<sup>20</sup>

The responsibility of assuring equal treatment and protection from discrimination due to sexual orientation is relatively well amended in the labour-legal area. The Employment Act<sup>21</sup>, the Act on Professional Soldiers<sup>22</sup>, the Act on Service Relationship of Members of the Security Corps<sup>23</sup> and the Act on Service of Public Servants<sup>24</sup> explicitly prohibit discrimination, among other reasons, also for the reason of sexual orientation. It also establishes the right of a victim to demand court protection. Protection in labour relations today is problematic, because the new Labour Code<sup>25</sup> does not sufficiently amend protection from discrimination. From the aspect of protecting LGBTI people, the labour-legal area and access to employment is the most important, because it is the sphere of life where they are most often discriminated against.

In other areas such as education, providing social advantages, health care, provision of services including housing, the ban on discrimination is either insufficiently amended or is not at all. The antidiscrimination clause contained in the Education Act<sup>26</sup> anchors the approach towards education without discrimination for

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<sup>18</sup> Art. 3, Para. 1 of Act no. 2/1993 Coll., Charter on Basic Rights and Fundamental Freedoms  
<sup>19</sup> no. 209/1992 Coll.

<sup>20</sup> Comparison of thorough compilation of the topic including the issue of registered partnership in Boučková, P.: Diskriminace z důvodu sexuální orientace, [Discrimination on the basis of sexual orientation] in: Bobek, M.; Boučková, P.; Kühn, Z. (eds.): Rovnost a diskriminace [Equality and discrimination]. Prague, C. H. Beck 2006, pages 253-282.

<sup>21</sup> Section 4 of Act no. 435/2004 Coll., Labour Act, as amended

<sup>22</sup> Section 2 of Act no. 221/1999 Coll., Act on Professional Soldiers, as amended

<sup>23</sup> Section 77 of Act no. 361/2003 Coll., Act on Service Relationships of Members of the Service Corps, as amended

<sup>24</sup> Section 80 of Act no. 218/2002 Coll., Act on Service of Public Servants and on Remuneration of such servants and other employees in administrative authorities (Service Act) (Effective from 01 January 2009)

<sup>25</sup> Section 16 a Section 17 of Act no. 262/2006 Coll., Labour Code

<sup>26</sup> Section 2 Para. 1 letter a) of Act no. 561/2004 Coll., on Preschool, Basic, Secondary, Tertiary, Professional and Other Education (Education Act), as amended

a large number of reasons, whereas sexual orientation amongst explicitly listed reasons is missing. Since this concerns a demonstrative listing of reasons, it would be possible to perhaps include protection under “other status”. It is a question, however, whether this was oversight on the part of the authors of the act or their intention caused for example by the fact that the act amends education at elementary schools and responsible persons perceived that such young people (up to 15 years of age) still are not dealing with their differing sexual orientation.

The Code of Civil Procedure<sup>27</sup> amends the so-called transition of burden of proof<sup>28</sup>; in the event of discrimination on the basis of sexual orientation, the transition of the burden of proof is only limited to discrimination in the labour areas. The Code of Civil Procedure<sup>29</sup> and the Administrative Procedure Code<sup>30</sup> enable a civic association<sup>31</sup> to represent a participant in the matter of protection from discrimination based on sexual orientation, if in its statutes; protection from discrimination is listed as one of its activities. Also, the Consumer Protection Act contains a similar provision; according to it, it is possible for an association to submit a proposal for commencing court proceedings on abstention from illegal behaviour in the matter of protecting the rights of consumers, and to be a part of such proceedings, if these aims are listed in its statutes.

A person who causes detriment to another due to the affected person's sexual orientation, pursuant to the Misdemeanour Act<sup>32</sup>, commits a misdemeanour against civil coexistence, for which this person may be ordered to pay a fine of up to CZK 5,000.

A law that would comprehensively anchor the right to equal treatment and a ban on discrimination based on sexual orientation has not yet been enacted. The proposed Antidiscrimination bill amends the right to equal treatment and protection from discrimination, among other reasons, on the grounds of sexual orientation in the area of employment, access to employment and occupation, independent gainful activity, technical education, consultation and re-qualification, membership and participation in labour or employer organizations, social protection including social security and health care, social advantages education and access to goods and services, and employment. The bill defines individual forms of discriminatory behaviour, such as direct and indirect discrimination and harassment. Based on this bill, the discriminated person could mainly call for the cessation of discrimination, removal of the consequences of the discriminatory interference and reasonable satisfaction. The status of the victim would also improve by the forming of an institution for equal treatment, which would provide the victims with legal aid. Passing this antidiscrimination bill would strengthen protection from discrimination based on sexual orientation, mainly in such areas where sufficient protection has so far been missing.

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<sup>27</sup> Section 133a, Para. 1 of Act no. 99/1963 Coll. Code of Civil Procedure, as amended

<sup>28</sup> The meaning and limitations of this procedure were set forth by the Constitutional Court of the Czech Republic in its Judgment no. 419/2006 Coll.

<sup>29</sup> Section 26 Para. 3 of Act no. 99/1963 Coll. Code of Civil Procedure, as amended

<sup>30</sup> Section 35 Para. 4 of Act no. 150/2002 Coll. Administrative Procedure Code, as amended

<sup>31</sup> Act no. 83/1990 Coll. on Association of Citizens, as amended

<sup>32</sup> Section 49 Para. 1 letter e) of Act no. 200/1990 Coll. on Misdemeanours, as amended

At the time of compiling this Analysis, the Antidiscrimination bill was the subject of negotiations in the Chamber of Deputies of the Czech Parliament.<sup>33</sup> Since, from the opinion of those who are truly exposed to unequal treatment, this concerns a fundamental legal standard, its acceptance is more than desirable.

## 2. Criminal law

Czechoslovak and Czech legislation already removed the culpability of homosexual relations in 1961.<sup>34</sup> In 1990, the discrimination provisions of Section 244<sup>35</sup> of the Crimes Code, which banned sexual contact with a person of the same sex under 18 years of age; for persons of the opposite sex, the age boundary was, and still is, 15 years of age. The minimum age of 15 is also currently valid for consensual sexual contact with a person of the same sex. The abuse provision was also repealed, which punished the inciting of a public nuisance by homosexual behaviour.

In the Czech Republic there do not even exist any unofficial statistics that would document so-called hate crimes, which were motivated by the sexual orientation of the victim. The lack of existence of such official statistics is given by the fact that the Czech Crimes Code does not know special facts of the case of crimes motivated by hate towards sexual minorities. Therefore, such crimes are not even independently recorded. They are statistically included into other crimes, from which it is not possible to extract that the attack was motivated by the sexual orientation of the victim. Nevertheless, this does not mean that these acts did not occur; from the statements given by individuals in the field, it is clear that they do indeed experience such attacks. For example, there are attacks on individuals or on LG clubs, often concerning mainly verbal attacks, but physical attacks also do occur. But the majority of people do not even report such attacks to the Police of the Czech Republic, and if they do, the sexual orientation does not play an important role<sup>36</sup> during investigations.

The crimes code does bring stricter punishments for crimes such as murder, intentional harm to health and intentional causation of serious detriment to health in cases, where such crime was motivated by the race of the victim, affiliation to an ethnic group, nationality, political beliefs or religious conviction of the victim. Sexual orientation is not listed here, and an attack on an individual due to his/her sexual orientation would not legally constitute a reason for levying a stricter punishment.

Also, the prepared new crimes code, just like the current one, sets forth stricter punishments for selected crimes if the crime is motivated by the race of the victim, by his/her affiliation to an ethnic group, nationality, political beliefs or religious conviction of the victim. It still does not stipulate that an attack motivated by sexual orientation would be punished more strictly. Based on the proposed crimes

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<sup>33</sup> Parliament Publication no. 253, <http://www.psp.cz/sqw/historie.sqw?o=5&T=253>

<sup>34</sup> Act no. 140/1961 Coll. Criminal Code

<sup>35</sup> Section 244 was abandoned by Act no. 175/1990 Coll.

<sup>36</sup> In the USA and a number of Western European countries, a documentation system exists for these types of crimes., whereas there is a negligible number thereof. For example, FBI statistics show that sexual orientation is the third most common motive for hate crimes after race and religious motivation. For example, based on statistics from 2005, their portion amounted to 14.2% of over eight thousand crimes categorized as hate crimes. More information may be found at <http://www.fbi.gov/ucr/hc2005/>.

code, violence against an individual or groups of citizens and defamation of a nation, race and ethnic or other group shall be considered crimes. However, use of violence or threatening with violence against or defamation of LGBT persons shall not be considered such crimes. The use of violence or its threat to individuals or a group of persons or defamation of LGBT people, however, shall not constitute listed crimes. Protection from these undesirable events shall remain, as it has so far, aimed only at race, ethnic and religious minorities.

### **3. Legal regulations of cohabitation with persons of the same sex**

From a legal aspect, the union of two persons may have various forms. On one hand, this may concern completely informal cohabitation of two persons, but it may be formal cohabitation. This entitlement is based on legally established conditions, giving entitlement to legally established rights and responsibilities.

If this concerns partnership cohabitation of persons of the same sex, most countries have no legal regulations and do not enable gays and lesbians to formalize their relationships under the law whatsoever. From the legal aspect, persons in same-sex unions are not considered partners.

In recent times, however, a number of countries, mainly in Europe but elsewhere as well, are beginning to recognize relations of same-sex couples, and to provide them with certain rights that were previously only recognized between husbands and wives. But the legal form of cohabitation of same-sex couples accepted in different countries differs. In certain countries, such as in Spain or Holland, same-sex couples are allowed to enter marriage under the same conditions as heterosexual couples; also, they are entitled to the same rights and responsibilities from this relation as heterosexual married couples. Sweden is even currently considering recognition of same-sex church marriages.<sup>37</sup>

Most countries enabling legal regulations of the relationship of same-sex couples, however, have more often chosen the path of so-called registered partnership. Registered partnership, as the first legal institute amending the cohabitation of two persons, may be opened to both couples of the same sex (exclusively), and to heterosexual couples. Rights and responsibilities arising to registered partners by virtue of entering into this union vastly differ from country to country. While in some places, they approximate the institution of marriage in scope, in other places, laws recognize just a few very limited rights for registered partners. In comparison with the traditional institution of marriage, they still don't provide them with any basic advantages.

The year 2006 was an important milestone in the Czech Republic, when the Registered Partnership Act was passed.<sup>38</sup> Up until that time, LGB people were exposed to specific discrimination due to their sexual orientation, comprised of

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<sup>37</sup> Overview for laws concerning homosexuality – see Ottosson, D. (ILGA): LGBT World Legal Wrap Up Survey November 2006, [www.ilga-europe.org/europe/issues/international/lgbt\\_world\\_legal\\_wrap\\_up\\_survey\\_november\\_2006](http://www.ilga-europe.org/europe/issues/international/lgbt_world_legal_wrap_up_survey_november_2006).

<sup>38</sup> Act no. 115/2006 Coll. on Registered Partnership and on the Change of Certain Related Acts

refusing couples of the same sex the status of being in a union. A bill amending partnership cohabitation of same-sex couples was first introduced in the Chamber of Deputies in 1998, and was again four more times thereafter. All of these attempts, however, were unsuccessful. Only in 2006 was it possible to bring forth legislative efforts to a successful conclusion, and the bill was passed enabling the formalization of unions of gays and lesbians in our country.

This indicated difficulty of getting this bill passed in the Czech Republic led to the fact that the version that finally became an act was the result of great compromise. Rather than bringing registered couples extensive rights, the lawful recognition of these couples is mainly of symbolic value, since the act accepts the fact that partnership unions of gays and lesbians has the same value and fulfils in life the same function as heterosexual unions, and so they require a certain level of protection by the state. In this relation, it is possible to quote the explanatory report towards Section 836 of the prepared draft civil code on the purpose of the institute of registered partnership: “The purpose of an adequate status amendment of the union of two persons of the same sex is to fulfil the task of the Government to treat all state citizens equally, and to give all citizens the right to live their lives in a union protected by law relevant in terms of status with any other state citizen, or with another person, the task of offering LGB persons an adequate legal environment, adequate legal institute making equal their status standing to that of a person heterosexually oriented. That is, this does not constitute betterment of their standing by granting special advantages, but rather recognition of the same advantages – that is to share partnership with another person that is recognized by the state with status consequences – as all other citizens have. It is not possible to ignore that by depriving institutionalisation of relations of two persons of the same sex, by fact and by law, the state sanctions persons with an inborn variation of so-called normal sexual orientation.”<sup>39</sup>

The Registered Partnership Act of the Czech Republic guarantees only very limited rights to registered couples in comparison with heterosexual married couples. While from the aspect of cohabitation, registered partners do not perceive non-recognition of certain rights as very problematic, for certain rights they feel their denying as an entirely fundamental problem, which significantly makes more difficult the building of their social life.

Consequences of discrimination arising from the possible non-existence of a status union of persons of the same sex from their differing legal consequences from legal consequence of marriage can be divided into two categories: civil and statutory (public). In civil law, creating a disadvantage of partners is found in that there is no institution of common assets of partners or common property rental. In public law, differing treatment persists in the area of tax law (mainly for inheritance and gift tax), social security rights (ex. non-existence of widow’s or widower’s pension), administrative law (it would be desirable for example if partners also had the right to refuse explanation pursuant to the Act on the Police of the Czech Republic<sup>40</sup>, and pursuant to the Customs Act <sup>41</sup>, of they have analogical right pursuant to the Rule of

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<sup>39</sup> comparative proposal of a new Civil Code, consolidated version of entire proposal (paragraph wording + explanatory report)

[http://zcu.juristic.cz/download/rekodifikace/obcan/OZ\\_konsolidovana\\_verze\\_duben\\_05.zip](http://zcu.juristic.cz/download/rekodifikace/obcan/OZ_konsolidovana_verze_duben_05.zip).

<sup>40</sup> Act no. 283/1991 Coll. on the Police of the Czech Republic, Section 12 Para. 3

<sup>41</sup> Act no. 13/1993 Coll. Customs Act, Section 30 Para. 4

Criminal Procedure<sup>42</sup> and the Misdemeanours Act<sup>43</sup>), alien law and attaining state citizenship and in other areas .<sup>44</sup>

Entering into registered partnership does not lead to the creation of common assets amongst partners, and surviving partners do not have the right to widow's or widower's pension. They are also disadvantaged in the area of inheritance; while the Civil Code includes surviving registered partners into the 1<sup>st</sup> inheritance group, the law amending inheritance tax <sup>45</sup> does not react to this fact. In terms of both inheritance and gift tax, the law regards registered partners as persons, who are in no relative relationship, and includes them for calculating tax into the 3<sup>rd</sup> group, where of course the tax rate is the highest. By the fact that registered couples are denied these property rights, the current legal amendment shows no respect whatsoever for the fact that even same-sex partners spend their entire lives together, they build a common domicile and assets, and in the event of a material deficit of one of them, they support one another just the same as married couples.

Another fundamental problem that significantly complicates the life of registered couples not only here is the question of recognizing such legal unions formed abroad, the same as recognition of unions concluded in the Czech Republic by foreign nationals. But this also relates to another problem of, to what extent the rights and responsibilities that arise from this union shall be recognized. Because as it is indicated above, the rights and responsibilities that systems of law of individual countries guarantee to couples of the same sex vary greatly. In terms of the Czech system of law, it should take into account the existence of a partnership with a citizen of the Czech Republic when awarding permanent residency to foreigners<sup>46</sup> and upon awarding state citizenship<sup>47</sup>. The Registered Partnership Act<sup>48</sup> requires for entering into partnership that at least one of the partners to be a Czech citizen. It would be desirable if aside from this, it would be possible for two foreigners to enter into partnership, of which one of them has permanent residency in the Czech Republic. That is, permanent residency establishes a comparatively intensive between the state and the person as it does with state citizenship, and distinguishing citizens and permanently residing foreigners is unjustifiable in this matter. In this sense, even the United Nations International Convention on Removing all Forms of Racial Discrimination formulated recommendations to the Czech Republic.<sup>49</sup>

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<sup>42</sup> Act no. 141/1961 Coll. on Criminal Court Proceedings, Section 100, Para. 1

<sup>43</sup> Act no. 200/1990 Coll. on Misdemeanours, Section 68 Para. 4

<sup>44</sup> Differences in rights and responsibilities arising from marriage and registered partner - see table at <http://www.partnerstvi.cz/gll-dokumenty/2006-03-14-srov-manz- rp.phtml>

<sup>45</sup> Section 11 Act no. 357/1992 Coll. on Inheritance Tax, Gift Tax and Real Estate Transfer Tax, as amended

<sup>46</sup> Act no. 326/1999 Coll. on Residence of Aliens, Section 87g

<sup>47</sup> Act no. 40/1993 Coll. on Acquiring and Loss of Citizenship of the Czech Republic, Section 11 Para. 1 letter d)

<sup>48</sup> Act no. 115/2006 Coll. on Registered Partnership, Section 4 Para. 2

<sup>49</sup> In the Final Recommendations (CERD/C/CZE/CO/7) of the United Nations Committee on the Elimination of Racial Discrimination, which accepted after discussing the Sixth and Seventh Periodic Report of the CR on Fulfilment of Commitments Arising from the International Convention on Removing All Forms of Racial Discrimination at its meeting in March 2007, the Commission in point 18 commented with dissatisfaction that "*pursuant to the Registered Partnership Act, at least one of the appurtenant persons must be a citizen*" See:

[http://www.vlada.cz/assets/cs/rvk/rlp/dokumenty/mezinarodni\\_umluvy/cerd/CERD-Zaverecna\\_doporuceni\\_cz.pdf](http://www.vlada.cz/assets/cs/rvk/rlp/dokumenty/mezinarodni_umluvy/cerd/CERD-Zaverecna_doporuceni_cz.pdf).



Doubtlessly, the Registered Partnership Act creates a real disadvantage for gays and lesbians in the area of family law – parenting rights, adoption, raising children and reproduction rights. Not only do the current legal regulations openly discriminate, but they do not even care for the best interest of children living in these families. By the fact that the current law does not in any way reflect the existence of gay and lesbian families, in which children grow up, it does not even enable registered same-sex parents to file a joint tax return, by which these families are absolutely disadvantaged as opposed to heterosexual families. A separate chapter listed hereunder takes up the question of lesbian and gay parenting.

#### **4. LGB parents and their children**

The different treatment of LGB people is probably most felt amongst family rights, adoption, raising children and reproduction rights. It's possible to state that parenting, raising children and the family remain areas where there continues to exist a large number of superstitions and prejudice about what is “normal” and “best” for children.

The public debate on raising children by same-sex couples is still in its beginning stages in the Czech Republic, and its aim often does not reflect reality. That is, most debates focus on the question of whether same-sex couples should have the possibility to adopt children, whereas the discussion relating to this is often founded upon the fact that it is only a matter for politicians to sanction or prohibit such a matter. The discussions lack the clear differentiation of possible situations in which LGB people may have children. What is spoken of even less or not at all is the fact that same-sex couples raising children even in the Czech Republic truly exist. LGB couples raising children is an everyday reality here and in the world, and as opposed to the situation in the Czech Republic, it has been mapped by ample research in other countries.<sup>50</sup>

A number of LGB people have always raised children within the scope of heterosexual unions. Although these unions are markedly unstable and often end in divorce, LGB people in this situation normally behave as very responsible parents. Previously, courts had the tendency to not entrust homosexuals with care of children, even when they proved to have better capabilities of caring for children. Such a policy of course had no medical, psychological or legal justification, and today it may be considered obsolete.

The second fundamentally differing group of LGB people raising children is comprised of individuals and mainly couples, who have decided to have children without intending to enter for this reason into non-functioning heterosexual unions. Homosexual men normally raise children only in cases where they had these children from a previous union. Theoretically they could also adopt children, but this is practically and fundamentally impossible. Lesbian women may have children much

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<sup>50</sup> Research in our country in these areas is still in its infantile stage. However, today work is underway on two research projects, whose results may soon be publicized. Kateřina Nedbálková, Eva Polášková, and Věra Sokolová have already referred to us research projects that already exist in the world.



easier, either due to intentionally getting pregnant in heterosexual relations, or through having in vitro fertilization at a foreign clinic. The number of such lesbian women and couples can only be estimated, whereas this number probably fluctuates from hundreds to probably thousands.

In recent decades, dozens of research studies have examined children raised by gays and lesbians or same-sex couples in the world. Despite the conviction found amongst a number of laypersons and certain experts, none of the relevant research has found that children of homosexual parents have had any significant problems in the area of forming a sexual and gender identity or even in other areas of psychological development. When comparing children raised by one homosexual parent and children raised by a same-sex pair it was found, however, that for children it was generally better if they are raised by two loving parents. Children raised by one parent, whether homosexual or heterosexual, get along in certain areas worse than children raised by two parents, whereas it does not depend on whether they are of the same or opposite sex.<sup>51</sup>

On the basis of such research projects, already certain internationally recognized expert societies<sup>52</sup> have compiled expert opinions that point to the fact that there is no reason to hinder same-sex couples from realizing their desire for children. Certain countries do not hinder lesbian couples at all from taking advantage of in vitro fertilization. Aside from this, more and more countries enable adoption of children by same-sex couples, because it is evident that care within a family is better. And for the state, it is a less expensive alternative than caring for children in foster homes. The Czech Republic remains amongst those countries with a high number of children in state-run foster care, but society unfortunately is more upset by the irregularity of same-sex families than the fate of children in such institutions.

If we talk about parenthood, it is in no way possible to forget the children themselves and their rights. The best interest of the child doesn't necessary have to be fulfilled within a so-called traditional family itself; on the contrary, foreign research has confirmed that even same-sex couples are capable of provide their children a full-fledged family environment. In the case of already existing families, it is furthermore in the interest of children that they would be raised in a legally and socially stable environment. Legislation ignoring the existence and interests of these families hinders this in many countries, including the Czech Republic. This condition is mainly disturbing from the aspect of the rights of children, whose interest are not

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<sup>51</sup> Due to the quantity of published studies, it is not possible to list here at least a representative overview. The rich bibliography is available at the hyperlink listed below to the technical report of the American Academy of Pediatrics. From all relevant titles, here are at least two: Laird, J (ed.) (1999): *Lesbians and lesbian families: reflections on theory and practice*. New York, Columbia University Press.

Nedbálková, K. (2002): *Alternativní rodinné modely aneb Rodiny lesbických matek a rodiny gay otců*. [Alternative family models or families of lesbian mothers and families of gay fathers] In *Ženská práva jsou lidská práva*. [Women's Rights are Human Rights] Brno. Nesehnutí.

<sup>52</sup> The Canadian Psychological Association was the first amongst large professional organizations to address this topic in 1996. Its binding policy statement from 2003 is available at the address <http://www.cpa.ca/cpsite/userfiles/Documents/old%20opress%20releases/GayParenting-CPA.pdf>

The American Psychological Association, which is the largest professional organization of its type in the world, issued its policy statement in 2004, which is available at the address <http://www.apa.org/pi/lgbcpolicy/parents.html>

taken into consideration whatsoever through this practice. For this reason, certain expert associations<sup>53</sup> are calling upon public institutions to defend the interest of these children, since the interest and rights of children should stand above political interests. It is certainly desirable for the Czech Republic to review its legislation and to take into consideration scientific facts and mainly then the interests of children.

According to Czech legal regulations, neither informal nor formal cohabitation of the mother or father of the child with a same-sex partner may be a barrier for entrusting them with the upbringing of his/her own biological child, and may not prevent regular relations of the biological child with the parent. Even the European Court of Human Rights explicitly confirmed this approach in its judgment of the case *Mouta v. Portugal* from 2004<sup>54</sup>, in which it declared as discrimination the judgment of a Portuguese court, by which a gay father had custody of his daughter taken away from him on the basis of his sexual orientation, and the daughter was entrusted to the mother's care.

In the area of parenthood, it is necessary to differentiate the situation where it concerns the relation of gays and lesbians towards their own biological children from the situation, where same-sex partners are striving to fulfil their desire of having children. The majority of people have the impression that if gays and lesbians do not have children from their previous unions, the only way to fulfil their desire for children is through adoption. Adoption nevertheless represents only one of the possibilities of how gays and lesbian may fulfil their desire to form a family. The legal regulations of individual nations differ in this regard; the methods that are legal in one country are prohibited by the laws of another.

#### **4.1. Individual adoption**

In the Czech Republic, pursuant to the Family Act, every man or woman may adopt children without regard to sexual orientation. The situation, however, fundamentally changes when gays and lesbians enter registered partnership, because according to the law, registered persons may not adopt children not only as a couple but individually either. The applicable provisions of the Registered Partnership Act utterly disadvantages gays and lesbians, because the right that is recognized to them prior to entering into and after terminating registered partnership is denied to persons after entering and while in registered partnership. While a man or a woman who enters into marriage has the right to adopt children throughout the existence of the marriage, they only also need the consent of the spouse to do so. In the approach towards adoption therefore, this leads without a doubt to open and legal discrimination of gays and lesbians. It can be said that if gays or lesbians want to adopt a child, the current Czech legal regulations push them rather towards living in non-formalized unions.

#### **4.2. Joint adoption**

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<sup>53</sup> The policy statement of the American Pediatrics Academy issued from 2002 may be found at the address :

<http://www.pediatrics.org/cgi/content/full/109/2/339> The Technical (Explanatory) Report is available at the address: <http://www.pediatrics.org/cgi/content/full/109/2/341>

<sup>54</sup> Bobek, M., Boučková, P., Kühn, Z. (2007): *Rovnost a diskriminace* [Equality and discrimination]. Prague, C.H. Beck. s. 277

As opposed to individual adoption, for joint adoption, both partners become parents, and this may concern either a pair of the opposite or same sex. In the Czech Republic, only married couples are permitted to jointly adopt.

Countries enabling same-sex couples to jointly adopt children include Belgium, Holland, Spain, Sweden and Great Britain, as well as certain states of the USA.<sup>55</sup>

### **4.3. Right to adopt children of one's partner**

Just as a husband or wife may adopt the children of his/her wife or husband, certain countries provide this right to partners in same-sex unions. It enables the right to adopt children of a partner so that the factual relationship between the child and partner of the biological parent would be legally established. This significantly contributes to the stability of these relations, and strengthens the child's certainty that a relationship with a very close person does not end with the end of partnership, and that the person raising the child as a parent becomes the child's parent in the legal sense with all consequences arising thereof. It is possible for example to adopt the biological children of a partner, who has such children from a previous heterosexual union, or a child born to the female partner by in vitro fertilization.

In the Czech Republic, partners in same-sex unions do not have this right. The partner in fact often takes part in the raising of a child for several years; throughout the existence of registered partnership, they have this responsibility prescribed to them by law. Despite this, the law does not enable them to amend the relationship of his/her partner to the biological child by law. This condition not only disadvantages the same-sex pair, but is utterly in conflict with the best interests of the child.<sup>56</sup> A fundamental problem that is not uncommon occurs at the moment when the partnership ends, either by death of the biological parent or by a break-up of the partnership. In the event of death of the biological parent, the danger threatens that the child will be ripped from its environment and taken away from the person with whom it is the closest, only to be entrusted into the care of some member of the biological family of the deceased parent. If the partnership breaks up, the danger threatens, just like in divorce of married couples, that the biological parent will keep the child from having a relationship with the former partner, even though the child has very strong emotional ties with this partner. On the contrary, in the event of the death of a non-biological parent, the child will be denied right to inheritance, if a will wasn't drawn up with the child as the beneficiary.

Countries enabling adoption of a partner include Belgium, Denmark, Germany, Island, the Netherlands, Norway, Spain, Sweden, Great Britain and certain states of the USA.

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<sup>55</sup> srov. mj. Ottosson, D. (ILGA): LGBT World Legal Wrap Up Survey November 2006, [www.ilga-europe.org/europe/issues/international/lgbt\\_world\\_legal\\_wrap\\_up\\_survey\\_november\\_2006](http://www.ilga-europe.org/europe/issues/international/lgbt_world_legal_wrap_up_survey_november_2006)

<sup>56</sup> A number of important expert associations recognize this fact in their documents. For example, the American Academy of Pediatrics issued in this sense a comprehensive well-supported declaration, in which it moves to end this discrimination of children raised by same-sex partners. The document is available at the address <http://pediatrics.aappublications.org/cgi/content/full/109/2/339>, and its technical report is found at the address: <http://pediatrics.aappublications.org/cgi/content/full/109/2/341>.

#### **4.4. Entrusting children into foster care**

As opposed to adoption, entering into registered partnership does not stop gays and lesbians from becoming foster parents, but only individually and not as a couple. Only married couples may become foster parents. In the event that gays and lesbians living under registered partnership want to take the child into foster care, it is possible to derive that towards such a step by analogy, the consent of the partner is necessary; this is the same as it is required of spouses, if only one of them becomes a foster parent.

Countries where partners may be entrusted with joint foster care of a child include Belgium, Denmark, Finland, France, the Netherlands, Norway, Sweden, and Island; also in England and Wales, children are entrusted into the foster care of gays and lesbians.

#### **4.5. Artificial insemination**

If a lesbian couple wants to have children, another possibility aside from adoption is in vitro fertilization. In the Czech Republic, access to in vitro fertilization is reserved only for heterosexual couples. An infertile couple, which may utilize in vitro fertilization, pursuant to the Act on Care of Human Health, may be comprised only of a man and a woman, whereas it is not necessary for them to be married. So neither a lesbian couple nor a woman without a partner may seek in vitro fertilization.

Certain countries make in vitro fertilization accessible either to lesbian couples directly or at least to women without a partner, and thereby consequently to a lesbian couple. Lesbian or bisexual women may employ in vitro fertilization in such countries as Belgium, Denmark, Finland, the Netherlands, Spain, Sweden, Great Britain and certain states of the USA.

#### **4.6. Public authorities' policy**

In the area of family rights, in terms of relations towards children, legal regulations do provide gays and lesbians with certain rights. As it is stated above, on one hand this concerns relations to biological children, and on the other hand it is a matter of rights in the area of alternative family upbringing, such as individual adoption or foster care. The question remaining unanswered, however, is how responsible public authorities protecting the interest of children, mainly social and legal protection authorities and courts, actually proceed in practice. In practice, it mainly depends on personal attitudes and values of individual responsible persons as to whether during their decision-making, sexual orientation of the biological parent or adoption or foster care applicant plays a role.

## 5. Transsexual and transgender people (trans people)

### 5.1 Legal and social status of trans people

Problems of the transsexual population may be relatively well specified, whereas the situation of other groups included in the trans community is relatively vague. Already from the period between the World Wars and mainly after World War II, the problem of transsexual people has been acquiring access to hormonal and surgical treatment. The Czechoslovak population also shared this problem. The beginnings of operative treatment in our country are masked by great secrecy, whereas they fall into around the mid-1960s. In the second half of the 1960s, sharp debates arose on performing these operations. From the mid-1970s, their performance has been fully endorsed by official authorities.<sup>57</sup>

Access to such operations is regulated by a system of medical advisory boards anchored in the Act on Care of Human Health, where in Section 27(a) it states verbatim: “Operations which interfere with reproduction ability of individuals, castration, stereotactical operations and operations which relate to transsexuals can be implemented only on the basis of request of a person concerned and approval of an expert advisory board consisting of a lawyer, at least two specialists and two doctors who do not participate in the operation”.<sup>58</sup> Of course there does not exist a separate law that would fully amend the problematic of transsexuality in our country just like in most European countries.<sup>59</sup> In the first years of the existence of these advisory boards, it was extremely difficult to obtain consent for treatment. But in time, their approach improved in many ways, since fears regarding the new type of operations proved to be unjustified. Certain partial problems with the discriminatory approach of these advisory boards lasted throughout the 1980s and 1990s, but today these advisory boards normally negotiate in accordance with internationally recognized standards of care.

Another major problem for transsexual people is obtaining documents that are in accordance with their sexual identity. In the Czech Republic, it is possible to request an official change of name and sex; this possibility has existed since the 1970s. Certain older countries of the EU (especially Great Britain) long attempted to prevent this possibility. During the 1990s, however, several judgments were passed by the European Court of Human Rights (ESLP), which judged the refusal of magisterial acceptance of a change in sex to be a procedure that violates basic human rights<sup>60</sup>. A legal change of sex including the issuance of a new birth certificate then is derived from the Population Registration Act in which, however, the term transsexual is not directly listed. On the contrary, a change in the Czech birth registration number is explicitly amended by the Act on Register of Population and Birth Numbers<sup>61</sup>. Most

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<sup>57</sup> Proving the stormy nature of the debates at the time amongst physicians and lawyers are the materials from the Symposium on Medicojudicial Aspects of Transsexualism, which was held at Bouzov Castle on 19 July 1969

<sup>58</sup> Section 27a Para. 1 and 2 20/1966 Coll. on Care of Human Health, as amended

<sup>59</sup> Six EU countries have a separate law dealing with transsexual people, namely Finland, Italy, Germany, the Netherlands, Sweden and Great Britain .

<sup>60</sup> ESLP (2002): Christine Goodwin versus UK.  
<http://worldlii.org/eu/cases/ECHR/2002/588.html>

<sup>61</sup> Section 17 of Act no. 133/2000 Coll. on Registration of Population and Birth Numbers and on Amendments of certain Acts.

of these changes, however, do not have a retroactive character, which may lead to problems in practice.

A serious problem then is discrimination, with which transsexual people encounter rather more often than people affiliated with the LGB minority. The cause among others is the very easy recognition of transsexual people, who often encounter rejection not only from the majority but also in the gay and lesbian community. Discrimination perhaps most often occurs in the area of services, but also very damaging and widespread is discrimination at the workplace. The most vulnerable are then transsexual people in the period of changing their sex, when their documents do not correspond with their appearance and identity. This situation also concerns those transsexual people, who won't want or cannot undergo a sex change.

When speaking of discrimination of transsexual people, it is relatively fundamental to point out that in European law it is judged as discrimination due to sex, and therefore different than discrimination of LGB people. But in the case of transsexual people in the narrower sense of the word, there already exists precedence in the form of European Court of Justice judgment in the case *P v S and Cornwall County Council*,<sup>62</sup> which assessed discrimination of transsexual people as violation of the Equal Treatment Directive on the basis of sex<sup>63</sup>. In the case of trans people before the operative change or those not attempting to have such a change, for now a court judgment on the European level is lacking. Certain EU member states already have legislation banning discrimination directly on the basis of sexual identity. Even the European Parliament recommends introducing such legislation in its resolution entitled "Homophobia in Europe".<sup>64</sup>

## **5.2 Legal and factual problems of trans people in the CR**

### **5.2.1 Recognizing legal continuity of transsexual people**

Legal continuity of transsexual people is generally recognized in the Czech Republic. There still exist though a number of situations where this right is not respected by public or private subjects. This fact often arises from the system of birth registration numbers, which are the basic instrument for documenting the population<sup>65</sup>. The birth registration number identifies among other things the person's sex, and they are therefore changed after undergoing the sex change. The alteration of the birth registration number and name is legally bound to the change of sex.<sup>66</sup> In practice, confirmation is required from a specialized doctor on complete change of sex.<sup>67</sup> Transgender people, who don't want or cannot undergo a sex change operation may not request a change at the Registry Office or even a change in the birth registration number.<sup>68</sup> Access to a sex change operation is bound to the consent

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<sup>62</sup> ESD (1996): *P v S and Cornwall County Council*, see <http://www.pfc.org.uk/node/362>

<sup>63</sup> Directive 76/207/EHS

<sup>64</sup> Resolution of the European Parliament of 26 April 2007

<sup>65</sup> Act no. 133/2000 Coll. on Registration of Population and Birth Numbers

<sup>66</sup> Section 17 of Act no. 133/2000 Coll. on Registration of Population and Birth Numbers.

<sup>67</sup> Fífková, H., Weiss, P., Procházka, I., Jarolím, J., Veselý, J., Weiss, V. (2002): *Transsexualita [Transsexuality]*. Prague, Grada. p. 108

<sup>68</sup> From among the countries of EU, only Great Britain allows a change of the legal sex without performing medical interference, but a debate is being held in a number of other countries.



of the medical advisory boards, which are created on the basis of the Act on Care of Human Health.<sup>69</sup>

Unfortunately, an entire series of legal subjects is not capable of accepting this fact, and transsexual people are regarded as new individuals, who of course are often strongly disadvantaged. As a consequence of this fact, they have to pay fees for services (mainly fees for registration or for holding an account), which they had already paid once, or they are denied advantages to which they had legal entitlement up until that time (e.g. banking and insurance services bound to the previous client history).

In other cases, they are refused the issuance of duplicates of important documents, mainly documents on attaining work experience or how many years they've worked. But for example, the same refusal applies to the issuance of a decree on granting invalidity pension. In certain cases, they experience complications when having to prove their legal continuity, whereas in other cases, proving legal continuity is utterly impossible. The cause is the unwillingness of clerks or entire institutions, which of course often lean upon documentation and an information system not counting on a change in the birth registration number.

Transsexuals are thus often forced to pay widely varied administrative fees, and on the contrary they are refused various advantages arising from their previous history. This problem is mainly an issue regarding private subjects (banks, insurance companies), but also taking part in smaller measure are public subjects (e.g. library).

In other cases, no asset detriment arises, but mainly the right to privacy is violated, because there arises the need to repeatedly prove their legal continuity and submit for such purpose confirmation of the change of sex by which transsexual people are exposed to the increased risk of further discrimination.

Introducing an info-neutral population identifier would do a lot to improve this situation. An interdepartmental work group created by government decree<sup>70</sup> has met in recent years on such introduction. In the case that such an amendment would not be passed, it would be desirable for state authorities to at least guarantee that the birth registration number system would not be misused for discrimination of transsexual people.

### **5.2.2 Parenting rights of transsexual people**

The lingering practice where transsexuals are exposed to pressure to give up their parenting rights or agree to their significant limitation appears to be a big problem. This practice comes from the fact, among others, that the medical advisory boards created by the Act on Care of Human Health decide on somatic therapy for transsexual persons, without being further bound by other ethics, technical or legal standards, which would directly deal with the approach towards transsexual people. Therefore they may establish de facto arbitrary conditions for providing the appropriate care.

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<sup>69</sup> Section 27a Para. 1 and 2 20/1966 Coll. on Care of Human Health, as amended

<sup>70</sup> Government Decree of the Czech Republic no. 340 of 23 March 2005

In the past, it was normal practice to require of transsexuals that they renounce their parenting rights in writing. This procedure never met with any resistance in the Czech legal system.<sup>71</sup> As far as we know, this practice has mostly been abandoned, but in certain cases, transsexual people are pressured to limit contact with children, without regard to the specific interests of such children.<sup>72</sup> Unfortunately none of these cases was ever dealt with by the courts, which occurs aside from other reasons due to the dependence of transsexual people on the decision of the particular advisory board. The situation is all the more complicated because of the practice which has no resistance in Czech law and which is not documented by some decision by competent authorities.

Based on our information, at least in one case, the Department of Social and Legal Protection of Children<sup>73</sup> was an actor in this procedure. Only through pressure did it induce a transsexual person MtF to give up his share in caring for a child, despite the fact that he had taken care of him for a long time prior to that during family leave. Unfortunately, the affected person succumbed to the pressure and relinquished his right to an appeal, whereas “she” only later found out that she was the victim of discriminatory behaviour. According to our information at present, court proceedings are being held, in which the Department of Social and Legal Protection of Children is demanding that children are not entrusted to their transsexual parent FtM, despite the fact that their biological father can’t take them into his care. In both described cases, the Department of Social and Legal Protection of Children interfered in these cases, even though an agreement existed between the parents, which they should respect.

### **5.2.3 Absence of sufficient legal regulations amending regulation of the activity of advisory boards deciding on the change of sex**

The medical advisory board approving the so-called change of sex is created pursuant to the Act on Care of Human Health,<sup>74</sup> but their activity is not further regulated legally or by technical standards. Moreover the law improperly mixes the steps for trans people with further steps limiting fertility, including castration of sexual delinquents. The law does not even adequately stipulate that the creator of these advisory boards has the possibility of appealing against their decision. The activity of the majority of advisory boards is on a relatively high level of expertise, however, so eventual amendment of their legal statute would be performed sensitively and in accordance with further legislative development in relating areas. For this reason, the proposal for such amendment is not included in this text.

Transsexuality in our country is, in accordance with the opinion of the WHO, regarded as a disorder negatively influencing the life of its carrier. Most authors hold the opinion that transsexuality is conditional to be mainly biological, which is

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<sup>71</sup> FIFKOVÁ, H., WEISS, P., PROCHÁZKA, I., JAROLÍM, J., VESELÝ, J., WEISS, V. (2002): Transsexualita [Transsexuality]. Prague, Grada. p. 108

<sup>72</sup> Information on one older case may be found at the address <http://home.tiscali.cz:8080/iva.w/zprava2.htm>

<sup>73</sup> Public administration institute, whose task is to represent the rights of children, whose authority is stipulated by Act no. 359/1999 Coll. on Social and Legal Protection of Children, as amended

<sup>74</sup> Section 27a Para. 1 and 2 20/1966 Coll. on Care of Human Health, as amended



supported mainly by neuroanatomical research performed in the 1990s.<sup>75</sup> This opinion is often the subject of discussion, but it is respected by the majority of Czech and the international expert community. For most transsexuals, having a “sex change” performed represents the only effective therapy, whose effectiveness has been proven by ten-year research projects.<sup>76</sup> Due to this fact, it is possible to consider the effort to restrict the approach to appropriate steps as flawed, because this would establish the practice that next time, the appropriate treatment will be provided on the basis of barter and not based on the patient’s needs.

In the countries of the European Union, long-term development of care for transsexuals is underway, and barriers are being broken in most countries, because they are found to be illegal and in conflict with scientific facts and ethical standards.<sup>77</sup> Foreign experience is also showing that obstruction during approval of steps and their full payment will result in casting a segment of transsexual people into an unsolvable psychological and social situation that will lead to a consequent burden for the social care and health care system. The Czech Republic currently has a relatively good system of care for transsexual people, and it would be paramount for it not to be disrupted by possible legal amendments. Upon possible modifications of what is today an archaic wording of the Act on Care of Human Health, it would be advantageous if the changes respect internationally recognized standards of care, whose sixth revision was issued by the Harry Benjamin International Gender Dysphoria Association in 2001.<sup>78</sup>

#### 5.2.4 Transsexual people and the prison system

Transsexual people serving a punishment in prison do not have reasonable access to the appropriate hormonal and surgical care. In the past, there did occur negotiations on consent to such treatment, but due to the method by which it was discussed, a position towards this wasn't accepted with the case of a familiarized civil specialist, the request was refused based on mentally fitness.<sup>79</sup> There do exist decrees<sup>80</sup> amending decisions on surgical care for transsexuals serving sentences for crimes, but according to the information we have available, such consent has never

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<sup>75</sup> Zhou, J-N., Hofman, M.A., Gooren, L.J.G., Swaab, D.F. (1995): A sex difference in the human brain and its relation to transsexuality. Reprint from Nature. 378:68-70.

<http://www.symposion.com/ijt/ijtco106.htm>

<sup>76</sup> Especially high-quality review of research studies providing the following monograph: Pfäfflin, F., Junge, A. (1998): Sex reassignment.

<http://www.symposion.com/ijt/pfaefflin/1000.htm>

<sup>77</sup> In 1999 in Great Britain, a court ordered for an English health insurance company to pay demands for an operation to three transsexuals, who were refused such payment due to various excuses. Dyer, C. (1999): Blanket ban on treating transsexuals is ruled "unlawful" British medical journal. Vol. 319, Iss. 7206;

In Germany the age boundary of 25 was changed, which was contained in a German law regulating a change of the legal statute for transsexuals. The Constitutional Court found this limitation as unjustified and discriminatory, whereas consequently the boundary for a change in the legal statute was set at 18 years of age. Weitzel C., M.D., Osburg S., M.D. (1997) Empirical Data on Epidemiology and Application of the German Transsexuals' Act During Its First Ten Years - <http://www.symposion.com/ijt/ijtco303.htm>.

<sup>78</sup> Available for download at the address: <http://wpath.org/Documents2/socv6.pdf> The Czech translation was published: Fiková, H., Weiss, P., Procházka, I., Jarolím, J., Veselý, J., Weiss, V. (2002): Transsexualita [Transsexuality]. Prague, Grada. p. 108

<sup>79</sup> The civic Association Transforum helped to resolve this and certain other cases in the past.

<sup>80</sup> Decree no. 29/2000 of the General Director of the Prison Service of the Czech Republic .

been provided, and there never existed a relating directive that would enable such treatment to be realized in practice.

If people will decide on such cases, who hold the opinion that the very conviction of a crime is proof of the lack of mental fitness for treatment, the situation has little chance to improve. This approach is in conflict with experiences from abroad, and is also in conflict with the aim of the correction and social rehabilitation of persons serving time in prison for a crime. This aim is grounded in the International Covenant on Civil and Political Rights<sup>81</sup>, which the Czech Republic also ratified.

People serving punishment for crimes should have the right to adequate care, and this should concern the treatment of transsexuality. It would thus be appropriate for the Ministry of Justice to amend the procedure during realization of such care, while it is necessary to take into account three possible situations in relation to the procedure of care. That is, there exists a great difference between people who have yet to undergo treatment (hormonal therapy) and patients who have already started such treatment, but haven't undergone surgical procedures, and finally patients who have indeed undergone surgical procedures and are now only remaining on hormone treatment. All three groups of patients require a different approach, and the regulations should specifically remember to avoid the situation where not only their treatment is threatened, but so is their physical and mental integrity. It is necessary to stick to that principle that the court has set forth the punishment and to not expose transsexuals performing their punishment to other sanctions that have no legal basis.

## **6. Intersexual people<sup>82</sup>**

Intersexual people are those who were born with a varying level of biological signs of both sexes. This is caused by several types of somatic disorders, which lead to numerous somatic as well as mental problems. These are often made even worse by using unsuitable treatments. Intersexuals often do not affiliate themselves with LGBT people, even though some of them affiliate themselves with a minority sexual or gender identity.

The situation with intersexual people in the Czech Republic is practically uncharted terrain. Based on available information, steps regarding intersexuals are often performed without respecting their autonomy, since steps are performed at a very low age and mostly lead in the future to distinct mental and somatic problems. These steps lead mainly towards alteration of sex organs, so that they would be in line with the impression of biological gender, in which the child should grow up based on the examining physician's opinion. If in certain cases such steps are fully justified, then in other cases their performance in the first years of life to the origin of somatic problems and mental trauma. A fundamental problem occurs, if the intersexual person feels later in adult life like a member of the opposite sex than the one doctors determined for him/her. This is relatively often the case for certain types of

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<sup>81</sup> International Covenant on Civil and Political Rights, Article 10, Para. 3.

<sup>82</sup> Intersexuality is an extremely complex problem, whose psychological and social aspects are only known to very few members of the general public or LGBT people. This text attempts to point out this phenomenon, whereas a more detailed analysis of individual types of intersexuality isn't possible in this report, and would require compilation of an independent analysis.

intersexuality. Then they have no choice but to search for treatment similar to treatment of transsexuals, whereas this treatment is then normally quite complicated as a consequence of previous surgical procedures.

But we do not have any documentation about whether these procedures were performed without the consent of the parents, even though it is possible to doubt whether they are provided with sufficient information on all consequent steps prior to them providing consent. The situation is quite complicated, however, in terms of ethics, because parents provide consent to perform these procedures as something of a legal representative, while potential negative effects of such decisions only appear in adolescence or adulthood. It is then very difficult to ascertain the circumstances of the informative consent, and possible right of recovery from responsible physicians is then practically impossible.

To a certain extent, the problem is of a technical nature, since most procedures employed in the Czech Republic are derived from what are today archaic theoretical stipulations. In the 1970s, it was the norm the world over to pressure the parents to agree with procedures as young as possible. A number of physicians considered it appropriate to provide misleading information of the true state of the child and of the probable effect of the performed procedures. This practice stemmed from the impression that gender identity may be created by what the doctor does, whereas provision of information may ruin this process. But this opinion has been proven to be insufficiently supported in technical terms and in certain cases it led to irreversible bodily and mental damage. In certain cases, doctors were brought before the courts for this.<sup>83</sup>

Since the health care system in the Czech Republic is under the strong control of the state, and many hospitals are directly under its administration, then it would certainly be suitable for state authorities to pay attention to this topic. Due to the seriousness and the irreversibility of surgical procedures on intersexual children, it is especially important for all the rules of informed consent were respected. If they are forgotten that is, practically no possibility exists for correcting damage that occurs or for demanding legal responsibility.

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<sup>83</sup> Ante, R. (2003): Negativní aspekty medicínského přístupu k intersexualitě [Negative aspects of a medicinal approach to intersexuality]. Thesis  
Olomouc, Dept. of Psychology, Philosophical Faculty, Palacky University  
- available for download at <http://www.translide.cz/knihovna>.

## C. LGBT COMMUNITY AND SOCIETY

### 1. Relationship between the mainstream society and the LGBT minority

LGBT people as one of the components of society are confronted with the social reality that it's mostly the (heterosexual) majority who are taking part in society's creation (whether by means of culture, legislation or other standards). These sentiments and sources are very important for the LGBT minority and for political decision-making in LGBT questions, whereas their change may have direct and crucial meaning for the life and the very existence of the LGBT community and individuals. The relationship between the LGBT minority and majority society is dynamic. In it, the social atmosphere influences the behaviour of the LGBT minority, and their behaviour in turn influences the relationship of the majority. In the last few hundred years, however, these relations mostly moved in a vicious circle, where the attitude of the majority repelled the LGBT minority into an undignified position, which was reversely used to legitimise suppression of their rights.

In the past few decades, this situation began to change, and rejection of LGBT people is ceasing to be the legally and socially desired model. Despite this, it is not possible to say that LGBT people have achieved an equal position in society. This arises among others from the creation of standards of majority behaviour, which reflects the so-called heteronormativity, i.e. subconscious perception of heterosexuality as the only (or only normal) sexual orientation. It is possible to find heteronormativity in normal social conversation (e.g. we ask men if they have a girlfriend, by which we automatically expect their heterosexual orientation), but in legislation (institute of marriage is open only to couples formed by a man and a woman), also in other areas of social life (education, health care, etc.).<sup>84</sup> This is not an expression of definite hostility towards LGB people, rather it is a phenomenon that limits the access of LGB people in a number of social and economic areas. A similar situation prevails in the relation to trans people, but this is a phenomenon with a different dynamic, because this minority is in part related to certain differing stereotypes, but also is much less known to the majority society.<sup>85</sup>

Aside from heteronormativity (indicated sometimes as heterosexism), another important term is homophobia, defined as an unjustified fear of LGB people (normally trans people are also included in this grouping) and hostility towards them.<sup>86</sup> The difference between these two terms is not stable, but it is possible to state that while heteronormativity is founded upon the subconscious conviction that the majority is the only correct way (or the only existing way), homophobia stems from

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<sup>84</sup> Sociologist Martin Fafejta refers interestingly to this topic, who of course uses the somewhat unusual term heterosexualism.

Fafejta, M. (2004): Úvod do sociologie pohlaví a sexuality [Introduction to sociology of gender and sexuality]. Věrovany, Nakladatelství Jan Piszkievicz.

<sup>85</sup> Leitenberg, H., Slavin, L. (1983): Comparison of attitudes toward transsexuality and homosexuality. Archives of Sexual Behaviour. Vol 12, No.4, 1983. 337-346.

<sup>86</sup> A more detailed description of these terms may be found in the work by PECHOVÁ, O. (2007): Homofobie, heterosexismus, diskriminace sexuálních minorit [Homophobia, heterosexism, discrimination of sexual minorities] . In Neumannová, R., Kykalová, M. (2007): Antidiskriminační vzdělávání pracovní veřejné správy [Antidiscrimination education of public Servants]. Prague, Multicultural Centre.

the impressions that minority (i.e. that which concerns LGBT people) is bad, or possibly dangerous. Homophobia may be a statement of prejudices of individuals, but it also may be a part of the wider idea system as are for example the ideology of right-wing extremists or religious fundamentalism. We may speak of two sides of the same coin, which of course have similar consequences in the form of discrimination. In the case of homophobia, such consequences can lead in extreme situations to so-called hate crimes (see also chapter B.2).<sup>87</sup>

Homophobia and heteronormativity in society are relatively well-mapped phenomena in sociological terms. Their appearance depends on education, their overall level of conservatism, religious conviction, the size of one's home town or city, but also on age, sex and personal experience knowing LGBT people or lack thereof. Public opinion polls traditionally show that people who approach LGBT people more openly are those with higher education, those who are more liberal, those without religious conviction, those from larger sized cities, the younger generation, women, and persons with personal experience knowing individuals belonging to this minority. The attitudes of the majority may be to a certain extent influenced by enlightenment and educational programs.<sup>88</sup>

## 2. Public opinion in the Czech Republic

The leading Czech institutions dealing with research of public opinion regularly map the attitudes of Czech society by and large towards sexual minorities. Unfortunately, these opinion polls nearly exclusively relate to attitudes towards gays and lesbians, but do not deal with transgender or bisexual people. Trends show a definite movement towards liberalization in the course of the 1990s,<sup>89</sup> roughly from the new millennium, however, development has slowed, and in certain specific questions has even lead to a partial drop in liberal attitudes (based on research conducted by CVVM in 2005 and 2007 for example in attitudes towards marriage of same-sex couples and towards adoption of children by such couples).<sup>90</sup>

According to the CVVM research in May 2007, 69% of respondents agreed with the right of gays and lesbians to enter into registered partnership (24% were against). Of course only 36% (57% against) agreed with marriage for same-sex couples, and only 22% of respondents (67% against) would enable these couples to adopt children.<sup>91</sup> If the questions of marriage and mainly raising children of LGBT couples are understood by majority society as controversial, and the appurtenant results of research would be able to taken as consequences of this controversy, then much less understandable and also less acceptable are the results of another opinion poll by CVVM in March 2007,<sup>92</sup> based on which 29% of the Czech population would not want to have a gay or lesbian as a neighbour. Even here, it is true that a certain

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<sup>87</sup> Herek, G. (Ed.) (1998): *Stigma and sexual orientation: Understanding prejudice against lesbians, gay men, and bisexuals*. Thousand Oaks, Sage Publications.

<sup>88</sup> Sears, J.T., Williams, W.L. (eds.) (1997): *Overcoming heterosexism and homophobia: strategies that work*. New York, Columbia University Press.

<sup>89</sup> Weiss, P., Zvěřina, J. (2001): *Sexuální chování v ČR – situace a trendy* [Sexual behaviour in the CR – situation and trends]. Prague, Portál.

<sup>90</sup> [http://www.cvvm.cas.cz/upl/zpravy/100694s\\_ov70607.pdf](http://www.cvvm.cas.cz/upl/zpravy/100694s_ov70607.pdf)

<sup>91</sup> same location

<sup>92</sup> [http://www.cvvm.cas.cz/upl/zpravy/100676s\\_ov70413.pdf](http://www.cvvm.cas.cz/upl/zpravy/100676s_ov70413.pdf)

movement can be seen (that negative percentage in the same research in 2003<sup>93</sup> and 2005 was at 42% and 34 % of respondents respectively). Despite this, the fact that nearly a third of Czech society has a negative opinion of gays and lesbians clearly shows the strong presence of homophobia amongst our population, and indicates the legitimacy of fears of discrimination on the basis of sexual orientation, and not only in the area of housing.

### 3. Discrimination

Discrimination is generally understood as unequal treatment. At the same time there exists a difference between discrimination as a wider social phenomenon and discrimination, as it is defined in enforceable legal standards. But the law far from recognizes all forms of discriminatory behaviour as discrimination. In the legal area, we mainly recognize two types. First there is direct discrimination, characterized as unequal treatment arising directly from the specific characteristic of the person who has been discriminated against. Indirect discrimination is defined as the existence of neutrally appearing rules which when enforced, however, clearly result in disadvantaging a specific person or group of persons. In both cases, it is important that such unequal treatment does not occur without sufficient reason, in other words without a positively rational cause. Legal aspects of discrimination are described in relatively great detail in the chapter “Discrimination on the basis of sexual orientation” (see part B.1).

Quantifying the extent of discrimination of LGBT people in the Czech Republic is very difficult for several reasons. One is the fact that practically only one meaningful research opinion poll has ever been conducted on this topic. This was a poll by the nongovernmental organization Gay iniciativa, which performed examinations by questionnaire in 2002 and 2003 amongst LGB people, in which 12% of respondents stated that they encounter discrimination in employment, and 25% stated that they experience harassment at work.<sup>94</sup> Aside from this, 13% stated that they'd met with discrimination in services. Also in the poll, cases of discrimination were also listed in other monitored areas. These numbers are relatively high and point out the fact that discrimination for reasons of sexual orientation is a phenomenon that affects a large group of persons.

This of course would look completely different if we were to judge the general state based on the number of court cases. For now, only one case is known, where a LGBT person (gay) won a court decision in a situation where he was discriminated against.<sup>95</sup> Disproportion amongst data stemming from the Gay iniciativa poll and the number of court cases shows that LGBT people fear or for other reasons refuse to resolve discrimination by legal instruments of protection from discrimination. This may stem from insufficient cognisance of what may be considered discrimination from a legal aspect (mainly its victim may not recognize indirect discrimination). Also apparently fundamental is the lack of knowledge of legal means, by which they may

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<sup>93</sup> [http://www.cvvm.cas.cz/upl/zpravy/100199s\\_ov30324.pdf](http://www.cvvm.cas.cz/upl/zpravy/100199s_ov30324.pdf)

<sup>94</sup> Procházka, I., Janík, D., Hromada, J. (2003): Společenská diskriminace lesbických žen, gay mužů a bisexuálů v ČR [Social discrimination of lesbian women, gay men and bisexuals in the Czech Republic]. Prague, Gay iniciativa v ČR [Gay initiative in the CR]

<sup>95</sup> <http://www.iniciativa.cz/www/index.php/?page=clanek&id=1251>

protect themselves from discrimination. Another important factor is most likely the lethargic pace of activities of Czech courts. Here it's necessary to state that very few court cases in the Czech Republic deal with other groups of victims of discrimination either. Also having irrefutable influence is the non-existence of a general antidiscrimination law and an applicable institution that would take up the antidiscrimination issue.

Discrimination of LGB people even has its own specificity. As opposed to ethnic minorities or physically handicapped or stricken persons that is, LGB people may often hide their affiliation with a sexual minority, and at least for some time not give a reason for them to be considered a member of such minority. If they are already encountering discrimination, they can rely on the fact that in a new environment (home, work), they may again blend in with the majority.

The possibility of hiding one's identity is much more limited in the case of transsexual persons, who are most often the victim of discrimination during hiring and in their jobs. But so far, no such case has been heard by Czech courts. There also lacks a clear legal guideline in Czech law for this, which a new antidiscrimination law should provide, which should prosecute such discrimination in accordance with verdicts of the European Court of Human Rights, to which a separate chapter refers – “Legal and Social Standing of Transpeople” (part B.5.1.).

#### **4. Media image of LGBT people<sup>96</sup>**

If the media is one of the main factors today that influence public opinion, this is doubly so in the case of sexual minorities. By means of information and presentation of LGBT people in various contexts, the media influences the attitudes of not only the heterosexual majority but also of LGBT people themselves, especially if they live outside the community and don't have access to other sources of information.

On the other hand, it is true that in democratic society, the media is in turn influenced by social reality, and thus to a large extent, it reflects its development. This may be seen even by the approach of the Czech media to the LGBT issue. It is possible to generalize that this development began catching up rather quickly after 1989 to Western European trends in both the quantitative and qualitative aspects. LGBT people began to appear more often in printed and electronic media sources. The contexts in which they were presented also began to differentiate. While still in the first half of the 1990s, negative stereotyping, sexualisation and comedic or, on the contrary, criminal contexts were the dominating factors (e.g. the film *Mandragora* from 1996 about homosexual prostitutes from the Prague main train station), by

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<sup>96</sup> This text was compiled on the basis of an article written by Věra Sokolová: *Reprezentace gayů a leseb v mainstreamových vizuálních médiích* [Representation of gays and lesbians in mainstream visual media] (In: *Mediální obraz leseb a gayů* [Media image of lesbians and gays], STUD Brno, 2006, pgs. 3-7) and a presentation by Hana Kulhánková: *Queer komunita v médiích* [Queer community in the media] made during the seminar “GLB komunita v Čechách” [“GLB community in the CR”], organized by the Counselling Centre for Citizenship, Civil and Human Rights on 21 May 2007 in Prague



around the turn of the millennium, LGBT people started appearing within the context of normal social life, either in documentaries or in various television series.

Both public media stations, i.e. Czech Television and Czech Radio, played an important role in this gradual diversification of LGBT topics presented in the media. This is fully in accordance with their public mission. Czech Radio mainly contributed by the first regular show for gays and lesbians named *Bona Dea*. The show quickly gained a following of listeners, often from the ranks of LGBT persons not having access to the Internet or living outside of the traditional centre of Czech LGBT life (Prague, Brno). Its cancellation at the end of 2006 was quite unexpected, basically unjustified to the public, and it has left a rather large vacuum in its wake.

The benefits brought by Czech Television were more sweeping, and it would be possible to separate them into three tiers. First, Czech Television made room for films already produced (e.g. *Philadelphia*, *All About my Mother*, *If These Walls Could Talk 2*). It also took part on the creation of documentaries and series, where LGBT topics either dominated or at least appeared in episodes. But also in this aspect, it was the only one in the central and Eastern European region to give way to the rise of a regular LGBT program, which, with its subtitle “about us with us” reported on various aspects of LGBT life from the viewpoint of LGBT people themselves. This program, quite popular with viewers, was named *LeGaTo*, to which the current weekly magazine *Q* related in a somewhat different format and with a slightly more specific target group.

A common problem of mainly these mentioned regular programs was and is to gain a sufficient number of persons willing to publicly present their membership to a sexual minority. Fears from the consequences of publicizing their minority orientation may indirectly highlight Czech society’s persisting discriminatory attitude and behaviour. But on the other hand, these fears may be the consequence of internalised homophobia and exaggerated fear. But due to a lack of relevant sociological research, it is not possible today to positively say which of these two substantiations is closer to reality.

Cinematography has also made progress in both quantity and quality. Despite this, to 2007<sup>97</sup> there has not existed a single Czech movie where LGBT would play the leading role and would at the same time be free of stereotyping and sexualisation. Such films can be found in both Czech cinemas and in video rental shops, but they are of foreign provenience.

Three well-known Czech film festivals play an important role in mediating the entrance of foreign LGBT movies to the general public. One is a documentary film festival dealing with human rights entitled *Jeden svět* [One World],<sup>98</sup> which aside from the actual screening of movies with (among others) a LGBT topic, also features educational projects. By doing so, it provides meaningful support to tolerance and openness of Czech society towards LGBT people. Then there is the section *Jiný břeh* [The Other Bank] of the festival *Febiofest*,<sup>99</sup> which is dedicated each year to LGBT

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<sup>97</sup> Pusinky (2007), directed by Karin Babinská

<sup>98</sup> <http://www.jedensvet.cz/ow/2007/index.php?lang=cz>

<sup>99</sup> <http://www.febiofest.cz/cz/>



movies. And finally is the film festival Mezipatra [Mezzanine],<sup>100</sup> which is entirely geared towards LGBT issues. What's unique about the Mezipatra festival – even as opposed to a number of specialized festivals abroad – is the structure of its visitors, where nearly half of its visitors are heterosexual. By this, this festival fulfils not only an artistic function, but also an informational and educational, and mainly social and integrating function.

If film festivals and electronic media reflect more and more publicly the richness of the LGBT world, in the world of printed media there exist great reservations. The daily newspapers have not placed any taboos for years on the LGBT issue, but from time to time there prevails a tendency to cheaply popularize or scandalize it. Unfortunately, various lifestyle magazines and supplements to newspapers containing interview with famous personalities are the exact opposite. It is more than astonishing that almost none of them, for instance if interviewing a gay person, include questions regarding normal aspects of the person's private life. This mostly crosses over to silence. However, such silence is not only misleading, but also dangerous. This is because it affirms society's perception of sexual minorities as something exotic, distant and nearly non-existent in normal life.

Also, literature with the LGBT topic is mainly of foreign origin, and its selection lags far behind Western Europe. In a number of countries there, at least the most well known bookstores have their own LGBT section. There is not only a lack felt in fiction, but mainly in educational literature. For those who are interested, there is in fact no publication currently available that would include the basic information on the problematic, and would enable them to orient themselves in the topic. This topic may concern them personally, as it could those close to them or people with whom the work or study.

## 5. Education

A meaningful area that influences the relationship of society and the LGBT minority is education. In the Czech Republic, it is luckily not possible to state that schools and other education institutions purposefully spread untrue or hateful information about LGBT people. In the past of course, there were attempts to influence education in this way. A well-known case was the spreading of the publication "Therapy for Homosexuality".<sup>101</sup> This was sent out en masse in 2003 and 2004 to schools, and they weren't pulled from schools until much later thanks to notification by nongovernmental organizations.<sup>102</sup> Its author presented the publication as scientific opinions on homosexuality, which are in direct conflict with facts and the prevailing opinion of experts in this area.<sup>103</sup> Unfortunately it is not possible to eliminate similar activity from repeating in the future, and we can only hope that educational institutions will be more wary next time. This could certainly be aided by providing training teachers, guidance counsellors and specialists teaching in methodology, who would sufficiently familiarize them with current information in this area.

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<sup>100</sup> <http://www.mezipatra.cz>

<sup>101</sup> The text of this publication is still available for download at the address:  
<http://www.homosexualita.cz/terapie.pdf>

<sup>102</sup> See: <http://gl.cz/vh-terapie>

<sup>103</sup> See for example: <http://zpravodajstvi.ecn.cz/index.stm?x=153233>

If we claim that in schools, homophobic opinions are not spreading, then unfortunately objective information about sexual minorities is also not spreading. The “Draft Education Program for Elementary Education”<sup>104</sup> does stipulate education in the area of tolerance (educating department Civic Education), but it never mentions the topic of sexual minorities. Experiences in the field then show that the lecturers avoid this subject that is unpleasant for them, and do not mention the existence of homosexuality as one of the variations in the development of human sexuality. If we speak of discrimination as a wider social phenomenon, then silence regarding the LGBT issue in schools is positively discriminatory. At the same time, this information may be crucial for adolescent gays and lesbians, and may help them handle the social difficulties discussed in the next chapter.

## 6. LGBT youth<sup>105</sup>

Most people would probably be surprised if somebody were to tell them that the socially disadvantaged position of LGBT people is a problem that also concerns youth. Some would perhaps deny this, claiming that some pseudo-problem is being formed, since after all, this concerns children, and so what sexual minority could we be speaking of? Sexual identity, however, begins to appear during adolescence, so for late elementary and high school youths, this topic is decisively current. Despite this, the impression in society tenaciously persists that sexual orientation is such a private matter that it has nothing to do with education.

### 6.1 Bullying

Of course foreign research has clearly shown that the relationship between sexual orientation of students and the conditions for their education is surprisingly tight. Although information is not available that in Czech schools there occurs direct discrimination of LGBT students, harassment by schoolmates is unfortunately an entirely normal phenomenon. We here in the CR already generally know the dangers of bullying and certain ways of facing it. Experience also shows that the probability that a young person would become the victim of bullying is higher if he/she shows some difference in comparison with peers. Few realize, however, the existence of a narrow connection between differing sexual orientation and the probability that the bearer will have to face bullying.

Within the framework of population studies of American youth in the USA, it was found that students claiming to be of gay, lesbian or bisexual orientation are four times more often the victim of bullying than in the general population.<sup>106</sup> Similar results also appear in research studies performed in certain Western European

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<sup>104</sup> This document is available at the address: [http://www.rvp.cz/soubor/RVPZV\\_2007-07.pdf](http://www.rvp.cz/soubor/RVPZV_2007-07.pdf)

<sup>105</sup> This text was created on the basis of the article entitled “LGBT mládež a diskriminace” [“LGBT youth and discrimination”] written by Olga Pechová for the project “Antidiskriminační vzdělávání pracovníků veřejné správy” [“Anti-discrimination education of public servants”] Multicultural Centre Prague, which financed it from funds provided by the European Union.

<sup>106</sup> RYAN, C., RIVERS, I. (2003): Lesbian, gay, bisexual and transgender youth: victimization and its correlates in the USA and UK. *Culture, health and sexuality*, Vol. 5, No. 2. 103-119.

countries, e.g. most recently in Great Britain and Spain. Bullied youths are often exposed to rather high stress, which has a negative influence not only on their grades and willingness to stay in school, but also on their long-term mental and social functioning. Also alarming in this relation is the fact that many heterosexual students stated that they became the victims of bullying because their peers perceived them to potentially be homosexual.<sup>107</sup>

People with differing sexual orientation are especially vulnerable during the period of a minority's so-called coming out, i.e. at the time that they form an internal and external minority identity. Just the very adjustment with one's own differences often causes young people great difficulties. But if he/she encounters rejection by peers or even by his/her own family during this period, damage could occur that will be very difficult to remedy in adulthood. In the situation where young people have strong doubts about themselves and their identity, they are not just vulnerable to harassment, but they also have greater problems seeking adequate help.

The problem of harassment is very well known in the Czech Republic. But projects striving to contribute to its prevention and resolution have luckily started to appear in recent years. Although foreign research quite convincingly shows the correlation between sexual orientation and bullying, we are still lacking a study in the CR proving a similar correlation amongst the Czech population. This, however, is most probably caused only by the fact that nobody has ever attempted to do so. In practice, psychologists and teachers do meet with such cases, but according to everything we see, this was just the tip of the iceberg. The question of bullying unfortunately is far from the only problem that young gay and lesbians encounter. Problems often occur in family relations, which lead to partial social rejection or even homelessness amongst this segment of youth.

## 6.2 Social exclusion

Research performed in the USA<sup>108</sup> and in countries of the EU<sup>109</sup> shows that in the case of the scheme of multiple important influences, a dangerous set of various types of social difficulties may occur. These are mostly accompanied by an increased level of risky behaviour and mental complications. Mainly, if young LGBT people are excluded from their families, the risk of the origin of long-term social exclusion is extremely high. This is very often linked to uncompleted education and problems finding a job. This situation then often leads to a life on the streets or to engaging in prostitution or criminal activities. For a large part of this threatened population, a number of other risk factors then appear that all relate to this stressful way of life. This mainly concerns drug addiction, the risk of sexually transmitted diseases, and also the appearance of problems revolving around depression, which also relates higher suicide rates.

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<sup>107</sup> same location

<sup>108</sup> Ryan, C., Futterman, D. (1998): Lesbian and gay youth. New York, Columbia University Press.

<sup>109</sup> Takacs, J., ILGA-EUROPE (International lesbian and gay organization) a IGLYO (International gay, lesbian, bisexual, transgender, and queer youth and student organization) (2006): Social exclusion of young lesbian, gay, bisexual and transgender people in Europe. See <http://www.ilga-europe.org>.

In the Czech Republic, greater Prague is a very specific area in this matter. Similar to other large European cities, it is a sanctuary for the LGBT community in general, and especially for young homeless LGBT people. But it is necessary to state in general that LGBT people's lives being lived on the edge of society are very poorly mapped from the aspect of social and health risks. In the area of risk behaviour of gay men in relation to spreading the HIV virus, an interesting and beneficial research was performed in the mid-1990s.<sup>110</sup> Several years later, a much more limited research attempted to at least get a rough mapping of the question of discrimination.<sup>111</sup> When describing the other problems of the LGBT population, there's generally nothing left to do than to stick with estimates. In other countries, it has already been found that the LGBT community has its specific needs, and it is appropriate to know them and know how to solve them. Here in the CR, it's first necessary to map these problems, and then to form expectations for effective handling of problematic phenomena.

### **6.3 Preventing and resolving problematic situations**

Although we don't know exact numbers, it is clear that schools and their administrators, or controlling authorities, should see to it in much greater measure that schools are a safe, or at least relatively safe place for LGBT youth to be. Prevention in this area should be a matter mainly of teachers and those specializing in methods providing prevention in schools, both on the level of providing information during sex education and also on the level of perceiving potential problems of individuals. Intervention in specific problematic cases should be within the competence of school psychologists or educational-psychological counselling centres. Practice has of course shown that people working in these counselling centres often avoid more complex problems. In certain cases, such scepticism towards one's capabilities reflects sound judgment, but it may be damaging in others. Questions relating to differing sexual orientation are often from persistence regarded as a problem falling into the competence of clinical psychology. Coming to terms with one's own sexuality is but a natural phase of development, and people working in assistance professions should not be afraid of providing support to young people in this process.

In the world, there exist independent programs at least in large cities that are dedicated to just this threatened group of the population. Here in the Czech Republic, this seems light years away. This concerns programs aimed at intervention and aid in critical life situations, whereas the fundamental meaning in this area is the work of street-workers in large cities. There is also meaning in quality counselling for youth and parents alike. In the CR, a relatively large number of organizations offer such counselling. Experience has shown, however, that in reality, their employees often lack the necessary education and experience. It is therefore a question of whether or not it would be appropriate to create a specialized network of employees capable of providing such services on a truly professional level. This is also a question of

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<sup>110</sup> Stehlíková, D., Hromada, J., Procházka, I. (1995): Homosexualita, společnost a AIDS v ČR [Homosexuality, society and AIDS in the CR]. Prague, Sdružení organizací homosexuálních občanů [Association of organizations of homosexual citizens].

<sup>111</sup> Procházka, I., Janík, D., Hromada, J. (2003): Společenská diskriminace lesbických žen, gay mužů a bisexuálů v ČR [Social discrimination of lesbian women, gay men and bisexuals in the CR]. Prague. Gay iniciativa v ČR [Gay initiative in the CR].

adequate education, which for now is lacking in our country. The problematic of sexual minorities is extensive and complicated, and it certainly has sense to purposefully dedicate resources to deal with it.

Great emphasis is placed abroad on such programs dedicated to enlightenment and prevention. Even though schools should be handling these tasks on their own to a certain extent, in practice it is often a problem. This is because many tasks are already placed upon teachers' shoulders, and it's unfortunately not possible to expect that they can handle everything all the time. In the case of sex education, the problem is not just poor dissemination of information, but also the bashfulness to discuss these topics with students. Methodology specialists in primary prevention in schools and also employees in educational-psychological counselling centres should at least be partially oriented in this issue.

Of course also employing quality lecturers from abroad would be advantageous. They could provide young people and teachers with more current and comprehensive information than people not specialized in this topic are capable of monitoring. Here in the CR, the Brno organization STUD offers such services. Unfortunately today, no truly functioning project in this area exists. It is very important that the chances of LGBT people to find validation in society are not interrupted right at the beginning, i.e. as they are growing up. It is necessary to prevent this from happening in the interest of the entire society, but to a large extent, conditions are lacking to be able to do so.

## **7. LGBT people and health care**

In 1990, the World Health Organization approved the tenth revision of the International Classification of Diseases (ICD-10). This classification removed homosexuality from the list of health disorders. This classification is mainly used in European countries, and is also binding for the Czech Republic. Only egodystonic sexual orientation (F66) is still considered to be a health disorder. Egodystonic sexual orientation is such sexual orientation, with which the person has yet to come to terms. Since this diagnosis may be misused to ethnically and technically misled efforts on changing sexual orientation, experts discuss its deletion. For example, the American analogy of ICD-10, Diagnostic and Statistical Manual [of Mental Disorders] does not contain any such diagnosis.<sup>112</sup>

Transsexuality is considered by the ICD-10 as a health disorder (F64/o), which is justifiable due to the significant problems that transsexuality causes, and also due to the need for therapy for transsexual persons. Therapy is not comprised of an effort to change gender identification, but rather of supportive psychotherapy and somatic treatment leading to correction of bodily characteristics so that they would be in line with the gender identity. Certain transsexual people do not accept the fact that transsexuality is included amongst mental illnesses. The alternative is categorizing transsexuality amongst somatic disorders. This, however, relates to proof of biological conditionality of transsexuality, which hasn't gathered full acceptance.

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<sup>112</sup> Smolík, P. (2002): Duševní a behaviorální poruchy [Mental and behavioural disorders]. Prague, Maxdorf.

Acceptance of the International Classification of Diseases otherwise does not mean that all healthcare providers identify with its diagnostic conclusions.

The approaches supporting the possibility of a medicinal (psychotherapeutic) change of sexual orientation may be considered in the technical community as being in the minority. As a rule, it is considered to be one of the neutral personality characteristics of an individual. Foreign research projects have shown, however, that despite the prevailing technical opinion, there is a great tendency amongst many physicians to pathologise LGB persons in various ways. Even today, one of the questions on the blood donor questionnaire is whether the person intending to give blood has engaged in same-sex sexual intercourse. If the person answers yes, he/she cannot give blood. From this questionnaire, one may clearly derive an anticipated analogy between homosexual behaviour and the increased risk of HIV transfer. It is true that homosexual men are members of a group that has numerous HIV-positive members. This fact, however, is not a sufficient justification for automatically precluding all homosexuals from giving blood. The increased risk of HIV transfer that is mainly formed by people behaving promiscuously, i.e. both homosexuals and heterosexuals. The analogy between homosexuality and promiscuity is therefore positively misleading and discriminating. Questionnaires that the blood donors fill out should not therefore ascertain whether the person in question had or did not have homosexual sex, but rather should attempt to ascertain the level of promiscuity of the potential donor. The report of the Czech Helsinki Committee on the condition of human rights in 2001 indicated the practice of the Institute of Hematology [and Blood Transfusion], which issued the Instructions for Blood Donors, in which “men having sex with men” are banned a priori from giving blood, as discriminatory.<sup>113</sup>

In limited measure, it is possible to encounter negative attitudes towards LGB patients amongst healthcare providers and physicians, and more often uncertainty stemming from insufficient experience with these patients. Also very frequent is the prior expectation of the majority orientation, which may consequently complicate the next therapeutic relationship. For these reasons, it is possible to consider it necessary to include non-discriminatory approaches into ethical or psychological pre- and postgraduate preparation of healthcare providers. Similarly, non-discriminatory approaches and basic knowledge of sexual orientation should be a component of education of social workers.

In the case of transsexual people, their acceptance of physicians and healthcare personnel are often much more problematic. This is caused by little knowledge of this relatively easily recognized minority. Inadequate or unfriendly reactions are relatively common, mainly amongst physicians who do not normally encounter transsexual people. Also disturbing is the fact that transsexual people are often presented as an attraction for students or for colleagues in a completely callous manner. This of course relates to the generally low respect for privacy and the rights of patients. A special problem is also placing transsexual or transgender people in hospitals, exceptionally in cases where their mental or physical characteristics do not correspond with their legal gender. The system often does not know what to do, and so for example, it is normal practice that such persons must provide extra payment for an above-standard hospital room to keep them away from other patients. Abroad, cases are described where trans people have died because hospital personnel didn't

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<sup>113</sup> See also: <http://www.helcom.cz/view.php?cisloclanku=2003061824>

know what to do with them regarding their gender, and therefore refused to hospitalise them. Education could help in questions of ethics and human diversity, but for now only little attention is devoted to them.

## **D. RECOMMENDATIONS**

**On the basis of the submitted Analysis, the Working Group for the Issues of Sexual Minorities of the Czech Government Minister for Human Rights and National Minorities recommends:**

### **To the Minister of Finance:**

1. To amend the Act on Inheritance Tax, Gift Tax and Real Estate Transfer Tax (no. 257/1992 Coll., as amended), so that registered partners are included into the 1<sup>st</sup> group pursuant to Section 11 of this Act.
2. To amend the Customs Act (no. 13/1993 Coll., as amended), so that registered partners have the right to refuse the explanation pursuant to Section 30 Para. 4 of this Act.

### **To the Minister of Culture:**

1. Within endowment programs, to support projects aimed at LGBTI minorities, and projects for lessening homophobic attitudes. To take into account the aspect of the LGBTI topic within the framework of supporting projects.

### **To the Minister of Defence:**

1. To amend the Decree on Physical Fitness for Active Military Service Health (no. 103/2005 Coll., as amended), so that it does not contain the diagnosis F 64.0 (sexual identity disorder) and F 66 (mental and behavioural disorders relating to sexual development and orientation).

### **To the Minister of Labour and Social Affairs:**

1. Through endowment programs, to support the creation of a social network of employees that aims towards social contact with LGBTI senior citizens, or to support performance of these activities within the existing social network.
2. To support, by means of endowment programs, either national or European, the creation of a community centre for LGBTI seniors.
3. To amend the Act on Pension Insurance (no. 155/1995 Coll., as amended), so that registered partners have entitlement to widow/widower's pension after death of a partner.
4. Compile a procedural methodology for cases of transsexual parents with the aim of assuring that child's best interests are respected, as well as the child's right to both parents, and that the child would not be separated from transsexual parents against



their will, and that discrimination does not occur by employees of the Department of Social and Legal Protection of Children.

5. Through endowment programs, to support the mapping of the situation of persons with a differing sexual orientation living on the edge of society, with the aim of ascertaining what are the causes of their social situation, and how prevent such causes.

**To the Minister for Human Rights and National Minorities:**

1. To launch an information campaign against homophobia and towards prevention of discrimination of LGBTI people.
2. Within the framework of activities for bettering the position of senior citizens, to take account of the specific situation of LGBTI seniors.
3. Within the framework of the campaign against racism in 2008, to write up an appeal to compile projects for mapping the situation of LGBTI amongst ethnic minorities in the CR.
4. To support the creation of a permanent committee for the issues of sexual minorities at the Czech Government Council for Human Rights, including a working group for trans people and prisons.

**To the Czech Government Commissioner for Human Rights and the Chairman of the Czech Government Council for Human Rights**

1. That the Czech Government Council for Human Rights creates a permanent committee for the issues of sexual minorities, including a workgroup for trans people and prisons.

**To the Minister of Justice:**

1. To stipulate within the Crimes Code that a motive of hate due to sexual orientation shall be a sign or fundamental or qualified facts of the case, mainly for violent (hate crimes).
2. During re-codification of the Civil Code, to assure that:
  - a) partners have the right to become a legal parent of the child of the other partner,
  - b) a child could be entrusted to joint foster care of the partners,
  - c) partners could jointly adopt children,
  - d) entitlement arises for persons who've concluded registered partnership to joint assets and joint rental of an apartment.
3. To compile a legal and factual analysis of the situation of transsexual persons in prison and serving punishment for a crime. This analysis would include the situation of transsexual people starting treatment, transsexual people in the course of treatment and the situation of transsexual people after completion of surgical

procedure and legal change of sex, with taking regard of the possibilities for adequate care, assuring their personal security and full respecting of their human rights.

4. To cooperate with the Government Commissioner for Human Rights and the Minister for Human Rights and National Minorities on improving the situation of trans people in prison, within the framework of a work group at the Czech Government Council for Human Rights.

### **To the Minister of Education, Youth and Sports:**

1. To assure that within the framework of study fields aimed at care for senior citizens, due attention is paid to LGBTI seniors and the specifics of their life situation.

2. To perform a study on bullying in schools, with orientation towards linking bullying with the sexual orientation of victim, or within the framework of endowment programs, to support the elaboration of such a study.

3. To support the increase of qualification of school psychologists, specialists instructing in methodology of primary prevention and employees of educational-psychological counselling centres in a direction towards greater sensitivity to problems of LGBTI youth, and towards the capability of recognizing and effectively resolving these problems.

4. Through endowment programs, to support programs to support creation of a network of employees providing professional-level counselling to LGBTI youth.

5. To amend the Directive of the Minister of Education, Youth and Physical Fitness no. 3/2006 towards a procedure when securing realization of Decree no. 60/2006 Coll. on Mental Fitness of Educators, so that data in Appendix no. 1 to this Directive would be left out regarding sexual orientation of the applicant as one of the pieces of anamnestic data monitored during the applicants examination.

6. To consider augmentation of the draft educational programs in the sense of the responsibility to inform students on the existence and life of the sexual minority (LGBT people).

### **To the Minister of the Interior:**

1. To amend the Registered Partnership Act (no. 115/2006 Coll., as amended), so that:

a) the condition of state citizenship as one of the conditions necessary for concluding registered partnership would be replaced for example with the condition of permanent residency.

b) being in an existing partnership would not be a barrier to adopting children (Section 13 Para. 2 of the Act).

2. To amend the Act on the Police of the Czech Republic (no. 283/1991 Coll., as amended), so that partners would have the right to refuse provision of explanation

pursuant to Section 12 Para. 3 of this Act, or to possibly include this requirement into a newly prepared regulation.

3. To amend the Act on Residency of Aliens (no. 326/1999 Coll., as amended), so that when deciding upon the awarding of permanent residency, the conclusion of a registered partnership with a citizen of the CR would be taken into account.

4. To amend the Act on Acquiring and Losing National Citizenship (no. 40/1993 Coll., as amended), so that when deciding upon the awarding of permanent residency, the conclusion of a registered partnership with a citizen of the CR would be taken into account, or to possibly include this requirement into a newly prepared regulation.

5. To introduce an information-neutral population identifier, in the wording of the Czech Government Decree no. 340 of 23 March 2005. Until the time that this identifier is introduced, it is necessary to compile such procedures that limit discrimination of transsexual people due to a change in their birth registration number.

6. To secure concordance within the framework of legal regulations relating to the enactment of marriage and registered partnership so that registered partnership and marriage would be indicated either as “marital status” or “personal status”.

#### **To the Minister of Health:**

1. To amend the Act on Care of Human Health (no. 20/1966 Coll., as amended), so that any woman, and therefore including any woman without a partner (Section 27d of the Act) could be able to use the possibilities of assisted reproduction, or to possibly include this requirement into a newly prepared regulation.

2. To pay increased attention to procedures on intersexual children and to make sure that all rights of informative consent are respected. To this end, it is also necessary to support a higher level of information of physicians on the current trends in the area of ethics, therapy and legal aspects on caring for intersexual persons.

3. To place emphasis on questions of ethics and human diversity, especially the specific problems of LGBTI persons, within the framework of specialized education of health care employees.

4. To rework the list of risk factors and risk behaviour as regards blood donation, so that it would not be discriminatory on the basis of sexual orientation.

## APPENDICES

### Appendix I: Overview of existing LGBT organizations

#### I.a Lesbian Organizations

##### Prague

In Prague, the most active is a group of younger women and girls around the association Rozdílné rytmy<sup>114</sup> [Varying Rhythms] (RR), which is partially affiliated in terms of personnel with Lesbický turistický oddíl [Lesbian Tourist Division] (LTO). Members of Rozdílné rytmy also have a significant portion in organizing the festival eLnadruhou<sup>115</sup> (under the patronage of the association by the same name). This is a festival that is smaller in scope than the previous festival Apriles, to which eLnadruhou loosely relates.

Lesbian activists also take part in activities in Prague's Gay a lesbická liga<sup>116</sup> [Gay and Lesbian League], whereas of four spokespersons, two are representative of the lesbian community. Today, GLL is the only organization dedicated to representing the interest of the lesbian community on the political level.

##### Brno

In Brno around 2004 there was a shortly functioning group Lesby (nejen) sobě [Lesbians not just to themselves]. After its ceased functioning, a pause of one year followed. This break ended with the birth of the group Holky v Brně<sup>117</sup> [Girls in Brno], which is partially covered by personnel from the previous organizations. Holky v Brně organizes trips, lectures, discussions and visits to cultural events. Lesbian activists a few years older also work within the organization STUD.

##### Olomouc

Since 2004 in Olomouc, an informal group of lesbian and bisexual women and girls is has been active, named oLLomouc<sup>118</sup>. They hold lectures, trips, sporting events, film screenings, etc.

##### Ostrava

In Ostrava the situation is unclear, because the once-active female section of Lambda klub no longer develops any official activity. Ostrava's community is at the same time quite numerous, and several circles exist here of people who hold relatively large gatherings that are in fact private events. In the past year, two attempts were

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<sup>114</sup> <http://www.rozdilnerytmy.gl.cz>

<sup>115</sup> <http://www.elnadruhou.cz>

<sup>116</sup> <http://www.glliga.cz>

<sup>117</sup> <http://www.holky-brno.info>

<sup>118</sup> <http://www.bengales.cz/les-ollomouc>

made to revive a local organization in Ostrava, but it is not clear yet whether either have been successful in doing so.

## **Zlín**

For around three years in Zlín, a group entitled Lesba Zlín<sup>119</sup> has been active, but it ceased activities for over a year, and revived them in a changed composition in the spring of 2006. Today, the group engages in sports activities, but also organizes trips and meetings for discussions.

## **Pardubice**

An organization has been active for a number of years in Pardubice, entitled Pardubická lesba<sup>120</sup>. The most frequent type of events includes trips and visiting cultural events.

## **Pilsen**

In Pilsen, the group one4one<sup>121</sup> is active, which engages in holding mainly musical and sporting events. This group has already existed a number of years, and has lately been rather active.

## **Informal associations**

The aforementioned groups bring together only a relatively small amount of lesbian and bisexual women. But a number of other informal circles exist that are not public. But of course these groups are active only on the basis of personal friendship, which is given by the persisting fear of coming out, and often by the disinterest in public matters in general.

## **Internet**

Internet as a medium issued printed materials at the beginning of the millennium, but currently Czech Websites are most in a phase of decline. By spring 2005, a very good Website was up - lesba.cz. The Website's centre of gravity was more as operation of the "literary cafe" on lesba.cz, which was a long discussion forum archived over a long time.

Another CR-wide active Web project is bengales.cz. Over its active period exceeding two years, this Website has become the most active information site for lesbian and bisexual women. It mainly deals with publishing information from political and cultural life, whereas there is also a large portion of lengthy texts of long-term value here.

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<sup>119</sup> <http://www.sweb.cz/lesba.zlin>

<sup>120</sup> <http://www.pardubicka.lesba.cz>

<sup>121</sup> <http://one4one.xhosting.cz>

An entirely new Internet project aimed especially at lesbian parenting is [www.drba.cz](http://www.drba.cz), where it is possible to read about entire specific problems, which lesbian women and their families must resolve.

## **I.b Gay organizations**

In almost all cases, gay organizations active in the CR engage in organizing leisure time activities such as trips, sporting events or discussions. Almost none of them develop enlightenment or political activity in relation to majority society. It is further true that a number of gay organizations at least nominally declare themselves as gay-lesbian, even though they have almost zero lesbian members. Since function of these clubs often depends only on a very limited number of individuals, just few of them have a long-term character and the form of a civic association. This causes great difficulties when mapping the development of the community and its addressing in the sense of policies that immediately concern them (e.g. informing on means of protection from discrimination, HIV prevention, etc.).

### **Prague**

The Gay a lesbická liga<sup>122</sup> [Gay and Lesbian League] is currently the only political LGB organization. After the passing of the Registered Partners Act in 2006, which it helped to get passed, there activities began quieting down to a certain extent. This has created an important and unfilled space in the field of LGB activism, since the other organization of this type Gay iniciativa v ČR [Gay Initiative in the CR] just recently ceased activities.

M-klub Lambda<sup>123</sup> is a Prague gay club for seniors, but gays of other ages also take part in its trips and meetings. The club has existed since 1992.

Since 1996, the gay and lesbian student association GaLes<sup>124</sup> has been active, but of course after ten years due to administrative barriers and the increasing number of non-students amongst its members, it left the Economics University and operates independently. It organizes regular quarterly meetings and trips.

A meaningful organization for religious gays and lesbians is the civic association Logos<sup>125</sup>, which is of an ecumenical character and which organizes worship and regular Sunday meetings with the support of the rectory of the Českobratrská církev evangelická [Czech Brethren Evangelical Church] in Prague 8.

Gaysport<sup>126</sup> provides for a number of gay sports activities in Prague, and its Website features information about the times and locations of when individual sporting events will be held. Also, Pratety (volleyball) and Aquamen (swimming) organize sporting events.

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<sup>122</sup> <http://www.partnerstvi.cz/gll-uvod/>

<sup>123</sup> <http://sweb.cz/m.klub.lambda/>

<sup>124</sup> <http://gales.wz.cz/>

<sup>125</sup> <http://logos.gl.cz/lis-uvod/>

<sup>126</sup> <http://www.gaysport.cz/>

Skupina3<sup>127</sup> [Group3] arose originally as a support group helping members with self-acceptance with the aid of a psychologist. But gradually it turned into a travel-oriented outdoor group holding a summer camp and various weekend events. Another outdoor group is also BDP (Blízko do pohody) [Close to comfort].

In Prague, there are also two theatrical associations, whose members, , however, are not only gays. These are the Perfidní divadlo and Divadlo bez zábran.

## **Brno**

STUD<sup>128</sup> is by far the most important Brno gay-lesbian organization. It has been active since 1996, and its main activities currently include organizing the only LGBT event in the CR, the film festival Mezipatra [Mezzanine]. STUD also has its own archive and library with LGBT topics, which were again made accessible to the public after a pause caused by a lack of resources.

Gay teens (GaTe)<sup>129</sup> is a project for gay teenagers, which was created in 2006 under the support of NROS. Within it, meetings and trips for gays up to 20 years of age are organized. The project also has the character of a self-help group for those in the process of coming out.

Pěšky atd.<sup>130</sup> is a Brno outdoor group, loosely linked to the association STUD. Also Gay Valach organizes trips.

Also active in Brno is Logos Brno<sup>131</sup>, independently from Logos Praha, although the associations are in contact with each other, and sometimes organize common events.

## **České Budějovice**

Jihočeská Lambda<sup>132</sup> [South Bohemian Lambda] is one of the oldest existing LGB associations in the CR. It was founded in 1993, and its activities include organizing regular club meetings, trips, cooperation with similar associations abroad (mainly in Austria), a counselling centre and an information centre. From 2006 to 2007, it successfully realized an aid project in the case of social rejection of LGBT persons in South Bohemia aimed at work opportunities. This was funded by the European Social Fund. This club is unique in its activities in the CR, because it remained on a platform of an active civic association with a permanent membership base, and was able to rank amongst providers of social services for the city of České Budějovice.

This listing is certainly not complete, but the majority of other associations or organizations do not last that long, as it was mentioned, and it is not possible to precisely map the exact situation mainly in other larger cities in the CR (Ostrava, Olomouc, Pilsen).

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<sup>127</sup> <http://skupina3.kluci.cz/>

<sup>128</sup> <http://www.stud.cz/>

<sup>129</sup> <http://www.gejt.cz/>

<sup>130</sup> <http://stud.cz/pesky/>

<sup>131</sup> <http://sweb.cz/logos-brno/>

<sup>132</sup> <http://www.klucib.info/>

## **Internet**

Of course the most current information can be found on the Internet, but even here the situation is complex because of the large number projects either starting up or expiring, which moreover only rarely communicate amongst themselves. After several years, the frequently visited Website [004.cz](http://www.004.cz)<sup>133</sup> are currently less active, and the previously very popular [kluci.cz](http://www.kluci.cz) brings practically no new information. [STUD Brno](http://www.stud.cz)<sup>134</sup> makes available due to technical reasons only a part of its otherwise very extensive and frequently visited Website.

This empty space is being filled in part by personal Websites and in part by newly starting projects. These are mainly [pinkstar.cz](http://www.pinkstar.cz), very popular amongst a part of the LGBT youth and also [kluci.info](http://www.kluci.info). But in general it's possible to state that not even one complex Internet source exists on the condition and activities of the Czech gay community.

### **I.c Trans organizations**

The civic association [Transforum](http://www.transforum.cz)<sup>135</sup>, represent the interests of trans people in the Czech Republic. This association has existed since 1998, and is only Czech organization representing the interests of trans people. Amongst activities outside the community, it is worth it to mention the awarding of the [Transpřítel](#) [Trans Friend], and the effort for implementing the interests of transpeople upon creation of an anti-discriminatory act. The association develops activity mainly in Prague.

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<sup>133</sup> <http://www.004.cz/>

<sup>134</sup> <http://www.stud.cz/>

<sup>135</sup> <http://www.transforum.cz>



## II.: Selective bibliography of Czech and Slovak LGBTI sources

This concerns a selective bibliography of texts concerning the life of gays, lesbians, bisexuals, transsexuals and intersexuals in the Czech Republic, or in Slovakia. This concerns mainly a publication that was published and is therefore relatively simple to obtain. Postgraduate and undergraduate theses that were not published in the form of a book are only listed extraordinarily.

### Discrimination

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PROCHÁZKA, I., JANÍK, D., HROMADA, J. (2003): Společenská diskriminace lesbických žen, gay mužů a bisexuálů v ČR [Social discrimination of lesbian women, gay men and bisexuals in the CR]. Prague. Gay iniciativa v ČR [Gay initiative in the CR].

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<http://www.gay.iniciativa.cz/www/index.php?page=clanek&id=256>

### History

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JAMEK, Václav (2001): O prašivém houfci. [About the mangy troop] Literature, homosexuality, AIDS. Praha, Torst.

KOMENDA, A. (2000): Ke kořenům křesťanské homofobie [To the roots of Christian homophobia]. Acta Universitatis Palackianae Olomucensis, Iuridica 2. 2000;2.:99-112.

KOTIŠOVÁ, M., VAMPOLOVÁ, V. (2006): České lesby: daleko k hnutí, daleko k feminizmu [Czech lesbians: far from a movement, far from feminism]. In Hašková, H., Křížková, A., Linková, M. (2006): Mnohohlasem: vyjednávání ženských prostorů po roce 1989. [Voice of many: negotiating female areas after 1989]. Prague, Sociology Institute AV.

LÉKO, I. (1993): Růžový trojúhelník: deportace homosexuálů v letech 1933-1945 [Pink triangle: deportation of homosexuals in the years 1933-1945]. Revolver revue 24, 294-300.

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RUPP, Leila (2001): Vytoužená minulost [Desired past]. History of love and sexuality of persons of the same sex in America from the arrival of Europeans to today's Prague, One Woman Press.

SOKOLOVÁ, V (2006): Koncepční pohled na „sexuální menšiny“ aneb vše je jen otázka správné orientace [Conceptual view of the “sexual minority” or All is just a question of correct orientation]. In Hašková, H., Křížková, A., Linková, M. (2006): Mnohohlasem: vyjednávání ženských prostorů po roce 1989 [Voice of many: negotiating female areas after 1989]. Prague Institute of Sociology of the Czech Academy of Sciences.

SOUVISLOSTI 4/2003, Revue pro literaturu a kulturu [Revue for literature and culture] (2003) – Homosexuality in culture.

WEST, D.J., GREEN, R.: Sociological control of homosexuality: A multi-nation comparison. Chapter 15: The Czech and Slovak Republics (Procházka, I.): 243-254. Plenum Press, New York, London, 1997.

## Attitudes

JANOŠOVÁ, P. (2000): Homosexualita v názorech současné společnosti [Homosexuality in opinions of current society]. Praha, Karolinum.

ONDRISOVÁ, S., BIANCHI, G. (2000): Heterosexizmus: společensko-kultúrne a psychologické aspekty postojov ku lesbickým ženám a gayom [Heterosexism: Social, Cultural and Psychological Aspects of Attitudes Towards Lesbians and Gays]. Czechoslovak psychiatry. 43, 2, 165-179.

WEISS, P., ZVĚŘINA, J. (2001): Sexuální chování v ČR – situace a trendy [Sexual behaviour in the CR – situations and trends]. Prague, Portál.

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FAFEJTA, M. (2004): Úvod do sociologie pohlaví a sexuality [Introduction to the sociology of gender and sexuality]. Věrovany, Publishers Jan Piszkiwicz.

JANÍK, D. (2004): Rodina a homosexualita aneb heterosexuální rodiče a homosexuální děti [The family and homosexuality or heterosexual parents and homosexual children]. Thesis. Olomouc, Dept. of Psychology Philosophical Faculty of Palacky University.

NEDBÁLKOVÁ, K. (2002): Alternativní rodinné modely aneb Rodiny lesbických matek a rodiny gay otců [Alternative family models or families of lesbian mothers and families of gay fathers]. In Ženská práva jsou lidská práva [Women's rights are human rights]. Brno. Nesehnutí.

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<http://www.gay.iniciativa.cz/www/index.php?page=clanek&id=14>

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TALANDOVÁ, J. (1997): Sociální postavení žen a alternativní rodinné modely v kontextu heterosexuální společnosti [Social position of women and alternative family models in the context of heterosexual society]. Prague, L-klub Lambda.

Available at the address: <http://www.lesba.cz/linky/Poradny/>

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## **Transsexuality**

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Available for download at the address: <http://www.translide.cz/knihovna>

FIFKOVÁ, H., WEISS, P., PROCHÁZKA, I., JAROLÍM, J., VESELÝ, J., WEISS, V. (2002): Transsexualita [Transsexuality]. Prague, Grada.

HOFÍREK, Š. (2006): Životní situace transsexuálních lidí v České republice [Life situation of transsexual people in the Czech Republic]. Undergraduate Thesis. Brno, Department of Social Policy and Social Work, Social Studies Faculty, Masaryk University.

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MALÁ, E., HRDLIČKA, M. (2003): Transsexualism. Czech and Slovak psychiatry, 99, 2003, No.5, 273-277.

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### **III.: Glossary of terms**

*Bisexuality* – emotional and sexual attraction to both sexes

*Butch lesbian* – lesbian woman with mostly masculine features, sometimes may be an expression of transgender identity

*Coming out* – public declaration of being of homosexual, bisexual or transgender identity, may vary in intensity

*Cross-dressing* – dressing into clothes that are appropriate for the opposite sex to that of the biological sex of the individual; may be an expression of transvestitism, transgender identity or transsexuality

*Gay* – currently mostly a term for homosexual men, taken from English, in Czech and English original versions it began being used for its absence of derogatory connotation; it replaces the word homosexuality as an adjective, and therefore also concerns lesbians (this sense, however, is not recognized in Czech)

*LGB* – lesbians, gays, bisexuals – general acronym indicating people with minority sexual orientation

*LGBT* – – lesbians, gays, bisexuals and trans people – term generally used in English as an acronym for these minority groups relating to a series of social problems

*Gender* – psychological and social characteristics attributed to individual sexes, sometimes divided into gender role and gender identity, in certain cultures, more than two genders exist

*Gender identity* – feeling of belonging to a certain sex or the feeling of sexual intermediateness, it may but does not have to be related to traditional gender roles

*Homophobia* – general term for a hostile attitude towards homosexuals, normally does not concern a phobia in the sense of a mental disorder

*Homosexuality* – sexual attraction to persons of the same sex, the term has been used since the second half of the 19<sup>th</sup> century.

*Intersexuality* – manifestation of biological signs of both sexes in a single individual

*Lesbian* – homosexual woman; the term is expelling the very widespread word lesbian in society, which is an unjustified diminutive form [this concerns specific grammar issues in Czech; the term lesbian breaks down to two words in Czech - translator's note]

*Queer identity* – indication for individuals who do not want to be categorized as having a definite gender or sexual orientation; today the word “queer” is often used overall to indicate members of various sexual minorities.

*Sexual orientation* – normally the permanent feeling of emotional and sexual attraction to a certain sex or in some cases to both sexes

*Transgender* – significant exceeding of the boundaries of the gender role; sometimes used as a superior term to transsexuality; while elsewhere it concerns a parallel term, where it indicates persons living in opposite or atypical gender role, but are not endeavouring to change their sex (this term is used in this report in this sense)

*Transsexuality* – feeling of permanent belonging to the opposite sex than is the chromosomal (legal) sex, which is bound by the efforts for a somatic and legal change of sex

*Transvestitism* – dressing into the clothes of the opposite sex without the effort to live in this role on a permanent basis