Executive summary of
ILGA-Europe submission to the Convention on the Future of Europe
Brussels, 18 June 2002 (*revised version*)

ILGA-Europe, the European Region of the International Lesbian and Gay Association, is a European NGO for national and local lesbian, gay, bisexual and transgender (LGBT) organisations across Europe. ILGA-Europe works for human rights and against sexual orientation and gender identity discrimination at European level. One of ILGA-Europe's main objectives is to work towards an equal and inclusive Europe which respects fundamental rights as the basis of democracy and secures that everyone can live in equality and free from any kind of discrimination.

Millions of people in Europe still experience discrimination on the grounds of their sexual orientation or gender identity.[1] The unequal treatment of homosexual and heterosexual relations in criminal law has been found to be a breach of the European Convention on Human Rights, yet the penal codes of some Member States and accession countries still discriminate against lesbians and gay men, LGBT persons are still denied the fundamental right to found a family and to marry in some Member States and all accession countries. The non-recognition of same-sex couples legally recognised in their state of origin by other Member States is an unacceptable obstacle for LGBT persons in exercising their right to free movement within the Union, one of the most basic and principle rights of EU citizens.

ILGA-Europe calls upon the Convention to pursue the following objectives:

Fundamental rights at the heart of Europe
  ➢ to incorporate the Charter of Fundamental Rights into the provisions of the founding Treaties
  ➢ to strengthen the Charter's provisions, including specific reference to:
    o non-discrimination on the grounds of gender identity
    o the right of LGBT persons to found a family
    o the protection for and the recognition of family diversity
    o the right of same-sex couples to marry
  ➢ to accede to the European Convention on Human Rights, including Protocol 12
  ➢ to accede to the Revised European Social Charter

Integration of the principle of equality
  ➢ to commit the Union to integrate the principle of equality for all, in so doing removing the current hierarchy of protection for different grounds of discrimination and ensuring equal treatment of homosexuals and heterosexuals in the criminal code
  ➢ to strengthen Article 13, in particular by ensuring it applies to the full scope of EU law and includes express reference to discrimination based on gender identity

The EU's role in promoting human rights and democracy in the world
  ➢ to ensure that the EU's commitment to the realisation of human rights and democracy through out the world is put at the core of the EU's Common Foreign and Security Policy
  ➢ to ensure that the human right clauses are transformed into an efficient and enforceable instrument

Strengthening the principle of democracy in the EU
  ➢ to insert a legal base for consultation of civil society in the Treaties
  ➢ to ensure greater transparency within the work of EU institutions
  ➢ to extend the co-decision procedure and to ensure full parliamentary control of EU policies and actions

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[1] EU law regards discrimination against transgender persons as a form of sex discrimination. This principle was established by the Court of Justice in the 1996 case of *P v S and Cornwall County Council*, where it was held that the dismissal of an individual following gender reassignment was unlawful discrimination on the grounds of her sex. (Case C-13/94, *P v S and Cornwall County Council* [1996] ECR I-2143). "Gender identity discrimination" is the term now generally used to describe discrimination against transgender persons.