Que(e)rying political practices in Europe: Tensions in the struggle for sexual minority rights

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Citation for published version (APA):
Beger, N. J. (2001). Que(e)rying political practices in Europe: Tensions in the struggle for sexual minority rights.
We can identify the kinds of resources that make a campaign possible, such as information, leadership, and symbolic or material capital. And, we must consider the kinds of institutional structures, both domestic and international, that encourage or impede particular kinds of transnational activism. (Keck and Sikkink 1998:7)

Recognising the fundamental pride that lesbians, gay men, bisexuals and transgendered people have in their sexual identities and orientation; Conscious that social and legal discrimination on the basis of sexuality is pervasive and that effective work against oppression calls for international solidarity; Seeking in ILGA an international organisation within which women of different political and personal choices (for example, separatism, feminism, orientation and identity) can work together; Concerned with the vulnerability of youth in a world that continues to practice so many forms of discrimination, the need for their protection from abuse and the goal of ensuring that young people experience both freedom and support as they develop their own sexualities and identities; Mindful of the impact of discrimination on the basis of sex, race, age, disability, economic status, national origin and ethnicity on lesbians, gay men, bisexuals and transgendered people, and the way in which such discrimination can exploit homophobia; Building on the work of previous generations who have struggled for equality and liberation; We approve this document as the Constitution of the International Lesbian and Gay Association. (Preamble of the ILGA world constitution)

Analysing European political practices is a complicated endeavour on a theoretical, a political and an institutional level. To follow the theoretical interpretations of

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14 This chapter is based on my own experiences and knowledge of the European institutions and the lobby work done with regard to sexual orientation and gender identity at these institutions. The facts have been taken from the web pages of the relevant European institutions and from ILGA-Europe's documents—such as official speeches and submissions, conference reports, work programmes, explanatory handouts, and preparatory documents for the Council of Europe and the European Union—which were largely compiled by Nigel Warner and Kurt Krickler. Another source of continuous and very precise information on European politics are the Lambda Nachrichten—the political journal of the HOSI Wien, an Austrian lesbian and gay organisation. I am grateful to Nigel Warner, who initially explained the workings of European institutions and the history of ILGA to me in the first interview I conducted, and to Kurt Krickler and Mark Bell, who have explained specific matters pertaining to ILGA-Europe and legal issues in the EU at various stages.
political and legal texts I offer in the course of the following chapters, any reader not deeply involved in lobbying European institutions or working for them will wish to have a basic understanding of these institutions. This chapter will provide access to this understanding by explaining the difference between the two major European institutions—the Council of Europe and the European Union—by introducing ILGA-Europe as an European NGO and a transnational advocacy network, and by briefly summarising in a historical order the important political and legal events pertaining to lesbian, gay and transgender rights on the European level.

During the 22 years of ILGA’s existence the situation in which gay men, lesbians, bisexuals, and transgender people live in Europe has changed dramatically on a social, political, economic, as well as legal level, and with regard to the movements. With specific regard to the success of legal rights struggles a number of factors were involved. Firstly, a change of social climate occurred after the de-criminalisation became so obvious that courts started to recognise this change. Secondly, a growing strength and sophistication of gay and lesbian legal activists developed, with more and more gay and lesbian lawyers practicing and some former activists reaching high university positions in the UK, the Netherlands, and the Nordic countries. Thirdly, an increased visibility, vitality, and activism on the part of lesbian and gay communities infiltrated public and political knowledge generally in the nation states and on an international level. Fourthly, the advent of positive human rights cases at the European Court of Human Rights from 1981 onwards and later in the European Union elevated sexual orientation into the realm of human rights.

Illustrating all elements of all four factors, even if reduced to legal matters only, would easily fill a whole book and more. Nevertheless, in this chapter I attempt to combine very different kinds of histories—the histories of international institutions, of a certain movement, of a lobby organisation, of political lobbying, and of legal rights. Since it can certainly not do full justice to any, it is intended to only provide the kind of factual knowledge that makes the understanding of the following theoretical analysis possible. The kinds of rights and politics described, therefore, are by no means the only forms of politics employed by gay men, lesbians, or transgender people throughout Europe.

I have divided the chapter into four sections. The first, very brief one, explains the difference between the Council of Europe and the European Union. The second provides detailed information on the European Union by going through its different institutions and later listing the relevant rights issues under each institution. The third section covers the Council of Europe, clarifying its overall structure and explaining the relevant steps of rights lobbying at the Council of Europe in each of its institutions. Two events are portrayed in some more detail here: the process of broadening Article 14 (discrimination) of the European Convention of Human Rights and the lobbying for two recommendations on homosexual rights in the Parliamentary Assembly of the Council of Europe. These examples illustrate the lobby tactics and strategies employed by ILGA-Europe. The history of lobbying at
the European Union is much longer and less compounded and, therefore, too long for the purposes of this chapter. The fourth and last section gives a brief history of ILGA-Europe and explains the nature of the organisation as a transnational activist network and its lobby techniques. It will also include a specific mentioning of the transgender issue within ILGA-Europe and at the European institutions.

**Council of Europe vs European Union**

It is a fair estimation to say that the large majority of the 800 million people in Europe whose countries are members of the Council of Europe do have little understanding of the difference between the two existing European institutions, which are totally independent of each other. This is due to four confusing factors: the proximity of space—both the Council of Europe and the European Parliament of the EU are seated, at least partly, in Strasbourg—the building—the Parliamentary Assembly of the Council of Europe and the European Parliament shared the same building until recently—the symbol—the blue flag with yellow stars functions for both institutions although the Council of Europe has recently added a C into the ring of stars—and the names—European Council or Council of Europe? Committee of Ministers or Council of Ministers? The European Union has 15 member states, which are all currently West European, and it is primarily an economic organisation, although in recent years it has increasingly become involved with human rights. The European Union is based in Brussels, but its parliament also meets in Strasbourg and its Court is seated in Luxembourg. Approximately 370 million people are citizens of the European Union. The Council of Europe has 41 member states, covering more or less the whole of Europe. It is essentially a human rights organisation. Every member state has signed the European Convention on Human Rights, which is enforced through the European Court of Human Rights, a supreme human rights court for Europe. All institutions of the Council of Europe are based in Strasbourg. Through the membership of their states, approximately 800 million people have the right to appeal to the European Court of Human Rights.

**The European Union**

What is known as the European Union today was founded in 1958, by means of the Treaty of Rome (European Economic Community or EEC), to establish a common market among its member states. Two preceding treaties cleared the way for the Treaty of Rome: the European Coal and Steel Community (ECSC 1952) and the European Atomic Energy Community (EURATOM 1958). Subsequent treaties, the Single European Act (1987), the founding document of the European Community, the Treaty on European Union (Maastricht 1993) and the Treaty of Amsterdam (1999) extended the scope of the European Union, so that it now has three Pillars, covering the following areas of activity: the First Pillar provides a common market
based on the free movement of goods, persons, capital and services, an economic
and monetary union and common policies and activities. Since the Treaty of
Maastricht it includes an explicit European citizenship beyond the already existing
direct voting rights to the European Parliament and since the Treaty of Amsterdam
it includes asylum and immigration. The Second Pillar provides a common foreign and
security policy based on the Treaty on European Union (Maastricht). And the Third
Pillar manifests a police and judicial co-operation in criminal matters also based on
the Treaty on European Union.

The European Union is headed by one member state rotating every six months
and has three major institutions. The Council of the Union—also known as the Council
of Ministers— is the Union's main decision-making institution. It consists of
the ministers of the 15 Member States responsible for the matters on the agenda, such as
foreign affairs, justice, or agriculture. The treaties of the Union are decided by a
Council of the heads of government, which is called the European Council and meets
at least twice per annum. The meetings held with a view to amending the Treaties
are called Summits and they are prepared by the Intergovernmental Conferences, which are
important in terms of lobbying for the inclusion of certain new rights into upcoming
treaties. Some, but not all decisions in the Council require unanimity.

The European Commission, an administrative body of permanently employed public
servants from all member countries, initiates and drafts Community legislation, and
implements, manages and controls Community policies, programmes and initiatives.
The Commission administers the money of the European Union, which includes
action programmes under which NGOs can obtain money for projects or for core
funding. There are 20 Commissioners, who undertake to act in the interests of the
Community as a whole, assisted by an administration, which is divided into different
sections, called the Directorates-General (DG). For NGOs such as ILGA-Europe it is
important to maintain good relations with individual officials in order to influence
the drafting of legislation or obtain information on upcoming action programmes
fast.

The European Parliament (EP) is the assembly of the directly elected representatives
of the 370 million Union citizens. There are 626 Members of the European
Parliament (MEPs) distributed between Member States in proportion to their
population. They work together according to political groupings, not nationality. The
Parliament's main functions are the following: it considers the Commission's
proposals and is associated with the Council in the legislative process by means of
various procedures—co-decision, co-operation, consultation; it has the power of
supervision over the Union's activities through its confirmation of the appointment
of the Commission and through the written and oral questions it can put to the
Commission and the Council; it shares budgetary powers with the Council in voting
on the annual budget and overseeing its implementation. These powers are
important but distinctively less than those of national democratic parliaments. Much
of the work of the Parliament is done in its committees, which prepare reports on
legislative proposals from the Commission and present them for debate by the full Parliament. The European Parliament can also form intergroups comprised of a certain number of MEPs from different political groups that are concerned with a specific issue. Since 1998 there exists an intergroup concerned with “Equal Rights for Lesbians and Gay Men”. ILGA-Europe enjoys consultative status to this intergroup and has in general very strong and long standing ties to diverse MEPs and political groupings in the European Parliament.

The third institution is the European Court of Justice (ECJ), which is made up of 15 judges appointed by agreement among the Member States. It has two principal functions: to check whether instruments of the European institutions and of governments are compatible with the Treaties, and, at the request of a national court, to pronounce on the interpretation or the validity of provisions contained in Union law. The Court of Justice has become an important tool in the struggle for equality rights in the Union.\(^{15}\)

There are three types of binding legislation that can be adopted by the Union: Regulations, Directives and Decisions. Regulations have direct effect, and apply in all Member States without the need for national legislation. Directives are binding on the Member States as to the results to be achieved, but leave the form and method to the discretion of the Member States while stipulating a time frame in which the directive has be implemented by the Member States. Directives must be implemented in national law in order to generate legal effect. Decisions are legally binding for those to whom they are addressed only. The Parliament, the Council and the Commission can also adopt recommendations and resolutions, but these are not binding.

The European Union emphasises dialogue with the Social Partners and with NGO bodies. The social partners are employers and trade unions. The organisations recognised by the Commission for consultation within the Social Dialogue process are the ETUC (European Trade Union Confederation) for the trades unions, UNICE and CEEP respectively for the private and public sector employers. The Platform of European Social Non-Governmental Organisations brings together approximately 30 European NGOs, federations and networks, including ILGA-Europe. The Platform seeks to develop and strengthen a Civil Dialogue between European NGOs and the institutions of the European Union.

There are 13 countries currently engaged in the process of accession to the European Union—Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic, Slovenia, and Turkey. To become members, these countries have to satisfy certain criteria (known as the Copenhagen criteria), covering the following dimensions: the political—democracy, human rights, the rule of law and the protection of minorities—the economic—a

\(^{15}\) The EU has four more institutions, which have so far not been relevant to the topics of this book, but shall be mentioned at least: the Court of Auditors, the Economic and Social Committee, the Committee of the Regions, and the European Ombudsman.
functioning market economy, and the ability to resist competitive pressure in the internal market—and the full adoption of the Community legislation and regulations in various fields of community competence. Accession negotiations started in the case of Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia in March 1998, and in case of Romania, Slovakia, Latvia, Lithuania, Bulgaria and Malta in February 2000. Turkey does not yet meet the criteria for starting negotiations, but is involved with other preparatory activities. Accession countries will have to implement both the human rights standards of the Union, and all Union legislation, including that which is beneficial for lesbian, gay, bisexual, and transgender people. This means a considerable step forward in social rights in all accession countries.

Over the last two decades the European Union has become increasingly committed to the active promotion of human rights. Sexual orientation has by now become an established aspect of human rights considerations in the EU. After the Resolution and Report on “Sexual Discrimination at the Workplace” (Squarcialupi Report) in 1984, the most decisive step in this direction was the so-called Roth Report “Equal Rights for Homosexuals and Lesbians in the EC” (A3-0028/94) in 1994 which included inter alia unequal age of consent, discrimination in employment or in the armed forces, the exclusion from marriage laws, the exclusion from adoption and custody, or the prohibition of public funds for lesbian and gay projects. The European Parliament has since then included the issue of sexual orientation in all its annual human rights reports about the situation in the Union as well as in the rest of Europe. Depending on who the specific rapporteur is for the relevant report, ILGA-Europe may have to lobby more or less on the inclusion of all relevant issues from equal age of consent to discrimination and marriage laws in the draft human rights report. Yet, there have always been Nordic Left, Green, or Socialist MEPs willing to table amendments for inclusion during the debate on ILGA-Europe’s request. The parliament has also been instrumental in the process leading to the directive on employment discrimination following Article 13 of the Amsterdam Treaty, in fact, the Parliament is the most reliable ally for European NGOs in the advancement of social rights.

The most significant manifestation of the commitment to anti-discrimination on the part of the European Union was the inclusion of Article 13 in the Treaty of Amsterdam (1999) after much lobby work by NGOs during the preceding intergovernmental conference. Article 13 empowered the Union to:

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16 See for a comprehensive analysis of the political processes of and the press responses to the Roth-Report Thomas F. Kramer (1997). Claudia Roth, a Bavarian Green MEP, was ex-communicated by the Pope for her role in this report, which became her “personal claim to fame” (Claudia Roth in conversation with the author, September 2000).

17 The lobby process started in May 1996 after a resolution of the European Parliament. Until the summit on 18th June 1997, Article 13 (originally Article 6) was changed several times, sexual orientation was included in the drafts at different stages by the Irish, Italian, and Austrian governments. The Dutch presidency cut the reference to age, sexual orientation, social origin, and disability in February 1997. Through an indiscretion the draft was put on the internet and ILGA-Europe, together with Dutch
Without prejudice to the other provisions of this Treaty and within the limits of
the powers conferred by it upon the Community, the Council, acting
unanimously on a proposal from the Commission and after consulting the
European Parliament, may take appropriate action to combat discrimination
based on sex, racial or ethnic origin, religion or belief, disability, age or sexual
orientation.

This has led the Commission to put forward draft directives during 2000: a
horizontal directive to combat racism in all areas of competency of the Union, a
vertical directive to combat all other grounds of Article 13 in employment only, and
an action programme. ILGA-Europe, together with the Social Policy Platform, has
extensively lobbied the Commission to avoid splitting Article 13 into different
directives, but this effort was unsuccessful. ILGA-Europe was also unsuccessful in
changing the problematic aspects of the draft directive, which I discuss in Chapter
Five. In July 1999 the Commission published a discussion paper that split the
discrimination grounds, which was officially criticised by the Platform in October
Because the unanimity rule in the Council could preclude success for a broad general
directive, the Commission considered racism to be the only safe ground to be
covered beyond employment. While the anti-racism networks welcomed the
directive that became Union law on 29th June 2000 (Directive 200/43/EC), they
joined the firm protest of the Platform against the split. The European Parliament
supported the view of the Platform through statements from various intergroups
concerned and officially on 11th July 2000 in the Joke Swiebel Report. Its social policy
committee additionally demanded a duty that member states report on the progress
(PE 229.570/fin).

With regard to sexual orientation the main problem became the freedom of
religious employers to discriminate against homosexual employees, a freedom that
was supported by many governments—particularly the UK—in the process of the
expert group in September 2000. The Council passed the employment directive on
reaching a compromise after an initial veto by Ireland, which wished to strengthen
religious rights pertaining to its specific historical situation. Member states will
have to implement the directive into national law within three years and report to the
Commission about their progress. The directive is a milestone celebrated by many
NGOs, but it does include problematic aspects with regard to several grounds of
discrimination. For sexual orientation these are the exclusion of benefits pertaining
to marital status (section 21), the definitions of discrimination (Article2), restrictions
on third country nationals (Article 3(2)), social security systems (Article 3(3)), and the

organisations and Members of the European Parliament, forced the Dutch government to change
the draft again. See Lambda Nachrichten 23(1) 2001:39 for further explanation.

18 Northern Ireland received a specific section in the directive that limits the applicability of the directive
with regard to teachers and the police force.
explicit right of churches to enforce genuine occupational requirements based on their ethos (Article 4 (2) a & b). Some of the highly problematic explanatory notes of the Commission on the difference between sexual orientation and sexual behaviour have not gained entry into the final directive. I will offer a more detailed analysis of the draft directive in Chapter Five.

An important consequence of Article 13 was also the Action Programme passed that *inter alia* grants substantial funding to European NGOs—including ILGA-Europe—between 2001 and 2006. In December 2000, the Nice summit agreed an amendment to Article 13, which now allows a qualified majority of the Council under co-decision with the European Parliament to make decision on anti-discrimination, yet unanimity is still required for all legal changes. This change will likely not become relevant since the Article 13 Action Programme is already in place and runs until 2006, and in 2004 the next summit is due to hopefully change all requirements of unanimity. (Lambda Nachrichten 23(1) 2001:37) ILGA-Europe did not lobby the intergovernmental conference leading up to the Amsterdam Treaty extensively for the inclusion of gender identity. It did so, however, in the process of lobbying the anti-discrimination article for the Charter of Fundamental Rights.

All member states of the EU are signatories to the European Convention of Human Rights. For decades that was seen to be enough protection of human rights for the EU. Since the Single European Act (1986), this attitude changed, and European Union treaties contained more and more reference to fundamental and human rights in the Union. With the establishment of a European Union citizenship in 1993—including the liberty to live and work in all member states as well as passive and active voting rights to the European Parliament—it became clear that fundamental rights and non-discrimination needed to be dealt with explicitly in Union law to cope with the freedom of persons, goods, and services throughout the Union. To strengthen the support of the Union among its citizens social rights needed to be strengthened and in 1995 the European Parliament demanded that the Council draft a catalogue of citizenship rights beyond the economic dimension.

Between 1995 and 1997 a *Commité des Sages* (committee of wise women and men) developed a catalogue which asks the Union to include far reaching non-discrimination laws in its treaties. However, the Treaty of Amsterdam remained weak in terms of social rights and non-discrimination. The Commission, therefore, called another expert group under the leadership of Professor Spiros Simitis, who published a report in February 1999—the *Simitis Report*—urging the Union again to agree on fundamental social rights in the Union before the Amsterdam Treaty was actually ratified. At the Summit of Cologne in June 1999, the Council finally agreed and initiated a drafting convention made up of 60 representatives of the European Parliament, national Parliaments, and member states, which published the draft in October 2000 after an exemplary transparent process of official consultation. The draft included the human rights guaranteed in the European Convention of Human Rights (ECHR), certain social rights, and those rights which pertain to EU citizens.
specifically such as the free movement of workers. The Charter was signed by the Council at the Nice Summit on 7th and 8th December 2000 as a declaratory statement. Whether and how it is integrated into Union law will be assessed after 2000 according to the Council decision in Cologne 1999.

ILGA-Europe has engaged in lobby campaigns for this Charter since 1996 and made it one of its lobbying foci since 1999. ILGA-Europe submitted both a written and an oral submission to the convention during 2000 to argue for the inclusion of sexual orientation and gender identity in the non-discrimination clause, for a clause on the right to marry and found a family, and for adopting a language recognising the diversity of relationships in contemporary Europe. It also participated in the Social Policy Platform and Trade Union (ETUC) conferences on the Charter and supported the joint statements. The text of the Charter retains sexual orientation, but not gender identity, in the non-discrimination article (Article 21). The article concerning the right to marry and found a family designates these issues as a matter for national legislation, and therefore excludes them from the scope of the Charter (Article 9).

However, the European Charter of Fundamental Rights is the first international human rights charter with an absolute prohibition of discrimination and the only one that includes sexual orientation. Although the Charter is declaratory in nature rather than legally binding, its future legal status remains open since the next intergovernmental conference has to discuss how and when it is integrated into European Union law. Nevertheless, the critique of the restrictions in the Charter voiced by NGOs has grown so significantly among the members of the Social Policy Platform and the trade unions that many would rather see this text not signed at all (Platform and ETUC conference 30th August 2000). The protest focuses on the fact that it drags behind the social charter of the Council of Europe (1996) and includes no rights to employment and minimal wages, to housing, to protection from poverty and social exclusion, to the right to strike, nor any reference to the rights of third country nationals legally resident in the Union. Instead, amusingly enough, it contains the right to freedom in business. While the implications of the European Charter of Fundamental Rights are positive in terms of sexual orientation, ILGA-Europe remains in solidarity with the other NGOs in refusing to accept the current text as sufficient.

The European Court of Justice has heard several important cases on sexual orientation and gender identity, which are discussed in detail or are at least mentioned in Chapter Six. The two main cases are Grant v South West Trains Ltd (C-249/96 ECR) and P v S and Cornwall County Council (C-13/94 ECR) dealing with

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19 This right is jokingly called “Lord-Goldsmith Remembrance Article”. Tony Blair sent the most conservative representative, Lord Goldsmith, to the drafting convention who emphasised freedom of business but blocked almost all progressive social rights and tried to prevent sexual orientation from being included. His role has been regarded as a deliberate attempt at hijacking the Charter by the UK Labour government.
sexual orientation and gender identity respectively. Another important case is D v Council of the European Union (T-264/97) dealing with sexual orientation and employment conditions at the EU commission. While P v S was successful both Grant and D v Council of the European Union failed. In the aftermath of the Treaty of Amsterdam and the employment directive more success at the ECJ is to be expected in the future.

The Council of Europe

The Council of Europe was founded in 1949, in the aftermath of the Second World War. Its main role is to strengthen democracy, human rights and the rule of law throughout its member states. Today, it has 41 member states, covering a population of 800 million people, extending from Vladivostock to Lisbon, and from Istanbul to Helsinki. Its most important instrument is the European Convention on Human Rights (ECHR), to which all 41 member states subscribe. This establishes the basic fundamental human rights which are applicable all across Europe. Individuals are allowed to bring cases against their government with respect to possible violations of the Convention.

The main institutions of the Council of Europe are the following: first, there is the Committee of Ministers, which is made up of the ministers of foreign affairs of the 41 member states. They are the main political decision-making body and decide on the official broadening of the Convention or its additional Protocols. Second, there is the Parliamentary Assembly of the Council of Europe (PACE), which is a deliberative body, made up of 290 representatives and the same number of substitutes from the parliaments of the member states. Each delegation's composition reflects that of its parliament of origin. The Parliamentary Assembly holds four weeklong plenary sessions a year and while it is divided into national delegations it works in political groupings across nationality. Its debates on a wide range of social issues and its recommendations to the Committee of Ministers have been at the root of many of the Council of Europe's achievements. The Assembly plays a key role in the accession process for new members and in monitoring compliance with undertakings entered into.

The European Court of Human Rights is the third institution of importance. It is made up of one judge from each of the 41 member states, makes judgements with respect to possible violations of the European Convention on Human Rights. Where the Court finds that a particular government is in violation of the Convention, that government is obliged to take corrective action. Judgements of the Court which establish a general principle with respect to one country should, in theory, be acted on by other countries which are similarly in violation of the Convention. However, in such cases, the government in question may fail to take the necessary action. The Court has no judicial powers to force member states to act on its judgements, but the moral and political pressure is fairly high on many levels, and, thus, the
judgements do often have an immediate effect. Until recently cases under the European Convention were first reviewed by a separate body, the European Commission on Human Rights. 1998 the functions of the Commission were taken over by the Court, as part of a reorganisation of the latter. The Council of Europe has an accredited NGO body in different NGO groupings—such as human rights, social rights, gender equality, civil society. ILGA-Europe enjoys official consultative status with the Council of Europe as of January 15th 1998 and has started its work there in September 1998. Its first application dates back to 1989, and was rejected in 1990 because ILGA’s activities were not “directly related to the present work programme of the Council of Europe” (letter of refusal by the Council of Europe to ILGA). The re-application was launched in 1995.

The European Convention on Human Rights has been of great significance in promoting lesbian, gay, and transgender rights over the last 20 years. I will return to transgender cases later in this chapter. With regard to homosexuality the first successful case, Dudgeon v UK, occurred in 1981. It declared the criminalisation of homosexuality in Northern Ireland a breach of the Convention under Article 8 (privacy), but not under Article 14 (discrimination). Similar cases followed for Ireland (Norris, 1988), and for Cyprus (Modinos, 1993). More recently, the European Commission on Human Rights found that the UK’s discriminatory age of consent violated the Convention (Sutherland, 1997, discussed in Chapter Four). It was not until the end of 2000 that the UK lifted the unequal age of consent, since several previous attempts launched by the Labour government in the wake of the Commission’s opinion were blocked by the House of Lords.

The year 1999 featured two important judgements of the Court, which found that the UK’s violated the Convention with its ban on lesbians and gays in the armed forces (Justig-Prean & Beckett v United Kingdom, and Smith & Grady v United Kingdom) and the Lisbon High Court’s discriminatory treatment of a gay father in a custody case (Salgueiro Da Silva Monta C. v Portugal) also violated the Convention. All three cases are interesting for the comparative statements made in them. Justig-Prean & Beckett v United Kingdom, and Smith & Grady v United Kingdom compare sexual orientation discrimination with discrimination based on race:

[to the extent that they represent a predisposed bias on the part of a heterosexual majorit y against a homosexual minority, these negative attitudes cannot, of themselves, be considered by the Court to amount to sufficient justification for the interferences ..., any more than similar negative attitudes towards those of a different race, origin or colour.

20 The case of Cyprus, for example, is interesting here. Cyprus changed its ban on homosexuality in 1998 according to a European convention of human rights judgement (Modinos), but the changes where not satisfactory to the CoE, which pressured Cyprus to enact further changes in 2000. The EU considered those demands in its own processes of accession and, thus, increased pressure. The UK or Romania have been similarly pressured in relation to sexual orientation.

Salgueiro Da Silva Mouta C. v Portugal then declared distinctions based solely on the sexual orientation of a person to be intolerable according to the Convention and directly comparable to religious discrimination (Hoffmann case).

It must therefore be concluded, in the light of what precedes, that the [Lisbon] Court of Appeal drew a distinction dictated by considerations relating to the applicant's sexual orientation, a distinction which cannot be tolerated according to the Convention (see, mutatis mutandis, the Hoffmann judgment referred to above, p. 60, § 36).

Both these statements are milestones in international human rights law, which were taken further most recently, in July 2000, in ADT v United Kingdom. Here the Court found that the UK's discriminatory privacy laws were a violation of the Convention. This latter case broadened the applicability of privacy laws beyond the Dudgeon case for the first time. In June 2001 two cases have been declared admissible—an Austrian tenancy case (Karner vs Austria) and a French adoption case (Frette vs France—ILGA-Europe actively and officially supports this case)—which will potentially provide further milestone decisions of the Court. An Hungarian case on the age bar for membership in gay and lesbian organisations was declared inadmissible in October 2000, which is a set back. The success of future cases will significantly depend on possible new interpretations of the anti-discrimination Article 14 of the Convention.

The anti-discrimination provisions set out in Article 14 of the European Convention on Human Rights have a significant weakness: protection from discrimination is provided only with regard to "the enjoyment of the other rights and freedoms" in the Convention. There is no general right to freedom from discrimination, leaving any discrimination not related to one of the rights in the Convention unprotected. In March 1998 the Committee of Ministers of the Council of Europe initiated the development of an optional Protocol to the Convention with a view to remedying this deficiency. If implemented successfully, this will represent the first extension to the Convention's anti-discrimination provisions in its 50-year history.

ILGA-Europe has used the opportunity presented by this event to mount a major campaign to get sexual orientation and gender identity included in the list of prohibited grounds of discrimination included in the draft Protocol. In May 1999 ILGA-Europe made two professionally prepared legal submissions arguing first sexual orientation and later gender identity to the Intergovernmental Steering Committee on Human Rights. However, when the Committee of Ministers published its proposed draft of the Protocol (no. 12) in August 1999, ILGA-Europe's recommendations had been ignored. Following publication, the draft Protocol 12 was referred to the Parliamentary Assembly for its opinion. ILGA-Europe immediately contacted the rapporteur for the Assembly, Senator Erik Jurgens of the Netherlands, and proposed to him the inclusion of both sexual orientation and gender identity. He was supportive of the inclusion of the former.
His reasoning, as expressed in the wording of the Opinion (Opinion No 206 (2000)) was unequivocal: "[the Assembly] believes that the enumeration of grounds in Article 14 is, without being exhaustive, meant to list forms of discrimination which it regards as being especially odious. Consequently the ground ‘sexual orientation’ should be added”. The Assembly debated the Opinion on 26 January 2000. The great majority of speakers were substantially in favour of the inclusion of sexual orientation in the draft Protocol, including those representing three of the four largest political groupings in the Assembly, the Socialists, the European People’s Party, and the Liberal Group. Only the conservative European Democratic Group was opposed. Despite this, an attempt to delete sexual orientation from the Opinion was only narrowly defeated: opponents of gay rights had remained silent, hoping that the apparent absence of opposition would lead its supporters to leave the Assembly. Prior to the debate ILGA-Europe had written to more than 300 parliamentarians providing additional information in support of the Opinion, and urging them to be present for the debate.

The Opinion was then forwarded to the Steering Committee on Human Rights for its response. ILGA-Europe took this opportunity to make a second submission to the Steering Committee. This submission was sent, together with supporting material on discrimination in Europe, to the 41 European Foreign Ministers who make up the Committee of Ministers. Despite these efforts, the Opinion of the Parliamentary Assembly was rejected, and in June 2000 the Committee of Ministers adopted the text of the Protocol 12 unamended. It was opened for signatures to the member states at a Ministerial Conference held in Rome on 4. November 2000 in celebration of the 50th anniversary of the Convention, and 25 nations signed it. Although the objective of ILGA-Europe’s campaign was not achieved, the fact that the Parliamentary Assembly, consisting of parliamentarians from some 41 countries, had voted in support of the inclusion of sexual orientation, was an important statement of support for lesbian and gay rights, and ILGA-Europe interpreted this as a success. Another significant success was the passing of two recommendations in the Parliamentary Assembly of the Council of Europe.

The Parliamentary Assembly has passed a number of Recommendations supporting lesbian and gay rights, the first being the 1981 Report on Discrimination against Homosexuals (Doc. 4755, Voogd Report). This was followed by Recommendation 924 (1981) on discrimination against homosexuals, and the resolution 756 (1981) on discrimination against homosexuals. The Parliamentary Assembly also issued a written declaration (No. 227, doc. 6779) on homosexuals rights in the new democracies in 1993, in which it calls for monitoring human rights violations on grounds of homosexuality in states seeking admission to the Council of Europe. This has been very important in the case of Romania, which was admitted under the promise to abolish its criminalisation and has to date still not done so.

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22 An explanatory note is appended to this article, however, which states that “other grounds” can be interpreted to include sexual orientation.
Since this case de-criminalisation of homosexuality has become a pre-condition for accession and ILGA-Europe participates in every monitoring process to ensure that the rule is respected—in 1999/2000 for Azerbaijan, Armenia, and Bosnia Herzegovina. The year 2000 presented two milestones with regard to recognition of gay and lesbian rights at the Council of Europe. Two recommendations were passed, one on migration—passed in June 2000—and one on the situation of gay men and lesbians in Europe—past in September 2000. They were both initiated, lobbied, written, and fought through from beginning to end by ILGA-Europe.

The Report and Recommendation on the Situation of Gay men and Lesbians in Europe was prepared for the Legal Affairs and Human Rights Committee by a Spanish Socialist Member of Parliament, Ms María del Carmen Calleja, after initiation by ILGA-Europe in June 1999. In September 1999 the Secretariat of the Parliamentary Assembly sent out questionnaires to all member states which were prepared by ILGA-Europe. In preparation for the Report an all-day hearing was held before the Sub-Committee on Human Rights of the Assembly in Paris on 14 October 1999. Expert evidence was presented on a range of subjects including homophobic hate crimes, employment discrimination, the criminal law, the problems of lesbian and gay youth, registered partnership, parenting, and the recognition of sexual orientation discrimination in national and international law. Sweden’s sexual orientation ombudsman Hasse Ytterberg also made a presentation on his role and experiences. ILGA-Europe provided extensive support to the rapporteurs. This included helping with organising the Paris hearing—including suggesting many of the experts and liaising with them—drafting the questionnaire, providing evidence in the form of a 30 page survey of discrimination in Europe as a draft report—copies of which were sent to around 100 parliamentarians—and assisting with speech preparation. ILGA-Europe suggested the recommendations should stop at registered partnership and not include adoption rights, since it feared adoption would loose the whole recommendation.

In January 2000 in a report on Foreign Adoption the Legal Affairs and Human Rights Committee attempted to propose the inclusion of same-sex couples, but had not reached a consensus. In spite of this the secretary of the Committee in charge of drafting the final report on the situation of gay men and lesbians included adoption in the recommendation, but left out a number of other important aspects on which ILGA-Europe had insisted. With the rapporteur leaving the Assembly in spring of 2000, it seemed as if ILGA-Europe’s chances of influencing the report were vanishing. The role of rapporteur was taken over by a Hungarian Socialist Member of Parliament, Mr Csaba Tabajdi, and the final report was published in June 2000 already considered by the Committee on Legal Affairs and Human Rights with no further opportunity to comment. It included the sentence “The Assembly is pleased to note that some countries have [recognised] .... even the right to adopt children”, which caused a significant stir among conservatives. ILGA-Europe initiated changes
through amendments and the reference to adoption was deleted with a 63% majority.

The final Report and Recommendation on the situation of gay men and lesbians in Europe prepared for the Legal affairs and Human Rights Committee of the Assembly, which was passed with 77%, covers a whole range of discrimination experienced by lesbians and gay men in Europe, and puts forward proposals for tackling this both at the level of member states and at the level of the Council of Europe. The Recommendation constitutes the furthest reaching statement by the Assembly on gay and lesbian rights since the 1981 Recommendation on Discrimination against homosexuals. The Assembly debated the Recommendation on 30 June 2000. Although the great majority of speeches were very supportive, opponents of the Recommendation succeeded in postponing the vote until the September 2000 session of the Assembly, on the basis that insufficient parliamentarians were present for there to be a quorum.23

The Recommendation calls for a range of actions by member states in support of lesbian and gay rights. These include: making sexual orientation a prohibited ground for discrimination in their national legislation; the repeal of all laws making homosexual acts between consenting adults liable to criminal prosecution, and the release of anyone imprisoned under such laws; the application of the same minimum age of consent for homosexual and heterosexual acts; ensuring equal treatment with regard to employment; adopting legislation which makes provision for registered partnership for same-sex couples. It also repeats the Assembly’s call to the Committee of Ministers to add sexual orientation to the grounds of discrimination prohibited by the European Convention on Human Rights, and calls for the terms of reference of the European Commission against Racism and Intolerance (ECRI) to be extended to cover homophobia. In the course of the process ILGA-Europe also wrote to around 300 members of the Assembly urging their support for the Recommendations and co-ordinated a lobbying campaign by its members at national level, and by other networks, including the Amnesty International Group for l/g/b/t concerns, the International Lesbian and Gay Youth Organisation, and the European Gay and Lesbian Sports Federation.

On 30th June 2000 the Parliamentary Assembly also voted to support a Recommendation and Report On the Situation of Lesbian/Gay Couples with regard to Asylum and Migration. This expressed concern that immigration policies in most Council of Europe member states discriminate against lesbians and gays. It called on member states to recognise as refugees homosexuals persecuted on account of their sexual orientation and to ensure that bi-national lesbian and gay couples be accorded

23 It is interesting to note that the debate was scheduled on a Friday morning of the Parliamentary session. Quorum votes are in general uncommon since there is always a poor turnout of parliamentarians on Friday mornings. Many supporters left the assembly before the vote since the debate was overwhelmingly positive. It seemed as if the scheduling on Friday morning as well as the late call for a quorum by a Polish conservative Parliamentarian was a deliberate homophobic attempt to defeat the resolution.
the same residence rights as bi-national heterosexual couples. The Report, which had been prepared under the auspices of the Committee on Migration, Refugees and Demography, commented that “Persecution on grounds of sexual orientation is widespread and just as horrifying and harmful in many countries as persecution for reasons of religion or political belief”. It drew attention to the small, but growing number of countries that recognise persecution on the basis of sexual orientation as a ground for asylum. On the rights of bi-national couples, the Recommendation noted that “the failure of most member states to provide residence rights to the foreign partner in a bi-national partnership is the source of considerable suffering to many lesbian and gay couples who find themselves split up and forced to live in separate countries”. The Report and Recommendation were prepared by an Austrian Social-Democrat Member of Parliament, Ms Irmtraut Karlsson. Following her departure from the Assembly, her role as rapporteur was taken over by Ms Ruth-Gaby Vermot-Mangold of Switzerland (Socialist).

ILGA-Europe provided much of the factual information used in the Report, assisted with the drafting of both the Report and the Recommendation, and provided Ms Vermot-Mangold with material for use in her speech during the debate in the Assembly. Lobbying in support of the Recommendation was carried out as part of the campaign in connection with the Recommendation on the situation of lesbians and gays in Europe described above. Both recommendations are not binding on the member states, but have an important declaratory role. ILGA-Europe then started to lobby the Committee of Ministers to respond to the Assembly’s Recommendations in both cases by making a similar recommendation to the member states.

The Committee of Ministers played a significant role in the draft protocol 12 and will be important in issuing recommendations to the member states on the base of the recommendations of the Assembly. In the past it has once on it own accord referred to the need for anti-discrimination measures on ground of—inter alia—sexual orientation with regard to access to higher education (R 98, 3) in March 1998. Lobby efforts towards the Committee are best directed through groups in the member states not through ILGA-Europe alone.

The International Lesbian and Gay Association

ILGA-Europe’s development as an European lobby NGO is framed by the historical formation of an international lesbian and gay political movement in Europe. The first international conferences on sexual equality after the efforts of the Wissenschaftlich-Humanitaires Komitee in Germany in the late 19th early 20th century were sponsored by the Dutch Group COC between 1951 and 1958. While these conferences were called international, they did not in fact have a large international participation, but gathered together professionals and gays and lesbians aiming to make homosexuality legitimate within society. (Quan 1994:6) The next international
conference of gays and lesbians was organised by the Scottish Minorities Group in 1974, which reached, however, no consensus to form an international organisation. (Quan 1994:6) It was four years later, after preparatory links between the Dutch organisation COC and the English Campaign for Homosexual Equality (CHE), that an international workshop was held in Coventry, UK, in August 1978, as part of the CHE’s annual conference. Thirty men from fourteen countries were present and agreed upon a Founding Declaration for the International Gay Association IGA. IGA became ILGA in 1986 and gave itself a constitution in 1981 in Turin. Up until then participation was primarily European with some North Americans.24

The ILGA was established as a federation of grass roots organisations. Today there are approximately 400 groups in over 70 countries of the world. ILGA was not supposed to take decisions on behalf of its members, but instead only act as an umbrella organisation to support member groups through information circulation and co-ordination of political actions. Until the second half of the 1990s the means by which ILGA fulfilled its aim to fight all types of discrimination and towards the liberation of lesbian women and gay men was to gather and distribute information, to unite movements, and to aid political lobbying and actions. Its strategies were to hold conferences, launch actions, and facilitate twinning projects and information exchanges—such as a bulletin, books, or EU sponsored projects resulting in publications. While major decisions can only be decided upon by members during the annual conferences, the management of ILGA between conferences used to be done by the Secretariat’s Committee and is today done by an executive board and two secretary generals. Originally, the secretariats functioned only to co-ordinate the exchange of information and international action projects. In 1986, the two leadership positions of Secretary-General were designated. Since then, the Secretariat’s Committee has moved more towards a directive role, and this was enshrined in the Constitution at the 1990 Stockholm conference.25

ILGA used to be an organisation for gay men, lesbians, and bisexuals. Since the Rio conference in 1995 its mandate also covers transgender people. This addition was put into the draft of a new constitution by Andy Quan, full-time employee of ILGA at the time. It remained unchallenged—despite traditional opposition to the inclusion of transgender issues by many European member groups—because the Latin American context in which the conference was held was favourable to the combination of homosexuality and transgender issues.26 ILGA is currently undertaking a regionalisation process, at the end of which it will have six regions—broadly corresponding to the defined continents—with independent organisational structures. In December 1996, ILGA-Europe became the first of these regional

24 This information is taken from an interview with Nigel Warner and from the archived conference papers of the early IGA conferences.
26 Information obtained from Andy Quan in an e-mail exchange in 1998.
associations to be formally established with its own constitution and its own executive board lead by two co-chairs elected at the annual ILGA-Europe regional conference. ILGA-Europe is registered—as is ILGA-World—as a non-profit international association under Belgian law. Its head office as well as ILGA-World’s head office is in Brussels. Since its constitution is modelled on the world constitution, transgender people are included in its mandate.

Up until 1999, ILGA-Europe has not lobbied transgender rights at all. The first step in taking up the issue was to release a second submission on gender identity to the broadening process of Article 14 of the European Convention of Human Rights. Gender identity was taken up for the second time during the process of lobbying the Charter of Fundamental Rights of the European Union. In both instances ILGA-Europe was unsuccessful in including gender identity. The Bucharest conference in October 2000 explicitly included transgender issues for the first time into the work programme for the executive board and demanded attention to an increase in transgender membership in ILGA and representation at conferences. The working definition of transgender developed so far states:

The term transgender is used as an umbrella term that includes both pre- and post-surgical reassignment transsexual people. It also includes transsexual people who choose not or who, for some other reason, are unable to undergo genital reconstruction. It further includes all persons whose perceived gender or anatomic sex may conflict with their gender expression, such as masculine-appearing women and feminine-appearing men. The legal category of relevance corresponding to sexual orientation is gender identity.

However, outside of ILGA-Europe, there have been lobby efforts by transgender groups on European level, such as Press for Change in the UK, who have supported cases at the European Court of Human Rights and the European Court of Justice. At the European Court of Justice P v S and Cornwall County Council was the first and so far only transgender case, which I discuss in detail in Chapter Six. At the European Court of Human Rights six cases have been heard in full, plus nine heard by the Commission of Human Rights only. Three cases gained specific significance,27 B v France (1992) on the change of gender on national identity cards, XYZ v United Kingdom (1997), dealing with the acceptance of a female-to-male transsexual’s rights to fatherhood (mentioned in Chapter Six) and Sheffield & Horsham v United Kingdom (1998), dealing with the UK’s refusal to issue new birth certificates to two British transsexual women living in the Netherlands. The first one was won, the latter lost. The future of ILGA-Europe’s involvement in lobbying for transgender rights will depend on how the integration of transgender groups into ILGA membership works, how many resources and how much motivation leading activists are willing to invest in promoting joint issues, and whether ILGA-Europe

27 The others are: Van Oosterwijck (1980), Rees v United Kingdom (1986), and Lassey (1990). All cases are available on the web page of Press for Change (http://www.pfc.org).
can sustain funding to employ fulltime workers to deal to the large amount of work that is added by transgender issues onto the already heavy workload.

ILGA has so far, with a few exceptions, depended on volunteer work of dedicated activists willing to invest their time, energy, and money into the organisation and its causes. ILGA-World has occasionally had a full-time employee depending on short term funding and ILGA-Europe is co-financed by the European Union as of 2001 with two full-time employees. Up until this moment ILGA-World and ILGA-Europe have been very poor organisations with only their membership fees available and often unable to even pay the travel expenses incurred by their board members. The large majority of work in ILGA-World and ILGA-Europe is done via internet, which has revolutionised the amount of work ILGA activists can donate to their cause.

In its 22 years of existence, ILGA's most notable achievements have included many different successes. One is surely the hosting of 22 conferences on all continents of this world ranging from very small participation to 300 people from 50 countries coming to the New York world conference in 1994. ILGA-Europe's largest conference was the 2000 regional conference in Bucharest with half the participants coming from Central, Eastern and South-Eastern Europe on funded scholarships. Convincing Amnesty International to accept persons imprisoned for their homosexuality as "prisoners of conscience" was another major achievement. The successful lobbying at the European Union and the consultative status with the Council of Europe, as well as contributing to the World Health Organisation's decision to stop considering homosexuality a disease are considered milestones. Additionally, the official recognition by the United Nation's ECOSOC in 1993 as consultative NGO is important to ILGA. This accreditation was suspended, though, through a homophobic attack by conservative US senator Jesse Helms. He convinced the US Senate in January 1994 not to pay its 118 million dollar debt to the UN as long as the UN recognised paedophile organisations such as ILGA.

ILGA had indeed three member organisations that called themselves paedophile from the time of the early eighties, in which all gay organisations could become members of ILGA without screening. The most prominent organisation was NAMBLA—North American Man Boy Love Association—which ILGA expelled at its 1994 conference in New York alongside the other two. Although ILGA's constitution explicitly supports the UN charter on the rights of children—groups or individuals advocating paedophilia can, therefore, no longer be members of ILGA—its consultative status to the UN has not been re-instituted to date in spite of good working contacts over the years with the High Commissioner on Human Rights, Mary Robinson.

Since 1994, ILGA has clearly become a rights-centred lobby organisation promoting human rights discourse rather than a discourse advocating sexual liberation and radical politics. In terms of movement history this is a break with the

28 See Quan (1994) for a precise analysis of this process in ILGA and the debate that preceded it.
traditions of the gay liberation movement in the 70s in Europe and North America in favour of a civil rights and law reform approach that centralises, at least in Europe, a human rights discourse. A long-time ILGA activist, Lisa Power, commented that “in the 80s, ILGA was purely a solidarity movement. Since then it has moved a long way to become an effective human-rights lobby”. (Quan 1994:22)

This move is mirrored in its membership. The most influential member groups of ILGA-Europe are the large national rights groups engaged in lobby politics, such as COC in the Netherlands, RFSL from Sweden, LBL from Denmark, Stonewall from the UK, and newly formed Eastern European groups such as ACCEPT from Romania. Also important players and information distributors in ILGA-Europe are the trade union groups, such as UNISON from the UK, and staff organisations, such as EGALITE, representing gay and lesbian employees of the European institutions.

ILGA incorporates a mixture of movement history in its own understandings of itself as an organisation and in its activities. Since its inception, its character has developed from an information network of grass roots groups throughout the world in which decisions can only be taken at the conferences, to a professionally run, internationally accredited NGO with an executive board that has powers of decision—though only on the mandate of the work programme approved at the annual conference. ILGA-Europe does not set any claim to representing the European lesbian, gay, bisexual, and transgender movements, it does not even claim to speak for all its own member groups at the same time. However, it does claim a mandate from its member groups to focus on certain rights issues and promote its own definitions of gay, lesbian, bisexual, and transgender rights as goals to be achieved. In those definitions, issues of discrimination and violation are connected to the living situations of gay men, lesbians, bisexuals, and transgender people in Europe. ILGA-Europe, thus, does partake in representational politics based on conceptions of sexual and gender identity, even though its own institutional interpretations of these identities and of representational politics are not clear cut and have historically never been stringent.

Considering ILGA-World’s and ILGA-Europe’s history and the working strategies of lobby politics at international institutions, ILGA as an organisation can usefully be defined as a transnational advocacy network. According to Margaret Keck and Kathryn Sikkink, transnational advocacy networks have four things in common: “the centrality of values or principled ideas, the belief that individuals can make a difference, the creative use of information, and the employment by non-governmental actors of sophisticated political strategies in targeting their campaigns”. (1998:2) ILGA mobilises competent actors—from lawyers to academics to professional administrators and rights activists—bound together by at least the idea

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29 EGALITE—Equality for Gays and Lesbians in the European Institutions—is an important source of information for ILGA-Europe, since its members are professionals everywhere in the European institutions, ranging from interpreters to administrators to court employees.
of shared values, a common discourse, and intensive exchanges of information and services. As a network ILGA managed to strategically mobilise information about the living conditions of gay men, lesbians, bisexuals, and transgender people to help create new issues and categories and to persuade, pressure, and gain leverage over much more powerful organisations and governments. (1998:2) According to Keck and Sikking advocacy networks normally involve a small number of expert activists that often define themselves against the background of a larger movement. (1998:204) Yet, a characteristic of transnational advocacy networks is also that their issues are unlikely to sustain mass mobilisation. ILGA defines itself against the background of a large world-wide movement that manages to create mass mobilisation at least once a year in huge pride marches all over the world. However, ILGA itself is unlikely to ever sustain any mass mobilisation for any specific issue it is campaigning for.

Strategically speaking ILGA-Europe, therefore, uses two kinds of facts to argue its aims and make its issues more real: technical facts—such as legal or procedural facts—and dramatic testimony of discrimination—most prominently issues involving bodily harm and equality. The mobilisation of shame through attacking double standards in the interpretation of fundamental rights is an important strategy. The immediate goals of ILGA-Europe are the same as those defined by Keck and Sikkink for advocacy networks: issue creation, influence on the discursive positions of states and institutional procedure as well as policy change and change in State behaviour. (1998:25) Keck and Sikking, however, differentiate advocacy networks from NGOs: the latter are seen to only form part of networks. Considering the mixed organisational history of ILGA, I would suggest that ILGA-Europe is both a transnational advocacy network and a professionalised NGO all in one. Since ILGA-Europe defines itself as an European NGO, I will continue to use the term NGO throughout this book, while keeping in mind that ILGA-Europe also fits what has in recent political science been termed advocacy network. In line with Keck and Sikkink I define ILGA—and particularly ILGA-Europe, which is the focus of this book—as a group of activists who try to

frame issues in ways that make them fit into particular institutional venues and that make them resonate with broader publics, use information and symbols to reinforce their claims, identify appropriate targets, seek leverage over more powerful actors to influence their targets, and try to make institutions accountable in their practices to the norms they claim to uphold. (1998:201)

In this endeavour the network as an actor derives a great deal of its effectiveness from the network as structure, within which ideas are formulated, reformulated, tested, and negotiated. (1998:207) This combination also accounts for the mixture of levels that need to be addressed throughout this book.

While I predominantly analyse discourses on an organisational level, the interconnection between individual agents/activists and the network occasionally necessitates a leap in the analysis from the organisational level to individual psycho-
social processes of gender and sexuality wherever the persuasive power of rights and equality discourses is addressed. This is the case for the theoretical analysis in several instances in this book.