



**Doc. 12030**

29 September 2009

## Homosexual rights in Russia

**Reply to Written question<sup>1</sup>:** Written question No. 567 (Doc. 11932)  
Committee of Ministers

*Written Question No. 567 by Mr Jensen (Doc. 11932)*

1. Referring to the events at the Lomonosov University in Moscow on 17 May 2009 where Russian authorities banned a demonstration on anti-discrimination and tolerance organised by homosexuals;
2. Considering the same events in Moscow on 17 May 2009 where Omon special police forces brutally dissolved the above-mentioned demonstration by beating up demonstrators and arresting 40 people;
3. Concerned by the fact that the mayor of Moscow, Mr. Jurij Lusjkov, has stated that the police acted appropriately for the situation and within the framework of the law, and that, on a previous occasion, he has characterised homo parades as the “work of Satan” and declared that “homosexuals are like weapons of mass destruction”;

Mr Jensen,

To ask the Committee of Ministers,

Whether the Committee intends to address the Russian government in order to condemn the violation of the European Convention on Human Rights committed by Russian authorities, to ask the Russian government whether it agrees on the statement made by Mr. Lusjkov, and to ask the Russian government how it intends to ensure that the European Convention on Human Rights is respected in Russia and that homosexuals are not discriminated by bans and violence.

*Reply by the Committee of Ministers*

1. In reply to the question put forward by the Honourable Parliamentarian, the Committee of Ministers recalls that, on 18 May 2009, its Chairman already publicly expressed concern about the action taken on the previous day against the organisers of the Parade. He also stated that the fact that this is not the first year such a situation has developed was of concern to him.
2. The Committee also recalls its position regarding the enjoyment of freedom of assembly and freedom of expression for LGBT persons in the Russian Federation as expressed in its replies to Written Questions No. 527 and No. 558, which are useful reminders of the relevant human rights principles which must be observed in this matter:

*“The Committee of Ministers recalls in particular that the rights to freedom of expression and freedom of assembly must be enjoyed by all without discrimination. While the Convention allows for restrictions on the exercise of the rights to freedom of expression and freedom of assembly, such restrictions must be prescribed by law and be necessary in a democratic society in the interest of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedom of others. According to the established case law of the European Court of*

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1. adopted at the 1066th meeting of the Ministers' Deputies (23 September 2009)



*Human Rights, peaceful demonstrations, be they in favour of the rights of lesbian, gay, bisexual and transgender (LGBT) persons or others, cannot be banned simply because of the existence of attitudes hostile to the demonstrators or to the causes they advocate. On the contrary, the state has a duty to take reasonable and appropriate measures to enable lawful demonstrations to proceed peacefully. In a series of judgments, the Court has emphasised that any discrimination based on sexual orientation is contrary to the Convention.<sup>2</sup> All member states must observe the Convention when they apply national law, notably in the light of the case law of the Court.”*

3. Like all member states, the Russian Federation has ratified the European Convention on Human Rights and is committed to guarantee respect for all Convention rights, notably in the light of the case law of the Court, to all individuals without discrimination.

4. The Committee of Ministers also invites all member states to implement its Recommendation No. R (97) 20 on “hate speech” which asserts, in Principle 1 appended to the recommendation, that public authorities and institutions at national, regional and local levels have a “special responsibility to refrain from statements, in particular to the media, which may reasonably be understood as hate speech, or as speech likely to produce the effect of legitimising, spreading or promoting racial hatred, xenophobia, anti-Semitism or other forms of discrimination or hatred based on intolerance. Such statements should be prohibited and publicly disavowed whenever they occur”.

5. The Committee of Ministers further recalls the message that was adopted at the 1031st meeting of the Ministers’ Deputies (2 July 2008) to strengthen the Council of Europe’s action to protect the rights of LGBT persons. The Steering Committee for Human Rights (CDDH), notably, has been asked to prepare a recommendation on measures to combat discrimination on grounds of sexual orientation and gender identity, ensure respect for the human rights of LGBT persons and promote tolerance towards them. In the light of the Court’s case law, freedom of expression and peaceful assembly will be among the topics covered by the recommendation.

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2. See among others: *Salgueiro da Silva Mouta v. Portugal*, judgment 21 December 2001; *L. and V. v. Austria*, judgment of 9 January 2003; *Karner v. Austria*, judgment of 24 July 2003; *B.B. v. United Kingdom*, judgment of 10 February 2004.