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Systematic banning of demonstrations in support of LGBT rights in Russia

Reply to Written question[1]: Written question No. 558 (Doc. 11797)
Committee of Ministers

1. Question from Mr Huss

In some Council of Europe member states, lesbian, gay, bisexual and transgender persons (LGBT) are regularly subjected to acts of intolerance, discrimination or violence on the grounds of their sexual orientation. Several written questions on this subject have been presented by members of the Parliamentary Assembly (Questions Nos 497, 524 and 527). In its replies the Committee of Ministers has confirmed the worrying situation in these countries and called on member states to respect human rights. However, discrimination against people on the grounds of their sexual orientation remains widespread. For example, the situation of the LGBT community in Moscow, which has been the subject of a number of written questions, has not improved in the last few years. On the contrary, its members are still deprived of all their rights of freedom of association and expression. Wishing to take more concrete measures in future in relation to these problems in the member states, the Committee of Ministers announced in its replies to previous written questions that the Secretariat was going to consider ways of stepping up Council of Europe action.

To date, the local authorities in Moscow have not authorised any demonstration in support of LGBT rights, and the repeated homophobic remarks by the Mayor of Moscow are inconsistent with Article 11 of the European Convention on Human Rights.

Mr Huss,

To ask the Committee of Ministers,

Has the Committee of Ministers monitored the discrimination towards sexual minorities in the Russian Federation and does it know on what grounds the Russian courts have upheld the bans on all LGBT demonstrations since 2006 (65 in all)?

In its reply in January 2007 to Written Question No 497 on the banning of the gay pride march in Moscow in 2006, the Committee of Ministers stated that "the Russian authorities agree that there is a need for authorities at all levels to respond strongly to any individual acts of violence and actively promote tolerance and respect in their communities. Solutions should be found which guarantee both security and freedom of assembly". Will the Committee of Ministers ask the Russian Federation to find a solution to guarantee LGBT persons in Russia their freedom of expression and their freedom to demonstrate?

Regarding the proposals to be drawn up by the Secretariat in order to step up Council of Europe action in this field, has the Committee of Ministers already drawn conclusions from these proposals and has it already taken concrete measures?

1. adopted at the 1061st meeting of the Ministers' Deputies (17 June 2009)

Reply by the Committee of Ministers

1. In reply to the Honourable Parliamentarian's question, the Committee of Ministers recalls that it is strongly attached to the principle of equal rights of all human beings. The Council of Europe's message of tolerance and non-discrimination applies to all European societies, and discrimination on grounds of sexual orientation or gender identity is not compatible with this message.

2. The Committee of Ministers recalls its position regarding the enjoyment of freedom of assembly, as expressed in its reply to Written Question No. 527:[2]

> *"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 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.[3] All member states must observe the Convention when they apply national law, notably in the light of the case law of the Court."*

3. The Committee of Ministers also draws attention to the decisions it took at its 1031st meeting (2 July 2008) to strengthen the Council of Europe's action to protect the rights of LGBT persons. All committees involved in intergovernmental co-operation have been invited, within their terms of reference, to make proposals for specific activities to strengthen, in law and in practice, the equal rights and dignity of LGBT persons and combat discrimination towards them. The Steering Committee for Human Rights (CDDH) has also been asked to prepare a recommendation on measures to combat discrimination on the grounds of sexual orientation or gender identity, ensure respect for the human rights of LGBT persons and promote tolerance towards them. It is believed that, in the light of the Court's case law, freedom of expression and assembly will be one of the relevant areas covered by the recommendation.

4. 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 to all individuals within its jurisdiction without any discrimination.

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2. Adopted on 6 February 2008 at the 1017th meeting of the Ministers' Deputies.

3. 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.