



Doc. 12029

26 September 2009

Parliamentary questions to the Chairperson-in-office of the Committee of Ministers

Parliamentary questions

1. Question from Mr Jensen, Denmark, SOC

On July 14 2009, the Lithuanian Parliament adopted a discriminatory law, the "Law on the Protection of Minors against the Detrimental Effect of Public Information" overruling a presidential veto. This law bans material that "agitates" for homosexual and bisexual relations from schools or public places and media where they could be viewed by children.

A few days earlier, on July 9, 42 MPs voted at first reading in favour of amendments to the penal and administrative codes which would go even further, punishing the "promotion of homosexual relations in public places" with community work, a fine, or imprisonment. Only 8 MPs opposed the proposal. The current session of the parliament is considering the remaining stages of this bill.

As Amnesty International has pointed out, if adopted, these amendments would permit the prosecution of an extremely wide variety of activities, including campaigning on human rights issues relating to sexual orientation and gender identity, providing sexual health information for lesbian, gay, bisexual and transgender people or the organisation of gay film festivals or Pride events. Indeed, they would potentially criminalise almost any public expression or portrayal of, or information about, homosexuality.

These developments are the latest in a succession of events involving suppression of the right of LGBT people to participate openly in society. Written Question No. 540 by Mr Huss to the Committee of Ministers drew attention to a number of such incidents. These included the refusal by the Vilnius authorities to authorise the European Union anti-discrimination truck to make its planned stop in that city, an event which would have involved the display of a rainbow flag by Lithuania's main LGBT organisation.

In response to this Written Question, the Lithuanian authorities informed the Committee of Ministers that they had drawn the attention of the Mayor of Vilnius to the relevant human rights principles of the Council of Europe. However, in August 2008 the EU antidiscrimination truck was again not permitted to park in a public place in Vilnius. Indeed, no public event in support of LGBT rights has ever been permitted in Lithuania.

Will the Committee of Ministers:

- re-emphasise to the Lithuanian authorities their obligation, as a member state of the Council of Europe, to protect human rights and fundamental freedoms, as set out in the European Convention on Human Rights, and its related jurisprudence;
- draw to their attention that the "Law on the Protection of Minors against the Detrimental Effect of Public Information" and the proposed amendments to the criminal and administrative codes criminalising "promotion of homosexual relations in public places" are in breach of these obligations;
- seek confirmation that the Lithuanian authorities recognize the right of LGBT persons to exercise freedom of assembly and expression and not to be subjected to discrimination;
- enquire what wider plans the Lithuanian authorities have to combat homophobia and transphobia, and discrimination based on sexual orientation and gender identity?



Reply by Mr Samuel Žbogar, on behalf of the Committee of Ministers:

Whenever the matter of protecting the rights of lesbian, gay, bisexual and transgender (LGBT) persons has been raised, the Committee of Ministers has consistently sent out a clear message of tolerance and non-discrimination.

In July 2008, the Committee of Ministers underlined its commitment to the principle of equal rights and equal dignity for all human beings including LGBT persons. As a result the Committee of Ministers decided to intensify the Council of Europe's work to protect LGBT rights. The Steering Committee for Human Rights (CDDH) was instructed to prepare a recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity, ensure respect for LGBT people's fundamental rights and promote tolerance towards these people. A committee of experts is currently working on the draft recommendation, and it can be safely said that in the light of the Court's case-law, freedom of expression, assembly and association will be one of the major issues it addresses. It is possible that the draft will be examined by the Committee before the end of year.

Furthermore, in the more general context of the protection of individuals who are particularly exposed to the risk of human rights violations – which includes people promoting LGBT people's rights – the Committee would point out that on 6 February 2008, it adopted a Declaration on the protection of human rights defenders and promotion of their activities.

Lithuania has ratified the European Convention on Human Rights and undertaken to guarantee that all the rights enshrined in the Convention will be respected, including the rights to freedom of expression and freedom of assembly of all individuals within its jurisdiction, without any discrimination. The Committee would point out that under its settled case-law, the European Court of Human Rights maintains that any discrimination founded on sexual orientation – including situations linked with freedom of expression, association and peaceful assembly – is contrary to the Convention¹. The Court has also ruled on several occasions against the criminalisation of homosexuality and unequal ages of sexual consent².

Lithuania recognises that people belonging to sexual minorities enjoy the same right to freedom of expression and assembly as any other individual within the jurisdiction of a member state.

1. . See, for example, the *Karner v. Austria* judgment of 24 July 2003, the *B.B. v. the United Kingdom* judgment of 10 February 2004 and the *Baczowski and others v. Poland* judgment of 3 May 2007.

2. . *Dudgeon v. the United Kingdom*, No. 7525/76, judgment of 22 October 1981; *Norris v. Ireland*, judgment of 26 October 1986; *Modinos v. Cyprus*, judgment of 23 April 1993 and *L. and V. v. Austria*, judgment of 9 January 2003.