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Failure to provide assistance to rape victim in Cologne, Germany, 15 December 2012

Reply[1] to the Written question No. 624 (Doc. 13110)
Committee of Ministers

1. In reply to the Honourable Parliamentarian, the Committee of Ministers notes that it has no remit to pronounce on the conformity of the said facts to the provisions of the German Penal Code, particularly Section 323 (c) thereof.

2. It would be noted, however, that the necessity of providing assistance to victims of sexual assault or rape is covered by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

3. The Committee of Ministers notes from the information provided to it by the German authorities that all hospitals are required to co-operate and to provide all the necessary medical treatment and examinations in cases of gathering evidence for the purposes of criminal investigations. Nevertheless, under German law, no physician or hospital is required to carry out an abortion or provide emergency contraception, except for medical reasons or in circumstances where the person's life is at risk.

4. In emergency cases such as rape, hospitals, including Catholic hospitals coming under the Archdiocese of Cologne and the Land of North Rhine-Westphalia, are supposed to provide the necessary assistance in the form of emergency contraception or information for victims. In the context of the events referred to by the Honourable Parliamentarian, Germany has informed the Committee of Ministers that it does not consider that the Catholic hospitals in Cologne violated Section 323 (c) of the German Penal Code because the person concerned had already had medical treatment and was consequently not in a situation necessitating emergency assistance.

5. Regarding the specific case reported, Germany has also pointed out that this was an isolated fact, caused by a misunderstanding and a lack of clarity in the hospital regulations, which has been remedied in order to prevent any further similar incidents.

1. Adopted at the 1170th meeting of the Ministers' Deputies (7 May 2013).