



Resolution 1948 (2013)¹

Final version

Tackling discrimination on the grounds of sexual orientation and gender identity

Parliamentary Assembly

1. The Parliamentary Assembly welcomes the positive developments in tackling discrimination on the basis of sexual orientation and gender identity which have occurred since the adoption of its [Resolution 1728 \(2010\)](#), such as the introduction, by different Council of Europe member States, of specific legislative measures, action plans and strategies to promote equality and tackle discrimination against lesbian, gay, bisexual and transgender (LGBT) persons as well as to tackle homophobic and transphobic speech and violence.
2. Despite this progress, the Assembly regrets that prejudice, hostility and discrimination on the grounds of sexual orientation and gender identity remain a serious problem, affecting the lives of tens of millions of Europeans. They manifest themselves in hate speech, bullying and violence, often affecting young people. They also manifest themselves through the repeated infringement of the right of peaceful assembly for LGBT persons.
3. The Assembly acknowledges that societal changes require time and occur unevenly within the same country, let alone in different countries. However, the Assembly also believes that politicians, through their example and discourse, as well as laws through their binding nature, are powerful driving forces to promote change in society and ensure that the respect for human rights is not only a legal obligation but also a shared value.
4. In this regard, the Assembly expresses concern with regard to homophobic statements by politicians and other personalities in a position of authority, which, far from being manifestations of freedom of expression, amount to hate speech and incitement to hostility, discrimination and violence.
5. Furthermore, the Assembly expresses deep concern at the introduction, at local, regional and national level, of legislation or draft legislation on the prohibition of so-called homosexual propaganda, in a number of Council of Europe member States. These acts and bills, which are at variance with freedom of expression and the prohibition of discrimination on account of sexual orientation and gender identity, risk legitimising the prejudice and hostility which is present in society and fuelling a climate of hatred against LGBT people.
6. The Assembly also expresses deep concern at the recent conviction of two organisations, the “Side by Side” LGBT film festival and the LGBT human rights group “Coming Out”, under the Russian Foreign Agents Act. Not only does this law violate international human rights principles, but concerns have been expressed that the trials were not subject to due process. The targeting of these LGBT non-governmental organisations (NGOs) under the Foreign Agents Act, together with the proposed law prohibiting so-called propaganda for non-traditional sexual relations, constitute a serious threat to any advocacy for LGBT rights in Russia.

1. *Assembly debate* on 27 June 2013 (26th Sitting) (see [Doc. 13223](#), report of the Committee on Equality and Non-Discrimination, rapporteur: Mr Haugli). *Text adopted by the Assembly* on 27 June 2013 (26th Sitting). See also [Recommendation 2021 \(2013\)](#).



7. The Assembly particularly deplores the unanimous approval by the Russian Duma of the bill on so-called propaganda for non-traditional sexual relationships among minors which, if approved also by the Council of the Federation, would be the first piece of legislation on the prohibition of homosexual propaganda to be introduced at national level in Europe.

8. In this context, the Assembly takes note of the Opinion of the European Commission for Democracy through Law (Venice Commission) on the issue of the prohibition of so-called homosexual propaganda in the light of recent legislation in some member States of the Council of Europe; it shares its analysis and endorses its findings, notably that “the measures in question appear to be incompatible with the underlying values of the [European Convention on Human Rights]”, in addition to their failure to meet the requirements for restrictions prescribed by Articles 10, 11 and 14 of the European Convention on Human Rights.

9. In the light of these considerations, reaffirming the continued validity of its [Resolution 1728 \(2010\)](#) on discrimination on the basis of sexual orientation and gender identity, the Assembly calls on Council of Europe member States:

9.1. as regards equality and non-discrimination, to:

9.1.1. ensure the full protection of human rights for all those who are within their jurisdiction, including the prohibition of discrimination on the grounds of sexual orientation and gender identity;

9.1.2. ensure that any new legal and policy instrument they adopt in the area of equality and non-discrimination explicitly includes sexual orientation and gender identity;

9.1.3. introduce, without delay, civil legislation protecting against discrimination on grounds of sexual orientation and gender identity in all areas of life, including employment, education, health, access to goods and services, housing, access to social security and social advantages;

9.1.4. devise and implement national action plans/strategies aimed at promoting equality and non-discrimination on the grounds of sexual orientation and gender identity;

9.1.5. introduce clear regulations on public duty, stipulating that public services must refrain from discriminating on the grounds of sexual orientation and gender identity;

9.1.6. involve LGBT and human rights organisations in consultations on draft laws and policies concerning discrimination;

9.1.7. adopt criminal legislation introducing sexual orientation and gender identity as grounds for prosecution of hate crimes;

9.1.8. introduce binding guidelines for law-enforcement officials to ensure that any alleged hate motive associated with a crime, including hate motives on grounds of sexual orientation and gender identity, is promptly, impartially, effectively and thoroughly investigated and duly taken into account in the prosecution and sentencing of those crimes;

9.2. as regards incitement to harassment or violence on grounds of sexual orientation and gender identity, to:

9.2.1. improve data collection on homophobic and transphobic crimes, as well as on discrimination on the grounds of sexual orientation and gender identity;

9.2.2. organise public campaigns on equality and diversity, as well as against incitement to harassment or violence on grounds of sexual orientation and gender identity;

9.2.3. ensure that projects against bullying in schools do not discriminate on any grounds, that they emphasise prevention in particular and are, addressed to and involve students, teachers and school staff;

9.2.4. train police, judiciary and administration officials on homophobia, transphobia and the prohibition of discrimination on the grounds of sexual orientation and gender identity;

9.2.5. set up complaint and support mechanisms for victims of homophobic and transphobic violence, such as hotlines and specific social services, run by specialised staff;

10. As regards specific situations of concern, the Assembly calls on:
 - 10.1. the authorities that exercise *de facto* control in the northern part of Cyprus to give full execution to the judgment of the European Court of Human Rights in the case of *Modinos v. Cyprus* and ensure the decriminalisation of consensual same-sex relations between adults, as in the areas under the control of the Government of the Republic of Cyprus;
 - 10.2. the authorities of Poland to give full execution to the judgment of the European Court of Human Rights in the case of *Bączkowski and Others v. Poland*;
 - 10.3. the competent authorities of the Republic of Moldova to give full execution to the judgment of the European Court of Human Rights in the case of *Genderdoc-M v. Moldova*; to comply with judicial decisions quashing legislation on the prohibition of so-called homosexual propaganda; and to repeal it if they have not yet done so;
 - 10.4. the authorities of the Russian Federation to give full execution to the judgment of the European Court of Human Rights in the case of *Alekseyev v. Russia*;
 - 10.5. the Russian authorities to halt further action under the Foreign Agents Act against the “Side by Side” LGBT film festival and “Coming Out”, to ensure due process in any appeal proceedings by these organisations against their conviction under this law, and to cease further prosecutions of LGBT human rights organisations for not registering as “foreign agents”;
 - 10.6. the Russian Council of the Federation to reject the bill on so-called propaganda for non-traditional sexual relationships among minors;
 - 10.7. the Parliament of Ukraine not to pursue the examination of the bill on the prohibition of so-called homosexual propaganda;
 - 10.8. the relevant local and regional authorities in the Russian Federation to repeal legislation on the prohibition of so-called homosexual propaganda;
 - 10.9. the authorities of Georgia to carry out a prompt investigation into the attack by the violent counter-demonstrators against the participants of the rally against homophobia on 17 May 2013, and hold accountable those who incited violence or committed violent acts;
 - 10.10. the Parliament of Lithuania not to pursue the examination of proposals to introduce administrative penalties for so-called public denigration of constitutional moral values and of constitutional fundamentals of family life;
11. As regards the role of public figures, including parliamentarians, politicians and other people in a position of authority, the Assembly:
 - 11.1. invites them to establish a relationship of dialogue and trust with the LGBT community, also by taking part in Pride marches and similar events;
 - 11.2. calls on them to refrain from and to publicly condemn homophobic and transphobic discourse;
 - 11.3. proposes to organise awareness-raising activities aimed at parliamentarians on the prevention of homophobia and transphobia, as well as the promotion of Council of Europe standards in the area of non-discrimination on the grounds of sexual orientation and gender identity.