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The obligation to offer a legal status to same-sex couples

Reply to Written question[1]: Written question No. 679 (Doc. 13711)
Committee of Ministers

1. The Committee of Ministers has no competence to pronounce on questions concerning the interpretation of the European Convention on Human Rights. However, it recalls that Article 8 of the European Convention on Human Rights protects the right to respect for private life, Article 12 protects the right to marry and Article 14 prohibits discrimination in the enjoyment of the Convention rights. The European Court of Human Rights has considered a number of complaints brought by same-sex couples under Articles 8 and/or 12, taken alone and in combination with Article 14, and, through its case law, has given guidance as to the standards required for national legislation to comply with the Convention.

2. In this context, the Committee of Ministers observes that in its judgment in *Schalk and Kopf v. Austria* of 24 June 2010, the Court's Grand Chamber rejected a complaint under Articles 12 and 14 by a same-sex couple that under Austrian law marriage could be contracted only by two persons of opposite sex. The Court held that the question whether to grant same-sex couples access to marriage was a matter for each individual State. In the more recent case of *Vallianatos and Others v. Greece* (7 November 2013), the Grand Chamber considered the position with regard to civil partnerships and found that, although there was no consensus, a trend was currently emerging amongst the member States of the Council of Europe with regard to the introduction of forms of legal recognition of same-sex relationships. The Court did not rule on the question whether there was an obligation under Article 8 of the Convention to put in place a civil partnership system. However, in the case of *Vallianatos and Others v. Greece*, it stated that legislation that enables only opposite-sex couples to register a "civil union" is, in the absence of convincing and weighty reasons capable of justifying the exclusion of same-sex couples, in violation of Article 14 taken in conjunction with Article 8 of the Convention.[2]

1. Adopted at the 1232nd meeting of the Ministers' Deputies (1 July 2015).
2. See paragraph 92 of this judgment.