



Doc. 11994

17 July 2009

Is virginity a determining factor for a marriage?

Reply to Written question¹: Written question No. 550 (Doc. 11650)
Committee of Ministers

1. Question from Mrs Err

In a judgment of 1 April 2008, the Lille Regional Court annulled a marriage on the ground that the woman had lied to her future husband about her virginity. The court found that the marriage had been contracted "on the basis of an objective error" and that this error had been "crucial to [the husband's] consent". The wife had agreed to her husband's request for an annulment.

As the press reported, husband and wife were French Muslims.

The judgment provoked major controversy in France and abroad. On 2 June 2008, the French Minister of Justice asked the prosecuting authorities to appeal against the judgment, and they did so on 3 June.

This decision is an infringement of the right to control one's own body, affecting women alone; in this regard, it is at variance with the equal treatment of women and men because it is only among women that it is physically possible, although not necessarily easy, to prove virginity. It follows that the decision is manifestly discriminatory.

Ms Err asks the Committee of Ministers:

What steps does the Committee of Ministers intend to take to prevent such judgments from being repeated?

Reply by the Committee of Ministers

1. In reply to the Honourable Parliamentarian's question, the Committee of Ministers wishes first and foremost to reaffirm its commitment to the values upheld by the Council of Europe and to the attainment of its core objective, particularly as regards to preserving and promoting human rights and their full enjoyment. It also recalls that equality between women and men forms an integral part of human rights and is a fundamental criterion of democracy.²

2. In a factual perspective, the Committee of Ministers recalls that following the decision of 1 April 2008 by the Lille Regional Court to annul a marriage on the ground that the wife had lied to her husband about her virginity, the Douai Court of Appeal delivered a ruling at appeal on 17 November 2008 dismissing the application for annulment of marriage, on the ground that the wife's virginity was not an essential attribute of marriage.

3. The Committee of Ministers welcomes this decision by the French judicial authorities. Indeed, it considers that an annulment of marriage over a question of virginity would have raised several issues under the European Convention on Human Rights, especially from the standpoint of prohibition of discrimination as invoked by the Honourable Parliamentarian.

1. adopted at the 1063rd meeting of the Ministers' Deputies (8 July 2009)

2. Declaration: Making gender equality a reality, adopted at the 119th Session of the Committee of Ministers, on 12 May 2009 in Madrid (document CM(2009)68 final).

