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Prohibiting the marketing and use of the "Mosquito" youth dispersal device

Reply to Recommendation[1]: Recommendation 1930 (2010)
Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly Recommendation 1930 (2010) on "Prohibiting the marketing and use of the "Mosquito" youth dispersal device". It has brought the recommendation to the attention of governments and has also communicated it to the relevant intergovernmental committees, the comments of which have been taken into account in this reply.[2]

2. The Committee of Ministers has taken note of the possible human rights and health implications of the use of such devices. In this respect, it has in particular noted the Assembly's concern that the use of "Mosquito" devices may constitute a disproportionate interference with the right to respect for one's private life, including the right to respect for physical integrity (Article 8 of the European Convention on Human Rights), the possible interference with the right to freedom of peaceful assembly (Article 11), and the possibility that it be considered "degrading treatment" (prohibited by Article 3) and that the use of acoustic dispersal devices may be considered both discriminatory (Article 14), as it is targeted specifically at children and young people, but also indiscriminate insofar as it affects all children and young people, not just those that are engaging in criminal or antisocial behaviour.

3. The Committee of Ministers has also taken particular note of the Assembly's concern with regard to health and safety and of the provisions of the United Nations Convention on the Rights of the Child most relevant in this area. In this respect, the Committee of Ministers is aware that in certain countries where studies on the device have taken place, concerns have been voiced because the potential health hazard cannot be ruled out. The Committee of Ministers is also aware that concerns have been raised for infants and the very young who, if subjected to the emissions of the device, are unable to either leave the area of their own accord or to make themselves understood when complaining of discomfort to those caring for them.

4. Whilst fully acknowledging the above, the Committee of Ministers also recognises that actual human rights violations and long-term health implications, if any, of being subjected to the "Mosquito" device are not clearly evidenced or confirmed. There also lacks clarity as to how the "Mosquito" youth dispersal device affects some groups more than others.

5. The protection of children's rights is a priority for the Council of Europe. Its programme "Building a Europe with and for children" is committed to both the promotion of children's rights and the protection of children from abuse or violence, however minor. In the light of the concerns expressed by the Assembly, the Committee of Ministers would therefore call on member states, for which a primary responsibility is to protect the rights of children, to consider assessing, where appropriate, the possible human rights and health implications of the use of such devices and to review national regulations concerning the marketing, installation and use of "mosquito" devices. With regard to the latter, the Committee of Ministers would draw

1. adopted at the 1109th meeting of the Ministers' Deputies (16 March 2011)
2. The Steering Committee for Human Rights (CDDH), the European Health Committee (CDSP) and the Joint Council on Youth (CMJ).

particular attention to the Assembly's recommendation that public warnings and information be available when such devices are being used. In the interim, given the current uncertainty over the implications arising from the use of such acoustic devices, member states may wish to consider applying the "precautionary principle".

6. The Committee shares the view of the Assembly that using the "mosquito" device to deal with antisocial behaviour may not necessarily be an appropriate solution as it does not deal with the root cause of the problem. In this respect, it would encourage the relevant local and national authorities of member states to work with young people to find positive solutions that address the underlying causes of antisocial behaviour and in this respect would draw particular attention to paragraph 15.3 of the Assembly's recommendation.

7. The Committee of Ministers would also highlight the risk that the use of such devices may create intergenerational tensions, create negative stereotyping and alienate young people in society. To reduce these risks, the Committee of Ministers would endorse the Assembly's recommendation as it appears in paragraph 16.2.