



Doc. 13223 – Compendium of written amendments

(Final version)

Tackling discrimination on the grounds of sexual orientation and gender identity

Contents	Page
A. Draft Resolution	2
B. Draft Recommendation	10

A. Draft Resolution

1. The Parliamentary Assembly welcomes the positive developments in tackling discrimination on the grounds 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 persons (LGBTs) 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 LGBTs.
3. The Assembly acknowledges that societal changes require time and occur unevenly within the same country, let alone between 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 changes 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 vis-à-vis 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.

Amendment 12

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI

In the draft resolution, paragraph 2, replace the words "and gender identity remain a serious problem, affecting the lives of tens of millions of Europeans" with the following words: "may remain a problem in some places".

Amendment 13

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI

In the draft resolution, paragraph 4, replace the words "expresses concern vis-à-vis 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" with the following words: "calls on politicians and other personalities in a position of authority to avoid threatening and violent statements against persons of a particular sexual orientation, whilst acknowledging that the fundamental right of freedom of expression in accordance with Article 10 of the Convention and the case law of the Court must be upheld."

5. Furthermore, the Assembly expresses deep concern at the introduction, at local, regional and finally at national or federal level, of legislation or draft legislation on the prohibition of so-called homosexual propaganda, in a number of Council of Europe member States. These laws and draft laws, 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 LGBTs.

Amendment 14

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI

In the draft resolution, replace paragraph 5 with the following paragraph:

"However, the Assembly does acknowledge that free speech must have its limits when it comes to the protection of minors from age inappropriate and explicit adult sexual material. It therefore urges Member States contemplating the drafting of legislation on the prohibition of so-called homosexual propaganda to limit the scope of such laws to the protection of minors only."

Amendment 2

Tabled by Mr Jonas GUNNARSSON, Ms Ulrika KARLSSON, Ms Carina OHLSSON, Mr Lennart AXELSSON, Mr Indrek SAAR

In the draft resolution, after paragraph 5, insert the following paragraph:

"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 "Foreign Agents" Law. 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 NGOs under the "Foreign Agents" Law, together with the proposed law prohibiting so-called "propaganda of non-traditional sexual relations", constitute a serious threat to any advocacy for LGBT rights in Russia."

Amendment 4

Tabled by the Committee on Equality and Non-Discrimination

In the draft resolution, after paragraph 5, insert the following paragraph:

"The Assembly particularly deplores the unanimous approval by the Russian Duma of the draft law on so-called "Propaganda of 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 being introduced at national level in Europe."

Amendment 5

Tabled by the Committee on Equality and Non-Discrimination

In the draft resolution, after paragraph 5, insert the following paragraph:

"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

"propaganda of homosexuality" 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 Convention."

6. In the light of these considerations, reaffirming the continued validity of its Resolution 1728 (2010) on discrimination on the grounds of sexual orientation and gender identity, the Assembly calls on Council of Europe member States:
 - 6.1. as regards equality and non-discrimination, to:
 - 6.1.1. ensure the full protection of human rights for all those who are subject to their jurisdiction, including the prohibition of discrimination on the grounds of sexual orientation and gender identity;
 - 6.1.2. 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;

Amendment 15

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI

In the draft resolution, paragraph 6.1.1, delete the following words: "and gender identity".

Amendment 18

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI

In the draft resolution, paragraph 6.1.2, delete the following words: "and gender identity".

Amendment 11

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Ms Nermina KAPETANOVIĆ

In the draft resolution, after paragraph 6.1.2, insert the following paragraph:

"recognise that member states may grant exemptions to religious institutions and organisations when such institutions and organisations are either engaging in religious activities or when legal requirements conflict with tenets of religious belief and doctrine, or would require such institutions and organisations to forfeit any portion of their religious autonomy, such exemptions being compatible with the European Convention on Human Rights, as interpreted by the European Court of Human Rights".

Sub-amendment 1 to amendment 11

Tabled by Mr Robert BIEDROŃ, Ms Lise CHRISTOFFERSEN, Ms Marietta de

POURBAIX-LUNDIN, Ms Mailis REPS, Ms Karin S. WOLDSETH, Ms Iwona GUZOWSKA

In amendment 11, after the words "of their religious autonomy", replace the words "such exemptions being compatible with the European Convention on Human Rights" with the following words: "and if such exemptions are compatible with the European Convention on Human Rights".

Amendment 19

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI

In the draft resolution, delete paragraph 6.1.3.

Amendment 22

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI

In the draft resolution, paragraph 6.1.4, delete the words "and gender identity".

Amendment 24

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI

In the draft resolution, paragraph 6.1.5, delete the words "and gender identity".

Amendment 26

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI

In the draft resolution, paragraph 6.1.6, after the word "LGBT", insert the following word: ", religious".

Amendment 16

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI, Mr Pasquale NESSA

In the draft resolution, delete paragraph 6.1.7.

Amendment 17

Tabled by Mr Viorel-Riceard BADEA, Mr Valeriu GHILETCHI, Mr Pedro AGRAMUNT, Mr

- 6.1.3. 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;
- 6.1.4. devise and implement national action plans/strategies aimed at promoting equality and non-discrimination on the grounds of sexual orientation and gender identity;
- 6.1.5. introduce clear regulations on public duty, mandating the public services to refrain from discriminating on the grounds of sexual orientation and gender identity;
- 6.1.6. involve LGBT and human rights organisations in consultations on draft laws and policies concerning discrimination;
- 6.1.7. adopt criminal legislation introducing sexual orientation and gender identity as grounds for prosecution of hate crimes;
- 6.1.8. 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;

Luca VOLONTÈ, Mr Oreste TOFANI, Mr Pasquale NESSA

In the draft resolution, replace paragraph 6.1.8 with the following paragraph:

"introduce guidelines for law-enforcement officials to ensure that any alleged hate motive associated with a crime is effectively investigated;"

6.2. as regards homophobia and transphobia, to:

Amendment 20

Tabled by Mr Viorel-Riceard BADEA, Mr Valeriu GHILETCHI, Mr Pedro AGRAMUNT, Mr Luca VOLONTÈ, Mr Oreste TOFANI, Mr Pasquale NESSA

In the draft resolution, paragraph 6.2, replace the words "homophobia and transphobia" with the following words: "encitement to harassment or violence on grounds of sexual orientation".

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

Amendment 21

Tabled by Mr Viorel-Riceard BADEA, Mr Valeriu GHILETCHI, Mr Pedro AGRAMUNT, Mr Luca VOLONTÈ, Mr Oreste TOFANI, Mr Pasquale NESSA

In the draft resolution, paragraph 6.2.1, replace the words "homophobic and transphobic" with the following word: "such".

6.2.2. organise public campaigns on equality and diversity, as well as against homophobia and transphobia;

Amendment 23

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI, Mr Pasquale NESSA

In the draft resolution, paragraph 6.2.2, replace the words "homophobia and transphobia" with the following words: "incitement to harassment or violence on any grounds".

6.2.3. support or set up projects against homophobic and transphobic bullying in schools, with a special emphasis on prevention, addressed to and involving students, teachers and school staff;

Amendment 25

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Oreste TOFANI, Mr Pasquale NESSA

In the draft resolution, paragraph 6.2.3, replace the words "support or set up projects against homophobic and transphobic bullying in schools" with the following words: "ensure that projects against bullying in schools do not discriminate on any grounds".

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

Amendment 27

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft resolution, paragraph 6.2.4, replace the words "homophobia, transphobia" with the following words: "incitement to harassment or violence on any grounds".

6.2.5. set up complaint and support mechanisms for victims of homophobic and transphobic violence, such as hotlines and specific social services, equipped with specialised staff;

Amendment 29

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft resolution, paragraph 6.2.5, replace the words "homophobic and transphobic violence" with the following words: "violence on any grounds".

7. As regards specific situations of concern, the Assembly calls on:

7.1. 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 Government-controlled areas of the Republic of Cyprus;

7.2. 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*;

Amendment 28

(If adopted, amendment 6 falls)

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft resolution, delete paragraphs 7.2, 7.3, 7.4, 7.5 and 7.6.

7.3. 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;

7.4. 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*;

Amendment 3

Tabled by Mr Jonas GUNNARSSON, Ms Ulrika KARLSSON, Ms Carina OHLSSON, Mr Lennart AXELSSON, Mr Indrek SAAR

In the draft resolution, after paragraph 7.4, insert the following paragraph:

"the Russian authorities to halt further action under the "Foreign Agents" Law 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

- 7.5. the Parliaments of Ukraine and the Russian Federation not to pursue the examination of the respective draft laws on the prohibition of so-called homosexual propaganda;

of LGBT human rights organisations for not registering as "foreign agents";"

Amendment 6

(Falls if amendment 28 is adopted)

Tabled by the Committee on Equality and Non-Discrimination

In the draft resolution, replace paragraph 7.5 with the following paragraph:

"the Russian Council of the Federation to reject the law on so-called "Propaganda of non-traditional sexual relationships among minors";"

Amendment 7

Tabled by the Committee on Equality and Non-Discrimination

In the draft resolution, after paragraph 7.5, insert the following paragraph:

"the Parliament of Ukraine not to pursue the examination of the draft law on the prohibition of so-called "homosexual propaganda";"

- 7.6. the relevant local and regional authorities in the Russian Federation to repeal legislation on the prohibition of so-called homosexual propaganda.

Amendment 1

Tabled by Mr Jonas GUNNARSSON, Mr Robert BIEDROŃ, Ms Chiora TAKTAKISHVILI, Mr Indrek SAAR, Ms Lolita ČIGĀNE

In the draft resolution, after paragraph 7.6, insert the following paragraph:

"the authorities of Georgia to carry out a prompt investigation into the large scale attacks by the violent counter-demonstrators against the participants of the rally against Homophobia on May 17 2013, and hold accountable those who incited and committed violent acts, as well as those who had the duty to prevent such crimes and did not act appropriately."

Amendment 8

Tabled by the Committee on Equality and Non-Discrimination

In the draft resolution, after paragraph 7.6, insert the following paragraph:

"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"."

8. As regards the role of public figures, including parliamentarians, politicians and other people in a position of authority, the Assembly:

Amendment 30

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft resolution, delete paragraph 8.

- 8.1. invites them to establish a relationship of dialogue and trust with the LGBT community, also by taking part in Pride marches and similar events;
- 8.2. calls on them to refrain from homophobic and transphobic discourse and to publicly condemn it;
- 8.3. 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.

B. Draft Recommendation

1. Following Recommendation CM/Rec(2010)5 of the Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity, the Council of Europe has strengthened its activities in this area. The Parliamentary Assembly affirms its full support for this course of action and encourages the Committee of Ministers to continue in this direction with a view to ensuring the full implementation of Recommendation CM/Rec(2010)5.
2. Recalling its Resolution ... (2013) on tackling discrimination on the grounds of sexual orientation and gender identity, the Assembly regrets that, despite significant improvements in the protection of human rights for lesbian, gay, bisexual and transgender persons (LGBTs) in some Council of Europe member States, violence, prejudice, hostility and discrimination against them remain a serious problem.
3. Furthermore, the Assembly expresses deep concern at the repeated infringement, in some Council of Europe member States, of the rights of freedom of assembly and freedom of expression in relation to LGBTs and at the clear setback in this area due to the introduction of laws and draft laws on the prohibition of so-called homosexual propaganda.
4. The Assembly considers that Council of Europe action in the area of discrimination on the grounds of sexual orientation and gender identity is highly important to ensure that the same human rights standards are applied in all Council of Europe member States and that the respect for diversity is a shared value without geographical or political divides.
5. In light of the above, the Assembly recommends that the Committee of Ministers:
 - 5.1. ensure regular follow-up of Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity and conduct periodic reviews of its implementation;

Amendment 31

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft recommendation, paragraph 2, replace the words "a serious problem" with the following words: "a problem in some places".

Amendment 32

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft recommendation, paragraph 3, delete the words "and at the clear setback in this area due to the introduction of laws and draft laws on the prohibition of so-called homosexual propaganda".

Amendment 9

Tabled by the Committee on Equality and Non-Discrimination

In the draft recommendation, after paragraph 5.1, insert the following paragraph:

"devote special attention to the issue of legislation on so-called homosexual propaganda and ensure that Council of Europe member States respect the recommendations expressed by the Venice Commission in its Opinion on this matter."

- 5.2. ensure that its activities in the areas of youth, equality, human dignity and intercultural dialogue, including its religious dimension, mainstream the issue of non-discrimination on the grounds of sexual orientation and gender identity;

Amendment 33

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft recommendation, paragraph 5.2, delete the words "including its religious dimension".

Amendment 34

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft recommendation, after paragraph 5.2, insert the following paragraph:

"recognise that member states may grant exemptions to religious institutions and organisations when such institutions and organisations are either engaging in religious activities or when legal requirements conflict with tenets of religious belief and doctrine, or would require such institutions and organisations to forfeit any portion of their religious autonomy, such exemptions being compatible with the European Convention on Human Rights, as interpreted by the European Court of Human Rights;"

Sub-amendment 1 to amendment 34

Tabled by Mr Robert BIEDROŃ, Ms Lise CHRISTOFFERSEN, Ms Marietta de POURBAIX-LUNDIN, Ms Mailis REPS, Ms Karin S. WOLDSETH, Ms Iwona GUZOWSKA

In amendment 34, after the words "of their religious autonomy", replace the words "such exemptions being compatible with the European Convention on Human Rights" with the following words: "and if such exemptions are compatible with the European Convention on Human Rights".

- 5.3. intensify its work against homophobia and transphobia, with a particular emphasis on prevention in schools and sports;

Amendment 35

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft recommendation, paragraph 5.3, replace the words "homophobia and transphobia, with a particular emphasis on prevention in schools and sports" with the following words: "incitement to harassment or violence on the grounds of sexual orientation".

- 5.4. set up a model online training course on homophobia, transphobia and discrimination on the grounds of sexual orientation and gender identity for the police, prosecutors and the judiciary, which could subsequently be adapted at national level;
- 5.5. explicitly include sexual orientation and gender identity as prohibited grounds of discrimination in all its future relevant conventions;
- 5.6. consider the feasibility of joint action with the European Union Agency for Fundamental Rights (FRA) in order to ensure the collection of comparable Council of Europe-wide data and information on the situation of LGBTs;
- 5.7. ensure that the judgments of the European Court of Human Rights, including those concerning discrimination on the grounds of sexual orientation and gender identity, are effectively implemented without delay, including through the adoption of general measures to prevent further violations.

Amendment 36

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Mr Pasquale NESSA

In the draft recommendation, paragraph 5.4, replace the words "homophobia, transphobia" with the following words: "incitement to harassment or violence on any ground".

Amendment 10

Tabled by Mr Luca VOLONTÈ, Mr Valeriu GHILETCHI, Mr Viorel-Riceard BADEA, Mr Pedro AGRAMUNT, Ms Nermina KAPETANOVIĆ

In the draft recommendation, delete paragraph 5.6.