Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2418 (2022)[1]

Alleged violations of the rights of LGBTI people in the Southern Caucasus

Parliamentary Assembly

1. The fight against discrimination is one of the cornerstones of democratic systems and one of the core values upheld by the Council of Europe. Discrimination based on sexual orientation, gender identity, gender expression and sex characteristics must be prevented and combated in the same way as that based on any other ground. This applies to all the Council of Europe member States.

2. Currently, the situation of lesbian, gay, bisexual, trans and intersex (LGBTI) people and respect for their human rights in the Council of Europe member States is unequal. Protection of the rights granted by legislation and the effectiveness of anti-discrimination policies vary greatly from one country to another. This inequality must be eliminated. It is the responsibility of all member States to ensure that human rights and fundamental freedoms are respected.

3. The Assembly considers that a country's cultural and religious traditions cannot be used to justify discrimination based on sexual orientation, gender identity, gender expression and sex characteristics. Each signatory State to the European Convention on Human Rights (ETS No. 5) has an obligation to guarantee the enjoyment of fundamental rights, while finding how best to prevent conflicts between them. Indeed, there is no inevitable contradiction between the right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression and freedom of assembly and association. Therefore, public events to combat discrimination against LGBTI people and promote their rights, such as Pride marches, do not constitute an infringement of, or restriction on, the rights of persons who disagree with them.

4. The Parliamentary Assembly is concerned about the situation of LGBTI people in Armenia, Azerbaijan and Georgia, noting that many infringements of these people's human rights have been alleged or confirmed. These countries should adopt effective legislation and policies to strengthen action against discrimination based on sexual orientation, gender identity, gender expression and sex characteristics.

5. The Assembly nonetheless welcomes the progress made by Georgia in combating discrimination through the adoption of legislation which adds sexual orientation and gender identity to the prohibited grounds for discrimination and through the introduction of LGBTI-phobia into criminal legislation as an aggravating circumstance. It emphasises the importance of fully implementing this legislation, which is a positive example for the region's countries to follow.

6. The Assembly also considers the democratic transition process in Armenia to be an opportunity that should not be missed to strengthen the human rights protection system and combat discrimination, including discrimination based on sexual orientation, gender identity and expression and sex characteristics.

7. The Council of Europe supports the reform processes undertaken by the South Caucasus countries in the fields of democracy, human rights and the rule of law through action plans negotiated with the national authorities and taking into account the findings of monitoring and standard-setting bodies, including the European Commission against Racism and Intolerance (ECRI); in addition, activities specifically concerning the rights of LGBTI persons are organised by the SOGI (Sexual Orientation and Gender Identity) Unit.

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1. *Assembly debate* on 25 January 2022 (3rd sitting) (see Doc. 15429, report of the Committee on Equality and Non-Discrimination, rapporteur: Mr Christophe Lacroix). *Text adopted by the Assembly* on 25 January 2022 (3rd sitting).

8. The Assembly also recalls its Resolution 2239 (2018) "Private and family life: achieving equality regardless of sexual orientation", Resolution 2191 (2017) and Recommendation 2116 (2017) "Promoting the human rights of and eliminating discrimination against intersex people", Resolution 2048 (2015) "Discrimination against transgender people in Europe", Resolution 1948 (2013) and Recommendation 2021 (2013) "Tackling discrimination on the grounds of sexual orientation and gender identity" and Resolution 1728 (2010) and Recommendation 1915 (2010) "Discrimination on the basis of sexual orientation and gender identity".

9. In the light of the foregoing, the Assembly invites the authorities in Armenia, Azerbaijan and Georgia to:

9.1. guarantee the right to hold public events such as Pride marches to support the rights of LGBTI people, ensure that these events can take place safely and protect the participants from any violence;

9.2. promote the adoption of codes of conduct for the media and members of parliament, prohibiting stigmatising and discriminatory comments and hate speech targeting LGBTI people, and the use of counter-narratives to combat LGBTI-phobic hate speech;

9.3. ensure the freedom and independence of the media and the safety of their personnel;

9.4. conduct effective investigations and prosecute cases of violence against LGBTI people;

9.5. adopt and implement action plans concerning discrimination based on sexual orientation, gender identity, gender expression and sex characteristics with the aim of raising public awareness about the rights of LGBTI people and their living conditions and preventing and combating social exclusion, stigmatisation and all forms of discrimination against LGBTI people;

9.6. improve access to sexual and reproductive healthcare and information and raise awareness about sexually transmitted diseases;

9.7. introduce rapid, transparent and accessible procedures, based on self-determination, which allow transgender persons to change their name and sex on birth certificates, identity cards, passports, diplomas and similar documents; and ensure that such procedures are clear and that the institutions responsible for this are properly designated;

9.8. guarantee that comprehensive sexuality education is taught in schools and ensure that it addresses the issues of gender identity and sexual orientation, taking an inclusive approach;

9.9. carry out public information and awareness-raising activities on the situation of LGBTI people, designed to tackle prejudice and stigmatisation;

9.10. promote human rights education for officials of all the public bodies concerned, for the judiciary and for law-enforcement agencies with a view to fostering understanding of issues relating to gender, inclusion, non-discrimination on the basis of sexual orientation, gender identity, gender expression and sex characteristics;

9.11. offer members of the judiciary and law-enforcement agencies specific and continuous training on LGBTI-phobic hate speech and hate crime;

9.12. set up a reference framework on the effectiveness of criminal prosecutions and judgments in this area;

9.13. promote the role and the powers of ombudsmen, guarantee their independence, improve the financing of these institutions so that they can perform all their tasks independently and ensure that these tasks include combating discrimination against LGBTI people;

9.14. continue and step up their co-operation with the relevant Council of Europe bodies including ECRI and the SOGI Unit; and support the implementation of action plans launched in co-operation with the Council of Europe;

9.15. strengthen co-operation with civil society organisations working to protect human rights, including those of LGBTI people; guarantee their independence and protect their safety and that of people working with them; and consult these organisations when devising, implementing and assessing the impact of anti-discrimination activities;

9.16. consider setting up specific activities for the social and vocational integration of LGBTI people, particularly transgender and intersex people;

9.17. implement, through the adoption of relevant legislation and policies, Recommendation CM/Rec(2010)5 of the Committee of Ministers to member States on measures to combat discrimination on grounds of sexual orientation or gender identity, and actively participate in the periodic review process conducted by the Committee of Ministers concerning its implementation.

10. In particular, the Assembly invites the authorities of Armenia and Azerbaijan to:

10.1. adopt anti-discrimination legislation adding sexual orientation, gender identity, gender expression and sex characteristics to the prohibited grounds for discrimination;

10.2. adopt civil, administrative and/or criminal legal standards to protect people from hate speech and hate crimes;

10.3. add LGBTI-phobia to criminal legislation as an aggravating circumstance.

11. The Assembly invites the authorities of Armenia to stop considering homosexuality as a mental illness for legal, administrative, health and other purposes.

12. The Assembly invites the authorities of Azerbaijan to investigate cases of wrongful arrest of LGBTI people and prevent and combat police violence against these people.

13. The Assembly invites the authorities of Georgia to:

13.1. include in anti-discrimination legislation the grounds of gender expression and sex characteristics;

13.2. ensure that equality and non-discrimination legislation and policies are fully implemented, monitor the situation regularly and allocate appropriate financial and human resources to the relevant bodies and authorities;

13.3. set up, as part of the activities to prevent and combat LGBTI-phobic hate speech in the public and political spheres, a body to establish dialogue with the Orthodox Church in order to calm the attitude of its representatives towards public events such as Pride marches and make them aware of the need to avoid making stigmatising comments about LGBTI people.