

**CDDH comments¹ concerning Recommendation 2021(2013) of the Parliamentary Assembly
– “*Tackling discrimination on the grounds of sexual orientation and gender identity*”**

CDDH: 79th meeting – 26/29 November 2013 CDDH(2013)R79

1. The CDDH takes note with interest of this Recommendation, of the concerns expressed in it by the Assembly and of the proposals for further action contained therein.
2. The CDDH recalls that it was responsible for the drafting of Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, and draws the attention to the relevant provisions of it concerning in particular freedom of association (Chapter II), freedom of expression and peaceful assembly (Chapter III) , education (Chapter VI) and sports (Chapter IX).
3. The CDDH was also entrusted by the Committee of Ministers in September 2012 to examine the implementation of the Recommendation, and in March 2013, at its 77th meeting, it adopted a report on the implementation of the Recommendation.
4. The report, based on the replies by 39 States to a questionnaire, and accompanied by comments by Amnesty International, ILGA Europe and the European Union Agency for Fundamental Rights, contains information on the implementation of the specific provisions contained in the Appendix to the Recommendation, including with respect to those provisions which are particularly relevant in the light of the issues mentioned in the PACE Recommendation. In its concluding remarks, the report contains comments on the level of implementation, on the positive achievements and on the remaining obstacles to the implementation of the Recommendation in the member States having replied. The report has been transmitted to the Committee of Ministers, which will decide on possible further follow-up action.
5. The CDDH also notes that, in the framework of the HELP programme and in particular of the distance-learning courses, a specific course on combating discrimination on grounds of sexual orientation or gender identity is available since October 2013.

¹ The Russian Federation disassociates itself from the content of the comments on this Recommendation, for the reasons explained in the declaration appended to the report of the 69th CDDH meeting (doc. CDDH(2009)019, Appendix IV), and has not participated in their adoption.

Recommendation 2021(2013)

Final version

Tackling discrimination on the grounds of sexual orientation and gender identity

Parliamentary Assembly

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 1948 \(2013\)](#) 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 of lesbian, gay, bisexual and transgender (LGBT) persons 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 LGBT persons 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 essential 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;

5.2. 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 European Commission for Democracy through Law (Venice Commission) in its opinion on this matter;

5.3. 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;

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

5.5. 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;

- 5.6. explicitly include sexual orientation and gender identity as prohibited grounds of discrimination in all its future relevant conventions;
- 5.7. consider the feasibility of joint action with the European Union Agency for Fundamental Rights (FRA) in order to ensure the collection of comparable data and information on the situation of LGBT persons from all member States of the Council of Europe;
- 5.8. 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.