

CONFIDENTIAL

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CM/Del/Concl(90)447
Item 10

10.

CONDITION OF TRANSSEXUALS
Assembly Recommendation 1117
(Concl(90)431/33)

Decisions

The Deputies

1. adopted Decisions Nos CM/496/161190 and CM/497/161190 assigning ad hoc terms of reference to the European Committee on Legal Co-operation (CDCJ) and to the Steering Committee for Human Rights (CDDH) as they appear respectively at Appendices 3 and 4 to these Conclusions;

2. adopted the following interim reply to Assembly Recommendation 1117 on the condition of transsexuals:

"1. The Committee of Ministers has examined Assembly Recommendation 1117 on the condition of transsexuals. For its examination it has taken into consideration the judgment of the European Court of Human Rights in the Cossey case, rendered on 27 September 1990, and the Resolution of the European Parliament on discrimination against transsexuals, adopted on 12 September 1989 and calling on the Council of Europe to enact a Convention for the protection of transsexuals.

2. The Committee of Ministers notes that in its judgment in the Cossey case the European Court of Human Rights has held that the refusal of a member State to rectify the reference to the sex of a transsexual in the register of births is no violation of the European Convention on Human Rights. The Court, however, declared that "it is conscious of the seriousness of the problems facing transsexuals and the distress they suffer. Since the Convention always has to be interpreted and applied in the light of current circumstances, it is important that the need for appropriate legal measures in this area should be kept under review."

3. The issues raised in Assembly Recommendation 1117 are extremely complex. The Committee of Ministers has therefore asked both the European Committee on Legal Co-operation (CDCJ) and the Steering Committee for Human Rights (CDDH) to give an opinion on Assembly Recommendation 1117, in particular its paragraph 11.

4. Concerning paragraph 11.d. of the Recommendation, it should be underlined that Article 14 of the European Convention on Human Rights prohibits discrimination only in relation to the rights guaranteed in the Convention.";

3. agreed to resume consideration of this item at one of their future meetings at B level when they have received the opinions of the CDCJ and the CDDH.