



CONFERENCE OF INGOs  
OF THE COUNCIL OF EUROPE

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CONSEIL DE L'EUROPE

## HUMAN RIGHTS COMMITTEE

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### Draft Recommendation of 17 January 2012

#### “Combating discrimination on grounds of sexual orientation and gender identity”

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The Human Rights Committee of the INGO Conference of the Council of Europe,

**Welcoming** the adoption by the Committee of Ministers in March 2010 of its Recommendation CM/Rec (2010)5 to member states on measures to combat discrimination on grounds of sexual orientation or gender identity ("Recommendation 2010(5)");<sup>1</sup>

**Noting** that Recommendation 2010(5) recognised "that lesbian, gay, bisexual and transgender persons have been for centuries and are still subjected to homophobia, transphobia and other forms of intolerance and discrimination even with their family – including criminalisation, marginalisation, social exclusion and violence – on grounds of their sexual orientation or gender identity, and that specific action is required in order to ensure the full enjoyment of the human rights of these persons;"

**Welcoming** the fact that certain member states have made voluntary contributions to enable the Council of Europe to assist member states in implementing Recommendation 2010(5);

**Welcoming** the publication by the Council of Europe Commissioner for Human Rights in June 2011 of his report "Discrimination on grounds of sexual orientation and gender identity in Europe", the first-ever large-scale study of such discrimination across the 47 member states;<sup>2</sup>

**Noting** that in his speech launching the report the Commissioner highlighted five particular concerns affecting LGBT people in a significant number of member states:

- i. the denial of freedom of assembly or registration to LGBT organisation;
- ii. the refusal of asylum to LGBT people fleeing the risk of torture or execution;
- iii. the high risk of hate crimes and the small number of states recognising homophobic or transphobic violence in their hate crime legislation;
- iv. harassment in the workplace and bullying in schools;
- v. the significant problems transgender persons face in all areas of life, including official recognition of their gender, and the fact that in many states they are required to undergo sterilisation in order to be legally recognised;

**Concerned** that, despite Recommendation 2010 (5), certain member states fail to uphold or are even in the process of undermining the most basic rights of LGBT people,

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<https://wcd.coe.int/ViewDoc.jsp?id=1606669&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>

<sup>2</sup> [http://www.coe.int/t/commissioner/activities/themes/LGBT/Default\\_en.asp](http://www.coe.int/t/commissioner/activities/themes/LGBT/Default_en.asp)

as exemplified by the following:

- In Turkey, the high levels of violence (including a high incidence of murder) experienced by transgender people, and the need for much more effective response by the authorities;<sup>3</sup>
- In Russia, the continuing denial of freedom of assembly to LGBT people;
- In Serbia, the banning of the 2011 Belgrade Pride march;
- In Croatia, the failure of the authorities to protect Pride marchers from violence in Split in June 2011;
- In Russia, the adoption by two regional assemblies (Arkhangelsk and Ryazan) of laws prohibiting "propaganda of homosexuality", and the tabling of similar legislation in two others (St Petersburg and Kostroma);
- In Ukraine and in Lithuania, the introduction of similar legislative proposals into Parliament;
- In Lithuania, draft legislation before the Parliament which seeks to ban gender reassignment surgery;

**Noting** that no monitoring body of the Council of Europe is charged specifically with monitoring discrimination against LGBT people and that no campaigns or programmes of the Council of Europe specifically address these concerns,

#### **Calls upon the Committee of Ministers to**

- a. ensure that its decision to review Recommendation 2010 (5) in the spring of 2013 is implemented effectively, with a view to promoting further progress by member states in combating sexual orientation and gender identity discrimination;
- b. take specific action to make a monitoring body of the Council of Europe, preferably the European Commission against Racism and Intolerance, responsible for ongoing monitoring of such discrimination,
- c. ensure that Council of Europe campaigns and programmes address sexual orientation and gender identity discrimination where relevant;

#### **Calls upon the Member States to**

Implement Recommendation 2010 (5) and the detailed recommendations of the Commissioner for Human Rights, particularly in relation to the issues raised above;

#### **Invites INGOs enjoying participative status with the Council of Europe to**

Encourage their national members to cooperate with human rights defenders working for the rights of LGBT people in advocating for implementation of the Recommendation 2010(5) and the recommendations of the Human Rights Commissioner.

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<sup>3</sup> See "Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity Sociological Report: Turkey" by the Danish Institute for Human Rights, prepared for the Office of the Commissioner for Human Rights