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Decriminalisation of defamation in "the former Yugoslav Republic of Macedonia"

Written question No. 499 to the Committee of Ministers

Reply from the Committee of Ministers

adopted at the 978th meeting of the Ministers' Deputies (25 October 2006)

I. Written Question No. 499 by Mr Bartumeu Cassany (Doc. 10979)

Considering that the Parliament of "the former Yugoslav Republic of Macedonia" recently amended the Criminal Code (Chapter 18, articles 172 to 177) with a view to abolishing criminal sentences for defamation,

Noting however the efforts of the country's authorities in recent weeks to imprison Mr Bozinovski, a journalist sentenced to imprisonment for defamation and insult,

Noting that, although Mr Bozinovski's request to have his sentence postponed for three months was favourably received by the authorities, the threat of him being imprisoned once that period has expired remains, whereas criminal sentences for defamation have been abolished,

Recalling the principle of the retrospective effect of criminal law imposing lesser sentences and in view of the request of the accused to re-open the proceedings of his case,

In the absence of a decision from the authorities on that request to date,

To ask the Chairman of the Committee of Ministers,

Whether he has information on this matter and if, and how, he intends to deal with this question.

II. Reply by the Committee of Ministers

1. The Honourable Parliamentarian raises an important question relating to freedom of expression and information.

2. As underlined by the Committee of Ministers on several occasions, freedom of expression and information is a fundamental right, enshrined in Article 10 of the European Convention of Human Rights. The principles of the Convention, as interpreted by the European Court of Human Rights, must be strictly respected by all member states.

3. The Chair is aware of the fact that Mr Bozinowski has been sentenced for defamation under the former provisions of the Penal Code which provided for a prison sentence.

4. The adoption, in May this year, by the Parliament of "the former Yugoslav Republic of Macedonia" of amendments to the Criminal Code which abolish imprisonment as a punishment for defamation, is to be welcomed.

5. That said, as regards “the principle of the retrospective effect of criminal law imposing lesser sentences”, mentioned by the Honourable Parliamentarian, he would like to recall that neither Article 7 of the European Convention of Human Rights which states that “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed” nor the case law of the European Court of Human Rights,¹ impose that criminal law imposing lesser sentences be applied retrospectively.

6. However, he is aware of the fact that several member states of the Council of Europe apply the retrospective effect of criminal law imposing lesser sentences and he hopes that the authorities of “the former Yugoslav Republic of Macedonia” will show understanding in this respect.

¹ See Kokkinakis v. Greece, Judgment of 25 May 1993 § 52 and Achour v. France, judgment of 29 March 2006.