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Ban on a Moscow demonstration by homosexuals

Written question No 497 to the Chairman of the Committee of Ministers

Reply from the Chairman of the Committee of Ministers
(985th meeting of the Ministers' Deputies -31 January 2007)

I. Written Question No. 497 by Mr Huss (Doc. 10966)

In joining the Council of Europe in 1996 and ratifying the Convention on Human Rights the Russian Federation undertook to protect and develop human rights and fundamental freedoms. The first item in the programme of the Russian Committee of Ministers chairmanship, as presented in Strasbourg on 19 May, is "reinforcing national human rights protection mechanisms, development of human rights education and protection of rights of national minorities".

Yet in May 2006 Moscow city hall banned a demonstration which was to have been held on 27 May concerning tolerance and equal rights for homosexuals. Banning the demonstration contravened Article 11 of the Convention on Human Rights, which deals with freedom of assembly and association.

To ask the Chairman of the Committee of Ministers,

What were the reasons for banning the demonstration?

Does the Chairperson of the Committee of Ministers not agree that the Mayor of Moscow's decision infringed Article 11 of the Convention on Human Rights?

Can he provide me with information about steps taken or planned to avert any further breaches of that article?

Does the Russian Federation envisage any further measures to combat homophobia and all discrimination based on sexual orientation in that country?

Reply:

1. The Chairman underlines that tolerance is a universal value, inseparable from a principle which is also universal, that of the equal dignity of all human beings. The Council of Europe is promoting a clear message of tolerance and non-discrimination.

2. The Russian Federation has ratified the European Convention on Human Rights and is committed to guarantee respect for all Convention rights to all individuals within its jurisdiction. The European Court of Human Rights ruled against criminalisation of homosexuality and, in a number of cases of discrimination, against unequal ages of sexual consent, exclusion from the military, deprivation of child custody as well as social benefits for same-sex partners. The Russian Federation recognises that people belonging to sexual minorities enjoy the same right to freedom of expression and to freedom of assembly as any other individual within the jurisdiction of a member state. The freedom of peaceful assembly is guaranteed in the Russian Federation, subject to the restrictions foreseen in the European Convention on

Human Rights. Therefore, not only can peaceful demonstrations in favour of sexual minority rights simply not be banned, but the police has a duty to protect such manifestations when they take place.

3. The Chairman is aware that the gay pride demonstration which was to be held in Moscow on 27 May 2006 was not given permission by the local authorities and that a case is now pending before the local courts, the outcome of which is not yet known. He can confirm that the authorities of the Russian Federation have taken due note of the statement made by the Council of Europe Commissioner on Human Rights on this subject on 23 May 2006, in which, *inter alia*, he recalled that freedom of peaceful assembly belongs to all people and underlined that the fact that a peaceful demonstration may annoy or offend people opposed to the ideas or claims expressed cannot be a reason to ban a peaceful gathering. At the same time, the Commissioner stated that if the authorities have grounds to fear for the security of the demonstrators, they should provide protection or, at least, suggest alternative venues for such a manifestation. A general ban of a peaceful demonstration can only be justified if there is a real danger of disorder which cannot be prevented by reasonable and appropriate measures.

4. The authorities of the Russian Federation have also noted the message sent by the Secretary General of the Council of Europe to the participants of the international conference against homophobia organised in Moscow (26-27 May 2006), in which he emphasised the legal obligations entered into by the member states of the Organisation.

5. The Russian authorities agree that there is a need for authorities at all levels to respond strongly to any individual acts of violence and actively promote tolerance and respect in their communities. Solutions should be found which guarantee both security and freedom of assembly.