



OSCE Civil Society Roundtable, Astana June 2010

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ENGLISH only

COC Netherlands

Recommendations relating to Intolerance and discrimination on the grounds of sexual orientation, gender identity and gender expression

- We remind participating States on the fundamental principles of *Universality, non-discrimination, indivisibility and relatedness of Human Rights* and call for a consistent and non-hierarchical approach to tolerance and non-discrimination;
- We believe that the OSCE is long overdue in recognising sexual orientation, gender identity and expression in existing discrimination grounds, while other international organisations, such as the Council of Europe, the European Union and United Nations are increasingly ahead;
- Increasingly documentation on the extent of persistence of homophobia is available, for example as shown in the annual ODIHR report 'Hate Crimes in the OSCE region incidents and responses – Annual Report for 2008', and the report on homophobia issued by the EU Fundamental Rights Agency from 2008 (part I: legal analysis) and 2009 (part II, Social situation);
- We urge participating States to commit to combating homophobia in the OSCE region. Discrimination based on sexual orientation, gender identity and expression continues to exist in partner States. Lesbian, gay, bisexual and transgender (LGBT) people are the daily victims of hate crimes, discrimination in all areas of life affecting their potential to participate in society. Participating States should take appropriate measures to reverse these practices;
- We call on the Kazakh Chairmanship of the OSCE to include references to sexual orientation, gender identity and gender expression in the final conference declaration of the Chairmanship-in-Office;
- We recommend Uzbekistan and Turkmenistan to decriminalize homosexuality. In these two OSCE participating States homosexuality is still a criminal act.

Furthermore we recommend the OSCE and participating States:

- To take all measures in the field of law enforcement and any other measures to prevent and protect people from all forms of violence and harassment, including on the grounds of actual or perceived sexual orientation, gender identity and expression;
- To implement all legislation necessary to introduce criminal sanctions for violence, threat of violence, incitement to violence on the grounds of actual or perceived sexual orientation, gender identity and expression in relation to any person or group in private and public spheres of life;
- To take all necessary measures of legislative, administrative and other character in order to prevent the use of the victim's sexual orientation or gender identity for justification or diminishing the seriousness of such violence;



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- To provide for adequate investigation of the facts of such violence, to consider it as a potential hate crime from the beginning of the investigation;
- To prosecute, charge, try and to provide an enhanced sentence to the perpetrator for hate crimes on any grounds, including sexual orientation, gender identity and expression, where enough evidence is collected;
- To include hate crimes on the grounds of sexual orientation, gender identity and expression in national hate crimes data collection mechanisms;
- To implement and support awareness raising programs targeting the general public of hate crimes, with the purpose of overcoming prejudices which are the basis of hate-motivated crimes;
- Participating States should ensure respect for the freedom of assembly for lesbian, gay, bisexual and transgender people by authorising their public manifestations and providing adequate protection for pride marches;
- Extend the mandate of the Personal Representative on Combating Racism, Xenophobia and Discrimination and to include in his mandate combating homophobia. The OSCE should commit itself to a non-hierarchical approach to combating discrimination. The extension of the mandate of the Personal Representative is an important step towards such approach.