



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



CommDH(2010)6
English only

Ref: CommHR/BU/sf 189-2009

Ms Irena DEGUTIENĖ
Speaker of the Seimas

Strasbourg, 9 December 2009

Dear Speaker,

I am writing to express my concern about some legislative proposals that are presently being discussed in the Seimas. More specifically, my concern relates to certain draft amendments to the “Law on the Protection of Minors against the Detrimental Effect of Public Information” and to the Penal and Administrative Codes, which discriminate against people with a homosexual or bisexual orientation.

On 19 and 20 October 2009 I visited Lithuania and had fruitful discussions with representatives of the government and with parliamentarians. I shared with them my preoccupation about the xenophobic and homophobic tendencies that seem to be on the rise all over Europe against the background of the economic crisis. Now, more than ever, there should be measures aimed at increasing public awareness of the situation of groups which are subjected to discrimination or intolerance, and at ensuring respect for everyone’s human rights. I believe that national parliaments should have a leading role in this process.

During my visit, I expressed my concerns to parliamentarians and government representatives regarding the draft amendments to the 2002 “Law on the Protection of Minors against the Detrimental Effect of Public Information”. Those amendments include provisions which stipulate that information which “agitates for homosexual, bisexual and polygamous relations” causes a detrimental effect upon the mental health, as well as the physical, intellectual or moral development of minors. At that time, I learned of the initiative of the President of Lithuania, who presented proposals prepared by her expert group to the Seimas, with a view to changing the wording of the amendments. I understood those proposals as improvements, and it was my understanding that they would be accepted by the Seimas.

Despite this promising initiative, I learned that on 2 December 2009 the plenary of the Seimas approved in the first reading an amendment submitted by Mr Gintaras Songaila, MP, which includes public information “that encourages homosexual and bisexual relations [...]” among the information that has a detrimental effect on minors.

I am also concerned about proposed amendments to the Penal Code and Administrative Code which are scheduled to be discussed in the Seimas and which would make the “promotion of homosexual relations in public places” a criminal offence punishable with a fine or arrest. If adopted, these amendments would potentially prohibit a wide range of activities, such as public demonstrations, speeches, events on LGBT (lesbian, gay, bisexual, transgender) human rights as well as providing information about or to LGBT people.

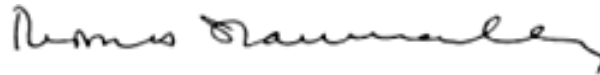
I believe that the above-mentioned provisions will violate the European Convention on Human Rights (ECHR), in particular the right to the freedom of assembly and association, the right to freedom of expression, including the right to seek, receive and impart information, and the right to be free from discrimination.

On several occasions the European Court of Human Rights underlined that the concept of sexual orientation is undoubtedly covered by Article 14 of the Convention (prohibition of discrimination), reiterating in that connection that the list set out in that provision is illustrative and not exhaustive (e.g. in the case of *Salgueiro da Silva Mouta v. Portugal*, 21 December 1999).

I hope the Seimas will look into the above issues as a matter of priority and adopt all necessary measures in order to respect Lithuania's obligations under the ECHR not to discriminate on the ground of sexual orientation.

I look forward to receiving your reply and to continuing a constructive dialogue on the above questions with the Lithuanian authorities.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Thomas Hammarberg', with a stylized flourish at the end.

Thomas Hammarberg

cc. Mr Emanuelis ZINGERIS
Head of the Lithuanian delegation to PACE