

Summary of Points

EIN briefing to the Committee of Ministers on 06 September 2019

The following recommendations were presented at the briefing by:

(1) Nigel Warner, ILGA Europe, (2) Veronika Bazalová, Office of the Public Defender of Rights and Štěpán Drahoukoupil, Open Society Fund Prague, (3) Daniel Holder, Committee on the Administration of Justice, and (4) Panayote Dimitras, Greek Helsinki Monitor.

(1) GENDERDOC-M v. Moldova (Application no. 9106/06)

It is important to recall that progress by the Moldovan LGBTI community in achieving the right to exercise freedom of assembly free from discrimination has taken some 14 years of sustained effort by that community often in the face of violence, threats and unremitting hostility. The ECtHR's judgment in GENDERDOC-M v. Moldova and seven years supervision of implementation of the judgment by the Committee of Ministers have provided crucial support for this achievement.

- We respectfully urge the Committee of Ministers to keep open the supervision mechanism until such time as there is a reasonable degree of confidence that this important achievement will not be jeopardised by the accession to power of authorities with an agenda inimical to this right.

(2) D.H. and others v the Czech Republic (Application No 57325/00)

In the case of D.H, the Committee of Ministers should request the Czech authorities to:

- amend the Anti-Discrimination Act so that it allows for action in the public interest (*actio popularis*) and class action procedures to challenge institutionalized forms of discrimination,
- monitor and provide disaggregated data on Roma pupils that will differentiate between pupils with mild mental disability and pupils with other disabilities educated under the reduced education programmes, so that the Committee of Ministers is presented with more accurate numbers on the implementation of the case,
- withdraw from the proposal that limits number of pedagogical staff in the classroom and that allows establishment of special schools for pupils with various kinds of disabilities,
- monitor the level of ethnic segregation in education and adopt appropriate desegregation measures.

In addition, the Committee of Ministers is invited to monitor the implementation of the D. H. case until there is a drop in proportion of Roma educated in reduced programmes **by 2,88 percent points in 5 consecutive years**, starting by the school year 2018/2019:

- Base line situation (2017/2018): 29,5 percent
- Goal: 3,6 percent after 9 years – one elementary school cycle
- Goal in 2022/2023: 15,1 percent
- Drop: 2,88 percent per year

(3) McKerr group of cases v the UK (Application No 28883/95), with a focus on the Finucane case (Application No 29178/95)

General Measure:

The Ministers' Deputies may wish to press the UK for clarity and a clear timetable in relation to the implementation of the new legacy institutions under the Stormont House Agreement, in an ECHR compliant manner, specifically:

- When the UK will publish its policy response to the consultation, including amended draft legislation,
- A timetable for the introduction of the SHA legislation, in an ECHR complaint manner, into the UK Parliament.

Individual Measure: Finucane

Thirty years after this murder of human rights Lawyer Pat Finucane, and after numerous broken commitments, there is an urgent need for a fully independent Article 2 public inquiry into his murder. Given the lack of clear commitment from the UK in response to the UK Supreme Court ruling of February 2019, that no Article 2 compliant investigation had taken place to date, we call upon the Ministers' Deputies to re-open examination of this individual measure.

(4) Bekir-Ousta and others group of cases against Greece (Application No. 35151/05)

The Ministers' Deputies are urged to conclude that there has been no tangible progress and that there cannot be any tangible progress with this evidently ineffective procedure of reopening the proceedings in civil matters. They should therefore amend their Decision [in their 1280th meeting](#), on 7-10 March 2017, so as to ask Greece this time:

- to take legislative measures to change the procedure for registration of associations while bearing in mind the findings of the European Court in this group of cases;
- to decide to resume examination of this item at a preferably early 2020 meeting in light of concrete information to be provided by the Greek authorities; and
- to instruct the Secretariat to prepare an interim resolution to be circulated with the revised Order of Business, in case no tangible progress has been reported by then.