

Speaking notes, Petter F. Wille, Permanent Representative of Norway to the Council of Europe

Welcome this, very timely report which demonstrates that further steps need to be taken to address discrimination on grounds of sexual orientation and gender identity.

The report provides us with a solid knowledge base for further measures, as well as for a more informed debate. These issues must not only remain on our agenda, but be given higher priority.

I am invited to participate in this panel as chairperson of the rapporteur group on human rights. My point of departure is thus International Human Rights law which clearly recognises that each and every one of us is entitled to the same rights, regardless of our sexual orientation or gender identity. The principles of equality in dignity and rights and non-discrimination are fundamental in international human rights law.

Homophobia and transphobia are no different to racism or xenophobia. But where these forms of prejudice are universally condemned by Governments, homophobia and transphobia are too often overlooked.

History shows us the terrible human price of discrimination and prejudice. No one is entitled to treat a group of people as less valuable or less worthy of respect.

Although sexual orientation and gender identity are not expressly mentioned as prohibited grounds of discrimination in international human rights law, practice from the UN shows that the respective treaty bodies have interpreted sexual orientation and gender identity within the scope of the list of prohibited grounds of discrimination.

The European Court of Human Rights has also confirmed that sexual orientation is a discrimination ground covered by article 14 of the Convention. The Court has issued several judgments on discrimination on grounds of sexual orientation in which article 14 has been invoked in conjunction with substantive articles, in particular article 8 on respect for private and family life.

Other provisions of great importance for LGBT persons, are freedoms of assembly, expression and association. Far too often discriminatory reactions occur when LGBT persons join together to form associations, express their views or demonstrate in public.

Although the report shows that a large majority of member states have adopted legislation to prohibit discrimination against persons because of their sexual orientation, far too many states have not enacted such legislation. It is also disappointing to see the findings in the report that the legislation in many states does not give sufficient protection.

These shortcomings need to be addressed. All member states have an obligation to ensure that the sexual life and sexual integrity of each person is protected as part of the right to privacy. Furthermore, states must ensure freedom from discrimination based on sexuality and freedom to sexual activity based on consent. In his conclusions, the Commissioner states that the report offers a tool for dialogue with

governments. This offer should be welcomed. The findings in the report are a clear message to all of us to review the situation in our own countries. At the same time we should ask each other what more can the Council of Europe do to follow up the report?

Some preliminary answers could be as follows:

Firstly, the report should be widely distributed and debated, i.a. following presentations by resource persons. We should have a dialogue with LGBT-persons.

Secondly, our monitoring bodies should benefit from the report in their work. It would be an advantage if findings from the monitoring bodies could be transformed into needs assessment.

Thirdly, the report is a useful tool for the Council as well as for the member states in implementing the declaration adopted by the Committee of Ministers last year on measures to combat discrimination on grounds of sexual orientation or gender identity. It was then decided that the Committee of Ministers should examine the implementation of the Declaration three years after its adoption. The report should be an important reference document in this examination.

We should also benefit from the priority given to these questions by the UN Human Rights Council. Last week the Human Rights Council adopted a resolution where it for the first time condemned discrimination on the basis of sexual orientation. The resolution requests the High Commissioner for Human Rights to commission a study to document discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. The Council also decided to convene a panel discussion during its session in the spring of 2012, based on the findings of the study.

This shows that the Council of Europe is not alone in setting LGBT-rights on the agenda. There are many good reasons for cooperating with the UN in this area. Our report could be an important reference point for the UN study. I also hope that the Commissioner will be invited to participate in the panel debate. We should be in the front, but working with the UN in this area will strengthen our message in reminding each other of what we are working for; equal rights for everyone, whoever they are, whoever they love. Necessary legislation must be in place, and go hand in hand with social change to enable LGBT persons to fully enjoy universally recognised human rights and fundamental freedoms.

In conclusion, Norway is ready to play an active role as an advocate for the human rights of LGBT people, and we offer our full support to your efforts in this area.