Joint statement on today's long-awaited judgment from the European Court of Human Rights on violations of LGBTI human rights in Armenia

article, protection from violence and hate, hate crime

ILGA-Europe and TGEU celebrate the judgement of the European Court of Human Rights in the case of *Minasyan and Others v. Armenia,* upholding the rights of victims of homophobic and transphobic hate speech.

Today, the European Court of Human Rights issued a judgement in the case of *Minasyan and Others v. Armenia.* The case was brought forward by 14 Armenian human rights defenders and activists who supported and/or belonged to the LGBTI community and were victims of homophobic and transphobic hate speech. The Court found a violation of Article 8 of the European Convention on Human Rights (right to private and family life), taken alone and in conjunction with Article 14 of the Convention (prohibition of discrimination).

The case concerns the publication of newspaper articles in 2014 that contained discriminatory language and incitement to discrimination against the applicants due to their association with the LGBTI community and/or their perceived sexual orientation or gender identity, and which included links to the applicants' social media profiles. The article followed the applicants' comments challenging Armenian Eurovision Song Contest jury members' statements criticising the winner that year, Conchita Wurst. The applicants instituted civil proceedings against the newspaper but the Armenian courts dismissed the case and ignored the allegations of discrimination based on actual or perceived sexual orientation and gender identity.

The European Court ruled that the publications in question propagated hatred, hostility and discrimination against a minority, the LGBTI community, which was one of the main targets of widespread hostility, hate speech and hate-motivated violence in the country. It also confirmed that the publications were meant to incite intolerance and hostility against the applicants, with the clear intention of intimidating them and causing them real harm. The Court had no doubt that such expressions affected the applicants' psychological wellbeing, dignity, and reputation and constituted serious attacks on their rights guaranteed by the Convention.

The Court also observed that there was only a civil remedy available to the applicants, and while in theory, such remedy was capable of providing effective protection from homophobic hate speech, it had doubts about its effectiveness in practice. The Court found that the domestic courts failed to balance the competing interests between the journalists' right to freedom of expression and the applicants' right to respect for their private life. As a result, the Court found that the domestic courts failed to recognise the authors' hostile tone and intentions and the impact that his statements had on the applicants' Article 8 rights. The Court ruled that by doing so, the domestic courts failed to protect the applicants against hate speech and to address the discriminatory nature of the hateful statements.

ILGA-Europe and TGEU jointly filed a third-party intervention in this case submitting that

- homophobic and transphobic statements constitute hate speech that violates Convention rights due to their humiliating and stigmatising effect;
- States have a positive obligation under the Convention to protect against hate speech on the basis of

sexual orientation and gender identity
- and that LGBTI persons and affiliates in Armenia are prevented from seeking redress against hate speech and continuously struggle to enjoy equality due to the lack of adequate legal framework and the hostile attitudes against the LGBTI community.

According to Hasmik Petrosyan, Lawyer at Pink Armenia: “This is already the second judgement by the ECtHR which states that Armenia has failed to provide effective protection for LGBT people against hate speech. Since the judgement on the case *Oganezova v. Armenia*, for two and a half years, the State could not provide evidence that the Criminal Code article on liability for public calls to violence is being effectively applied in practice. At the same time, the Government has been discussing the anti-discrimination law for almost ten years and the draft still lacks effective mechanisms to protect LGBT people. Pink Armenia will be engaged in the monitoring of the implementation of the judgment.”

TGEU’s Senior EECA Programme Officer, Daniyar Orsekov, said: “TGEU welcomes the judgement of the European Court of Human Rights on Armenia where trans people have little to no legal protections. At a time when anti-LGBTI sentiment is being enshrined in law and therefore further legitimised in the Caucasus, this judgement sets an important legal precedent that can inspire activists to pursue justice and encourage courts in Armenia and the region to uphold the rights of LGBTI communities. In environments where hate speech is allowed to flourish, acts of hate-fuelled violence are not far behind. We call on the Armenian authorities to recognise homophobic and transphobic speech as hate speech and protect LGBTI communities.”

ILGA-Europe’s Senior Strategic Litigation Officer, Marie-Hélène Ludwig, added: “This is a long-awaited judgment that makes clear that States should provide effective protection against homophobic and transphobic hate speech not to foster impunity. We trust that Armenian authorities will put in place the necessary legislative measures to explicitly prohibit discrimination on the grounds of sexual orientation and gender identity and bias-motivated crimes to prevent similar cases from taking place in the future.”

More info

Read Pink Armenia’s full statement on the judgement here: https://pinkarmenia.org/en/news-events/echr-blacklist/