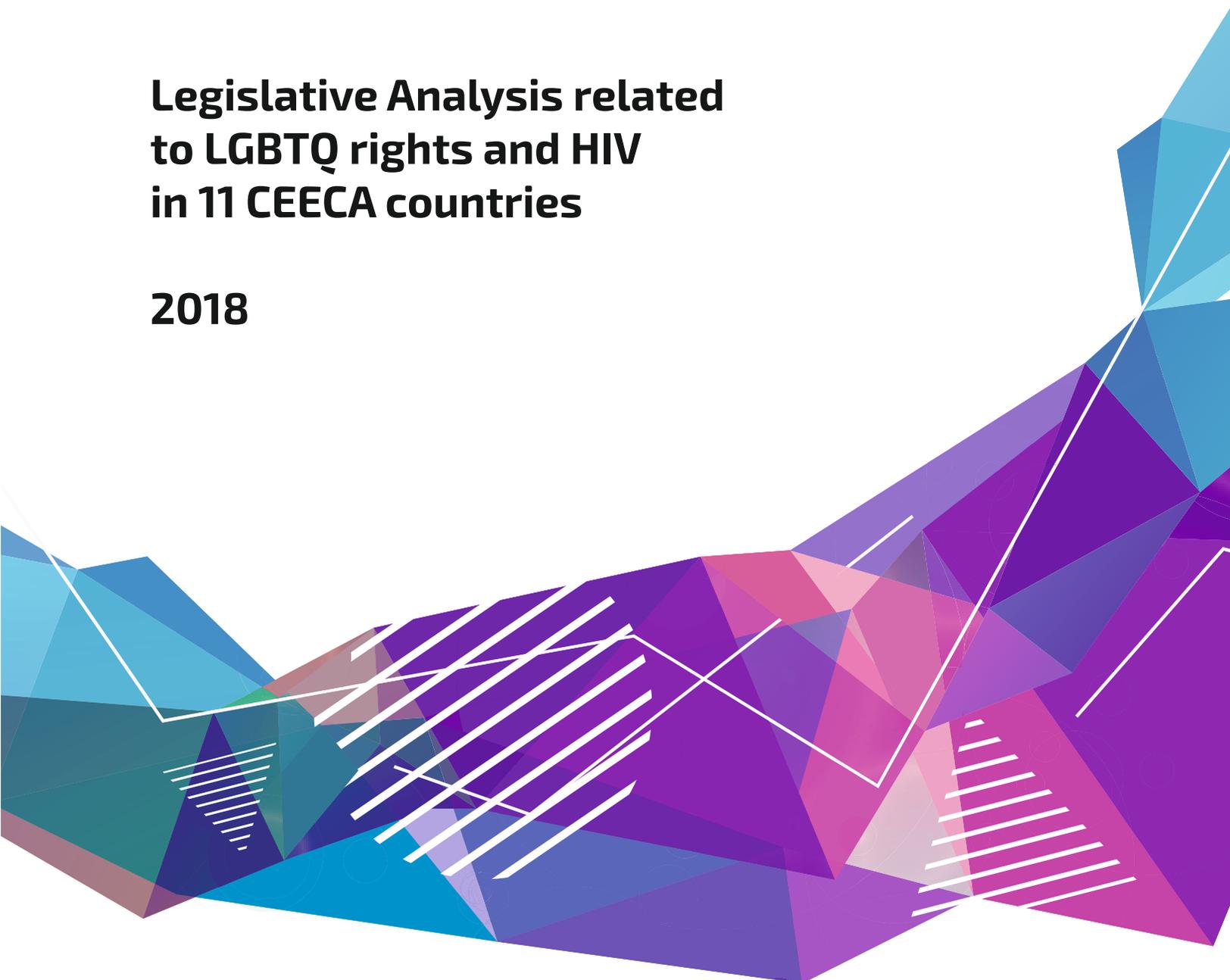




*Eurasian Coalition  
on Male Health*

# **Legislative Analysis related to LGBTQ rights and HIV in 11 CEECA countries**

**2018**



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The information presented in this document may be useful for non-governmental organizations, community activists, and government representatives in planning advocacy processes and in promoting the rights of gay men, other MSM and trans people, as well as in overcoming barriers that limit their access to services.

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The views described herein are the views of the authors, and do not represent the views or opinions of The Global Fund to Fight AIDS, Tuberculosis & Malaria, or the views or opinions of MSMGF.

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# **Legislative Analysis related to LGBTQ rights and HIV in 11 CEECA countries**

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## List of abbreviations:

<b>EECA</b>	Eastern Europe and Central Asia
<b>HIV</b>	human immunodeficiency virus
<b>LGBTQ</b>	lesbian, gay, bisexual, trans and queer people
<b>PLHIV</b>	people living with HIV
<b>MSM</b>	men who have sex with men
<b>NGO</b>	non-governmental organization
<b>TB</b>	tuberculosis
<b>SOGI</b>	sexual orientation and gender identity

## List of the EECA countries, where the analysis was conducted:

Azerbaijan  
Armenia  
Belarus  
Georgia  
Kazakhstan  
Kyrgyzstan  
Macedonia  
Moldova  
Russia  
Tajikistan  
Ukraine



**Victor Madrigal-Borloz**

United Nations Independent Expert on Violence and Discrimination Based on Sexual Orientation and Gender Identity

*Copenhagen, 20 January 2019*

I am delighted to present this Legislative Analysis related to LGBTQ rights and HIV in 11 CEECA countries. In my 2018 Report to the United Nations Human Rights Council (A/HRC/38/43) I advised that “[i]n a context of negation, perpetrators feel motivated and enabled to suppress or punish diversity. Invariably, any data gathered will be unreliable, unsystematic and biased.” Indeed, lack of reliable data is one of the most disabling factors in the construction of solid public policies, access to justice, and law reform or administrative actions.

The task undertaken by the Eurasian Coalition on Male Health, ECOM, to fill some of these data gaps is therefore commendable. This report creates a solid diagnostic of barriers within disabling environments in 11 countries, the population of which aggregates to close to a quarter-billion people. Barriers range from lack of anti-discrimination laws, abusive limitations to the freedoms of expression and right to peaceful assembly and intrusions in privacy; disabling conditions are exacerbated by stigma contained in public attitudes, which in their turn is reinforced by State action, or its inaction to investigate violence and discrimination. To these are added current challenges of civil society spaces effectively being shrunk by unnecessary, disproportionate and unreasonable limitations to governmental and non-governmental funding.

Within this complex context, the analysis provided by ECOM is an indispensable point of reference for the complete diagnostic of the problematic, incumbent upon the State authorities tasked with the promotion and protection of human rights of all persons. Only such a complete, unbiased and well informed diagnostic will lead to the building of an efficient and effective agenda to eradicate violence and discrimination on the basis of sexual orientation and gender identity.

## Introduction

The goal of this comparative analysis of barriers not allowing gay men, other MSM and trans people to fully enjoy their rights in 11 EECA countries is to define the legal barriers and identify the challenges in cases when the required legislation is already available, but where it does not fully allow to exercise LGBTQ rights and freedoms.

To conduct such analysis, ECOM developed a methodology and a questionnaire (which you may find below in this document), which were completed with the help of our partners in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, the Republic of Belarus, the Republic of Macedonia, the Republic of Moldova, the Russian Federation, Tajikistan and Ukraine. When conducting the analysis, consideration was given to regulations, judicial practices and to the information provided by local activists, received from the organizations documenting cases of human rights violations and protection of such rights, news in mass media, and reports of non-governmental organizations submitted to the international bodies.

Legislation and law enforcement practices were analyzed in the context of their compliance with the international standards of human rights and freedoms. Consideration was given not only to whether relevant laws are available and comply with the standards, but also whether such laws are accessible to gay men, other MSM and trans people as even the fact that some law is available in some country, but part of its population cannot use it, still means that there are legal barriers.

In this report, the following cases are viewed as legal barriers:

- situations when the existing legislation in the country directly prevents gay men, other MSM and trans people from exercising the same rights that heterosexual cis-gender people have (e.g., prohibition for homosexual people to be blood donors or requirement to provide HIV status certificates for immigrants);
- situation when the existing legislation in the country excludes gay men, other MSM and trans people from different areas of social life by not mentioning their existence (SOGI not mentioned in the national anti-discrimination laws, lack of gender confirmation procedures, opportunities to adopt children only for heterosexual couples).

In this document, enabling legislation allowing to exercise rights and freedoms means:

- situations when the existing laws directly mention SOGI (e.g., SOGI mentioned in the anti-discrimination law or in the criminal code);
- availability of separate, clear and realistic legal name change as well as sex reassignment/correction procedures for trans people;
- situations when the legislation does not mention SOGI but is equally used to protect people irrespective of their characteristics (e.g., in terms of opportunities to exercise rights to the freedom of expression, peaceful assembly and association for LGBTQ).

To present information on the legislation currently in force, in this review we use extracts from regulatory documents or references thereto, which are, unfortunately, not always correct and fail to comply with the international standards and principles. In such cases, the original wording is retained to ensure objective demonstration of the existing regulatory framework and the language used. All the extracts from regulatory documents are given in italics with relevant references. All the references are provided in the end of this review.

The information presented in this document may be useful both for non-governmental organizations and community activists and for the governments, when planning advocacy processes, promoting the rights of PLHIV, gay men and other MSM, trans people and eliminating the barriers hindering their access to services and protection of their rights and freedoms.

## Methodology:

Desk research tools – guidelines on how to fill in the country tables and the tool to calculate country scores – were developed specially for the regional program "Right to Health" and project "Together for Our Rights" to assess progress in eliminating the legal barriers for gay men, other MSM and trans people in their everyday lives and when seeking HIV and other health services.

The tool to calculate the country scores (and collect the country information) included two main sections: "legal barriers" and "protection". Thus, both the legal barriers and the existing level of protection of the rights and freedoms of gay men, other MSM and trans people in every country were analyzed in such areas as healthcare, exercising rights to the freedom of expression, peaceful assembly and association for LGBTQ, possibility of legal name change as well as gender confirmation procedures for trans people, protection from discrimination on the grounds of SOGI as well as opportunities to receive state funding for the organizations supporting LGBTQ.

In each of the two sections, questions related to each of the areas analyzed were repeated, with different nuances taken into account. The complete list of questions can be found in Annex 1.

Each component was assessed from different perspectives, which increased the credibility of such assessment and allowed assessing the level of existing legal barriers and their impact on the lives and rights of gay men, other MSM and trans people in practice. Every response was supported with relevant regulations (reference and extract), with some responses also confirmed with the cases collected in the countries.

The first section "Legal barriers" required selecting "yes" or "no" answers in column B. After that, in column C the score had to be written down, with 1 assigned for answering "yes" and 0 – for answering "no".

"Yes" response in this section means presence of a certain legal barrier (law or regulation, containing prohibition or restriction for certain actions or rights and freedoms for gay men, other MSM and trans people as compared with heterosexual cis-gender people).

"No" answer in this section means that the same legal norms are applied to all people irrespective of their sexual orientation and/or gender identity, with gay men, other MSM and trans people having the same rights as heterosexual cis-gender people.

The same approach was used for the second section called "Protection". Each of the questions also offered "yes" or "no" answers, with 1 score assigned for answering "yes" and 0 – for answering "no".

Section 1 of this review compares the number of legal barriers and the level of protection and shows to what extent current level of protection is not able to overcome the existing barriers. Besides, law enforcement practice is analyzed, often showing that the low level of barriers or the high level of protection is only the "tip of the iceberg", while the real situation of gay men, other MSM and trans people can be assessed only when analyzing the combination of these factors and their practical application.

Section 2 of this review presents country profiles with a focus on the most critical issues and with the cases collected by consultants and showing the actual situation on the ground.

## Summary

Eleven countries where the review was conducted have a number of common negative factors: first, high level of HIV prevalence; second, insufficient steps of the national governments in response to the spread of HIV and their reliance on the international funding in this area; third, legal gaps and outdated regulations, which prevent gay men, other MSM and trans people from fully exercising their rights and living in security as other citizens of their countries. Public attitudes in all 11 countries are also characterized with a high level of homophobia and transphobia, which, together with legal barriers and insufficient legislation to protect gay men, other MSM and trans people, leads to exclusion of the latter from active social life and their isolation.

The main challenges in the HIV response, prevention and care for people living with HIV in the region remain as follows: requirement to submit HIV status certificates for migrants and exclusion of non-residents from the list of people who can have regular access to ART, which is especially painful for same-sex families and partnerships as they cannot use the opportunity to receive residence permit and citizenship through family connections in the countries where cohabitation and marriage are recognized only for heterosexual people. The second challenge is barriers in access to government funding for the NGOs providing HIV prevention and treatment services to gay men, other MSM and trans people in some countries of the region, which are related not only to the beneficiaries of such NGOs but also to the bureaucratic procedures and the general level of human rights protection in the countries. There is a shrinking space for civil society in the Russian Federation, Tajikistan and Belarus.

As for the legal barriers preventing gay men, other MSM and trans people from exercising their rights and freedoms on equal terms with heterosexual people in their countries, it is worth mentioning regulations and law enforcement practices restricting the freedom of expression and peaceful assembly for LGBTQ community members. In such countries as Azerbaijan, Tajikistan, Russia and Belarus, systematic prohibitions for the civil society to hold peaceful assemblies and demonstrations as well as the norms abridging the freedom of expression among other things reinforce isolation of the LGBTQ community in the society and do not contribute in any way to LGBTQ inclusion and increasing the level of tolerance.

Another important legislation gap, which is typical for the whole region, except Georgia, Macedonia, Moldova and Ukraine, is lack of anti-discrimination laws. In the countries where there are separate laws defining discrimination, there are still gaps in their equal enforcement in relation to all the protected grounds as well as development of the legal precedents. Taking into account the closed nature of the LGBTQ community and the general level of trust to law enforcement and judicial systems, the number of discrimination-related complaints from gay men, other MSM and trans people is considerably lower than the data presented by NGOs after conducting monitoring of such cases.

Another critical issue is registration and effective investigation of the hate crimes against LGBTQ. Today, relevant barriers in the EECA region include not only legislation gaps, but also reluctance of the law enforcement bodies to accept complaints from the LGBTQ community members, effectively investigate such crimes and bring them to courts. No major changes in law enforcement practices in this area have been registered in either of the countries analyzed. However, in the countries with anti-discrimination laws and strong NGOs, which provide assistance to victims and monitor the work of police, the situation is much better than in other countries, with rare cases even brought to court and offenders convicted.

Another critical issue is lack of non-stigmatizing and gender confirmation procedures, in particular opportunity to reassign legal gender without going through a number of mandatory surgeries. There are such gaps in each of the EECA countries – starting from the lack of any regulations at all, which makes trans people seek medical assistance in other countries, or mixed procedures, when some elements are present in the country, while others are not (e.g., gender confirmation procedure mentioned among the grounds to change documents, with lack of the protocol for conducting such procedure or lack of qualified medical professionals to work with trans patients) and ending with the requirements to undergo mandatory dehumanizing and traumatic surgeries for trans people to be able to change their legal documents.



More detailed information about the barriers in different areas as well as with the existing level of protection for gay men, other MSM and trans people with a description of each of the EECA countries analyzed can be found in Sections 1 and 2 of this review.

## Section 1.

# Comparative analysis of the situation with barriers and protection of the rights of gay men, other MSM and trans people in 11 CEECA countries

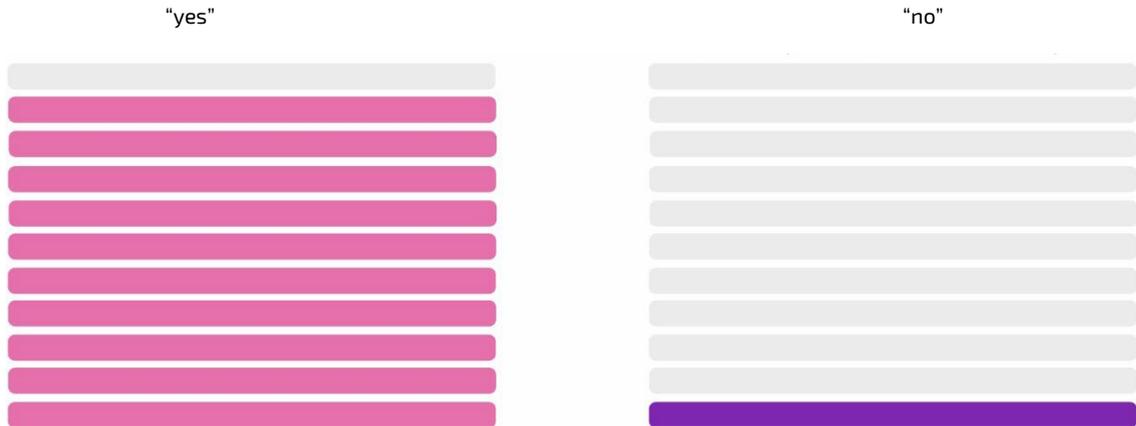
*Desk research conducted by the national consultants of ECOM in 11 CEECA countries brought answers to some questions presented in the table and required to assess the number and the nature of the existing legal barriers as well as their impact on the lives of gay men, other MSM and trans people. Based on the responses to structured questions in each country, the project team assessed the level of country development in terms of rights protection and the number of legal barriers.*

*The desk research covers different areas, starting from immigration rules for people living with HIV and ending with access to general health services for gay men, other MSM and trans people. There are also sections with questions about legal protection from discrimination and with description of the government response to hate crimes and prosecution of offenders committing such crimes.*

## Health-related barriers and protection

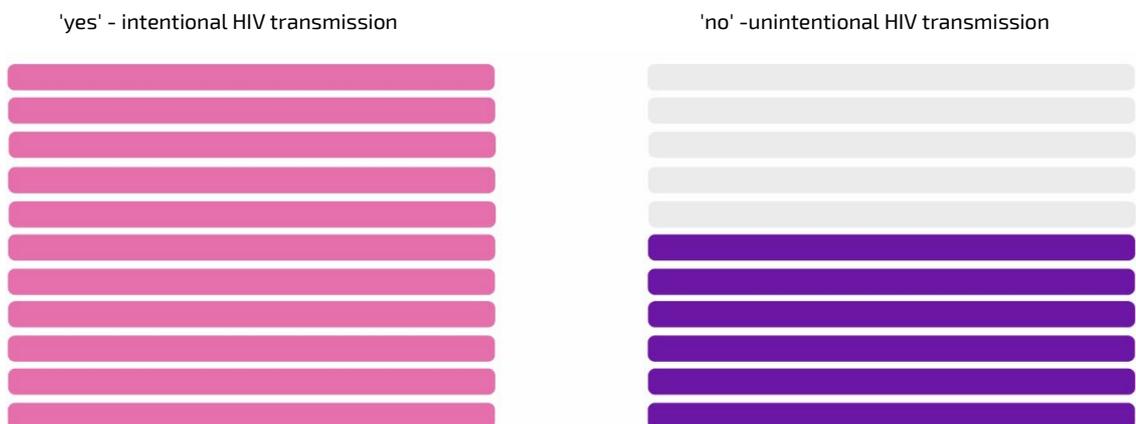
In 10 out of 11 countries of the region there are regulatory requirements to submit health certificates with the results of HIV tests for the immigrants who apply for a long-term visa or a long-term residence permit. The only exception is the Republic of Macedonia where there is no such requirement.

### Does your country have regulations that require immigrants to provide information about their health status (and/or HIV status) when applying for long term visa or stay permit?



The analysis shows that this norm is actively applied to PLHIV in the Russian Federation, where numerous cases of deporting HIV positive immigrants were registered. There is a decision of the Russian Constitutional Court stating that the legislative bodies should change the deportation requirement for PLHIV whose family members live in the Russian Federation. However, this decision will not affect gay men, other MSM and trans people, if they do not have a heterosexual marriage registered as same-sex family relations are not regulated (recognized) in Russia. The same situation may be relevant to any other country where there are similar requirements for the immigrants to submit HIV-free certificates, if such country fails to recognize same-sex partnerships as families – which applies to all 11 CEECA countries.

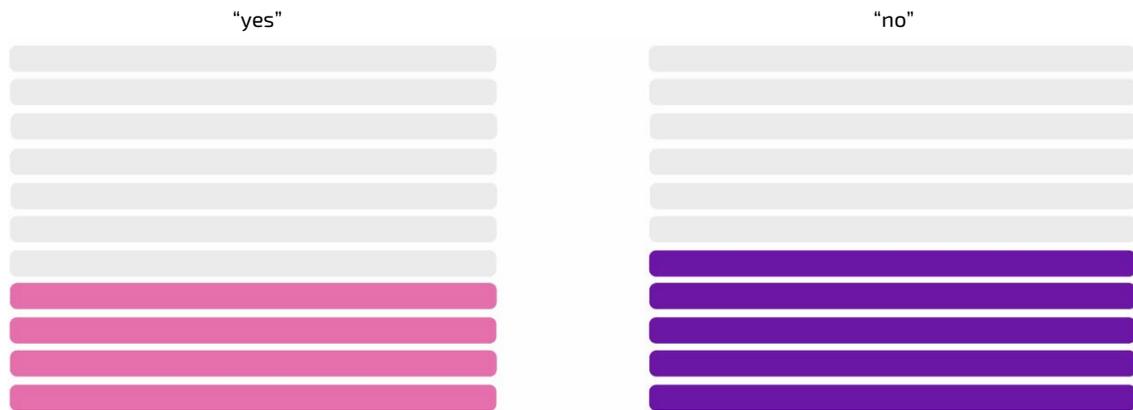
### Criminalization of intentional/unintentional HIV transmission



In all the CEECA countries analyzed, Criminal Codes criminalize intentional HIV transmission. In five countries out of 11 there is also responsibility for unintentional HIV transmission. Exceptions are Azerbaijan, Armenia, Kazakhstan, Moldova, Russia and Tajikistan, where there is no responsibility for unintentional HIV transmission. Local consultants have not found any cases when gay men, other MSM and trans people were prosecuted under those provisions of the Criminal Codes in the recent years.

In Armenia, Georgia, Macedonia and Ukraine, blood donation procedures contain a prohibition for gay and other MSM to be blood donors. "Homosexual relations" is a widespread term used in the list of contra-indications for blood donation.

**Do your country's healthcare rules set limitations for gay men, other MSM and/or trans people to become blood donors?**



In Azerbaijan, Armenia, Kazakhstan, Kyrgyzstan, Tajikistan and Belarus there are no such requirements to donors in the format of mandatory forms to be filled in. In other countries of the region, such prohibitions are applied in various ways.

The screening form contains a question about sexual contacts of men with other men with a warning to refrain from blood donation as such contacts are associated with higher risks.

Even in cases when blood donation is needed for a specific individual (it may be a partner, a family member or a significant other for gay and other MSM), such procedures, when honestly filling in the required forms, do not allow gay and other MSM to be blood donors. The only possible explanation of this norm continuing to exist is that there still remain myths and misperceptions both in terms of HIV transmission and in terms of LGBTQ community as a whole. The second reason is outdated procedures of testing donor blood and regulating blood donation in general.



## Freedom of peaceful assembly and freedom of expression

This section assesses the possibility to freely speak in support of the LGBTQ community and conduct public events or Pride marches in the CEECA countries. Besides, it contains an analysis of the availability and application of the restrictions known as "gay propaganda" laws, level of cooperation with the law enforcement agencies when holding peaceful assemblies, prohibitions on peaceful assemblies and other attempts of the authorities to restrict the freedom of expression and the freedom of peaceful assembly for gay men, other MSM and trans people.

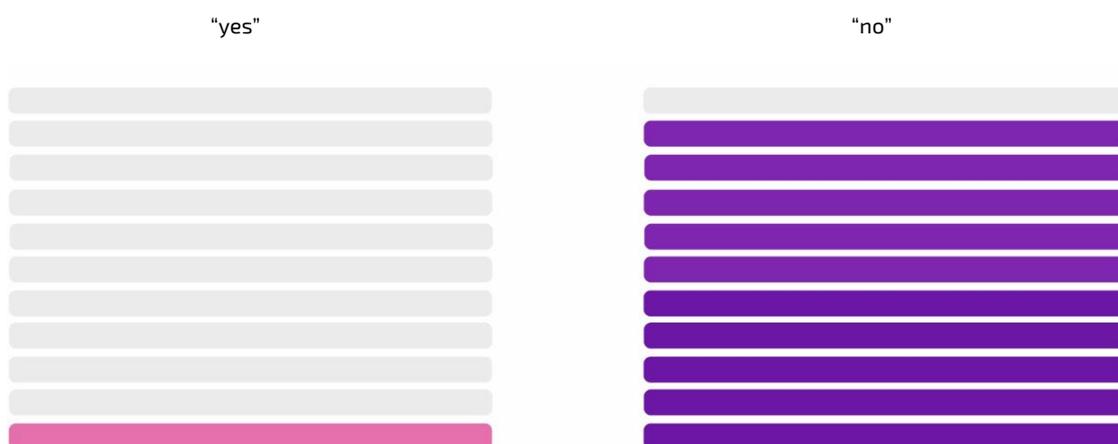
In all the countries, the procedures of conducting peaceful assemblies and maintaining public order during such assemblies are regulated in some way. In some countries of the region, such procedures take the form of notification, when civil society representatives only notify local authorities about their intention to conduct a peaceful assembly and, if needed, inform the police about the need to maintain public order. If only notifications are required (as in Ukraine, Georgia, Moldova and Macedonia), the authorities cannot ban a peaceful assembly at their own discretion and need to take legal action if there is a suspicion that such peaceful assembly may jeopardize public order and security. Meanwhile, in most CEECA countries there is a regulatory approval system applied to peaceful assemblies, when civil society representatives have to receive an approval from local authorities to conduct a peaceful assembly, which allows the authorities to grant approvals in some cases and withhold them in other cases. In this situation, taking into account the level of homophobia and transphobia in the CEECA countries, it is difficult to talk about gay men, other MSM and trans people effectively and freely exercising their freedom of peaceful assembly.

In the laws of the Russian Federation, there is article 6.21 of the Code of Administrative Offenses:

- Promotion of non-traditional sexual relations to minors in the form of dissemination of information aimed at forming non-traditional sexual preferences, appeal to non-traditional sexual relations, distorted perception of social equality of traditional and non-traditional sexual relations in minors or imposing information about non-traditional sexual relations, causing interest to such relations, provided that such actions do not constitute a criminal offense.*<sup>5</sup>

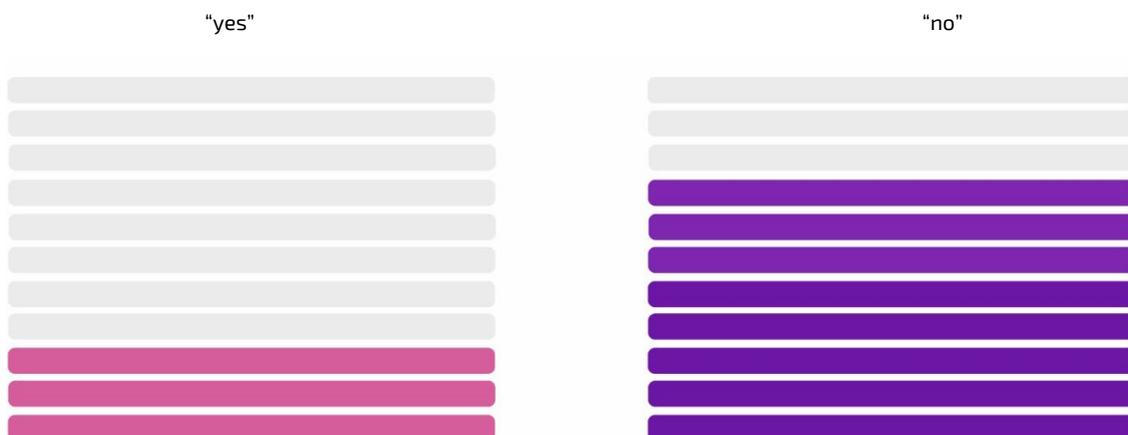
For the purpose of this review, this article may be considered as a direct restriction of the freedom of peaceful assembly for the LGBTQ community members in Russia as there is evidence that it is applied in this context. In other CEECA countries, the laws regulating the procedure of conducting peaceful assemblies do not contain any restrictions, which would limit gay men, other MSM and trans people in exercising their right to peaceful assembly.

### Is there a law specifically prohibiting freedom of assembly and freedom of speech for LGBTQ people?



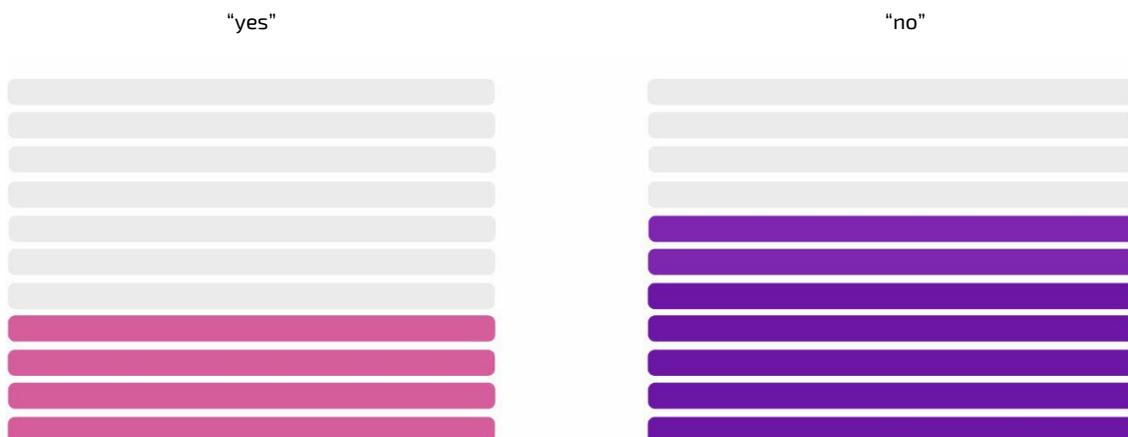
On the other hand, analysis of the law enforcement practices shows quite a different picture.

### Are national and/or local authorities banning Pride marches?



According to the local activists, in such countries as Azerbaijan, Kazakhstan, Kyrgyzstan and Tajikistan there have never been any attempts to conduct peaceful assemblies of the LGBTQ community or any public events to support equal rights for all, including gay men, other MSM and trans people, which would require notifying the authorities or getting their approval. Moreover, in such countries there is a regulatory approval system applied to peaceful assemblies, when participants of any unauthorized peaceful assembly may be detained by law enforcers. Besides, local consultants point out that in those countries peaceful assemblies of any social groups are very rarely allowed by the authorities. Thus, considering the existing level of homophobia and transphobia in the society, local activists do not even think about trying to exercise their freedom of peaceful assembly.

### Does police provide enough security and support to Pride participants to make sure that Pride participants are not attacked by far right and religious groups during the march?

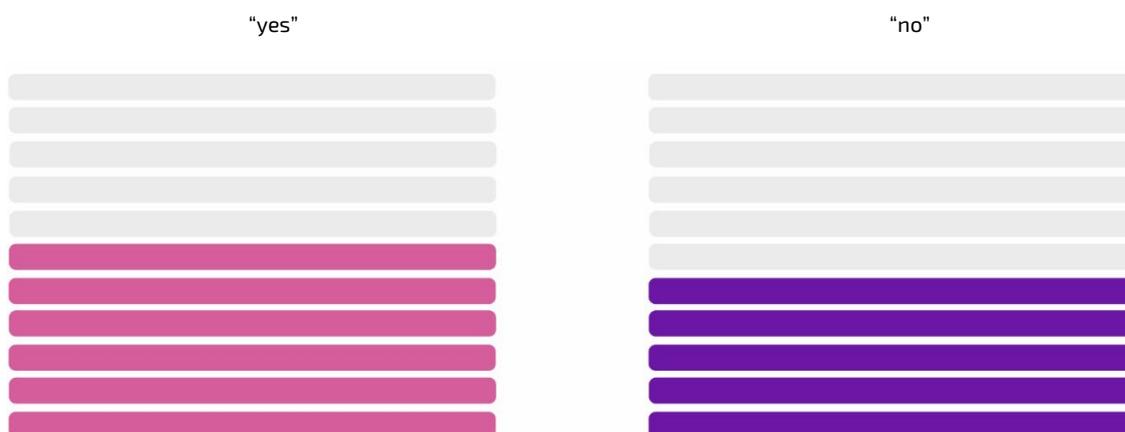


According to the local consultants, in 2018 the situation significantly improved only in three countries. In Moldova, Macedonia and Ukraine, the Pride marches held in 2018 did not raise any critical comments against police in terms of maintaining public order and protection of the participants. In 2017, such situation was observed only in Ukraine. Before 2018, police in Moldova was not able to cope with counter-demonstrations and instead of stopping the opponents of the Pride march and allowing the LGBTQ community members to finish their event, it terminated the peaceful assembly ahead of schedule, requesting that the organizers and the participants leave the venue, on the pretext of their own security.

In other countries of the region, there were either no attempts to conduct peaceful assemblies or such assemblies did not receive sufficient support from the side of law enforcement bodies as it happened in Georgia, when police was not able to ensure safety of the participants:

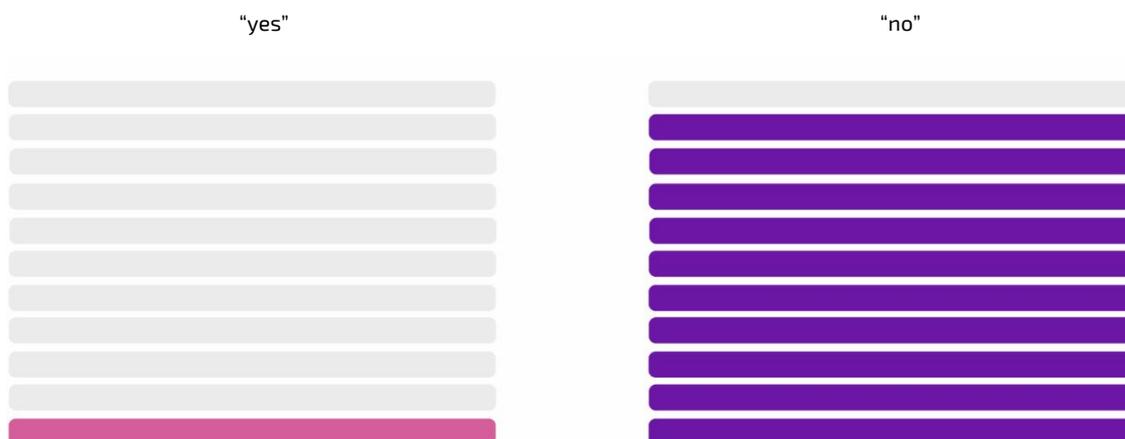
*In 2018, non-governmental organizations refused to conduct an assembly on 17 May because they received information about physical threats to the participants of the event. As a result, the assembly with 1,500 expected participants was attended by very few people. The place was surrounded by police, so it was difficult for peaceful participants to get to the venue due to the police cordons, whereas a young man, who beat a gay activist in the face with his fist so that his lip was bleeding, while he was making a speech in front of journalists, had no problem coming to the place of assembly. The investigation of this case has not been completed yet and nobody was punished for what had happened.<sup>6</sup>*

**Are there any reports about uninvestigated by the police attacks on LGBTQ people and other participants of Pride marches after the march is over?**



In the countries, where peaceful assemblies of the LGBTQ community were held in 2017 and 2018, there were reports about attacks during (before 2018) and after the Pride marches, in particular about failure to timely and adequately investigate such attacks against the participants of such peaceful assemblies. Such cases were documented in Georgia, Moldova, Macedonia, Russia and Ukraine.

**Is there an active law about the prohibition of propaganda?**

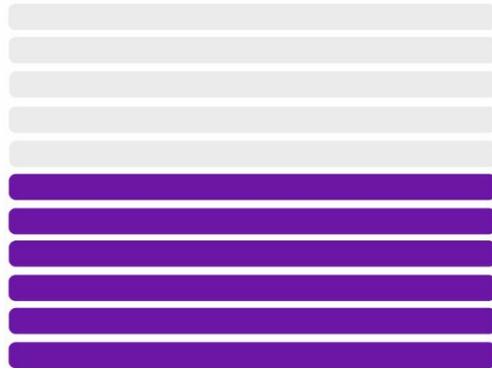
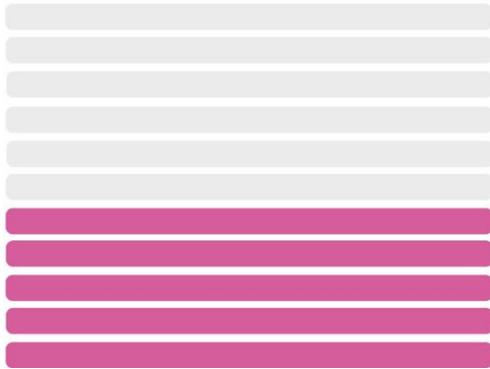


Currently, there is a gay propaganda law only in the Russian Federation. In fact, it is a combination of regulations, including Federal Law dated 29 December 2010 N 436-FZ "On protection of children from information harmful to their health and development" and article 6.21 of the Code of Administrative Offenses, setting responsibility for the "promotion of non-traditional sexual relations to minors in the form of dissemination of information aimed at forming non-traditional sexual preferences, appeal to non-traditional sexual relations, distorted perception of social equality of traditional and non-traditional sexual relations in minors or imposing information about non-traditional sexual relations, causing interest to such relations, provided that such actions do not constitute a criminal offense".

**Have there been any draft laws submitted to the Parliament about the prohibition of propaganda?**

"yes"

"no"



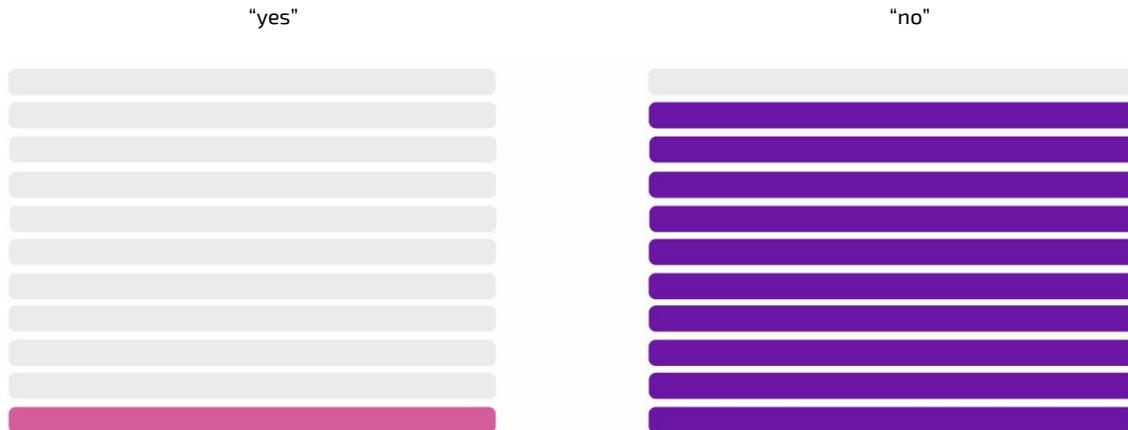
In Kazakhstan, Kyrgyzstan, Moldova and Ukraine there were attempts to submit to parliaments draft gay propaganda laws, which were almost identical to the Russian law. The most recent draft law submitted to the Ukrainian Parliament in June 2018 "On prohibition to publicly manifest any types of sexual orientation" is the most ridiculous variation of the "gay propaganda" ban, which once again fails to define what such propaganda is. The risk of such legislative initiatives is that they significantly abridge the freedom of expression for LGBTQ community members, while not setting any limits, which would be clear and reasonable in a democratic society. This was in particular underlined by the European Court of Human Rights (ECHR) in its decision regarding the case of Alekseyev, Bayev and Kiselev against the Russian Federation. According to the ECHR, the gay propaganda law approved in 2013 violates provisions of the European Convention on Human Rights on the freedom of expression and non-discrimination<sup>8</sup>.

## Non-discrimination

Only in one CEECA country – Georgia – there is a law defining what discrimination is and prohibiting discrimination in various areas, with SOGI directly mentioned in the list of protected grounds.

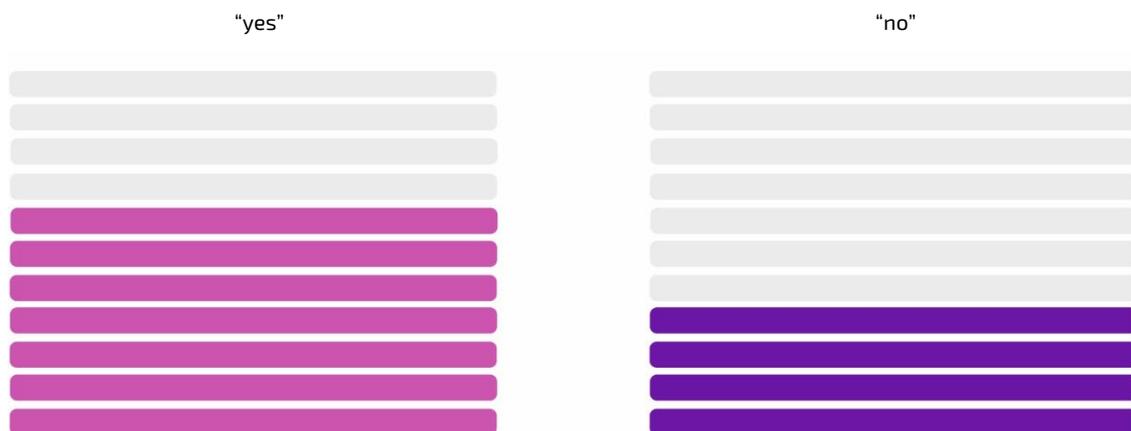
Article 1. This Law is intended to eliminate every form of discrimination and to ensure equal rights of every natural and legal persons under the legislation of Georgia, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics.<sup>9</sup>

### Is there a national law prohibiting discrimination that specifically mentions SOGI in the list of protected grounds?



The countries with anti-discrimination laws containing open lists of protected grounds, not directly mentioning SOGI, are Ukraine, Moldova and Macedonia.

### Is there a national anti-discrimination law with an open list of grounds (but it does not specifically mention SOGI)?



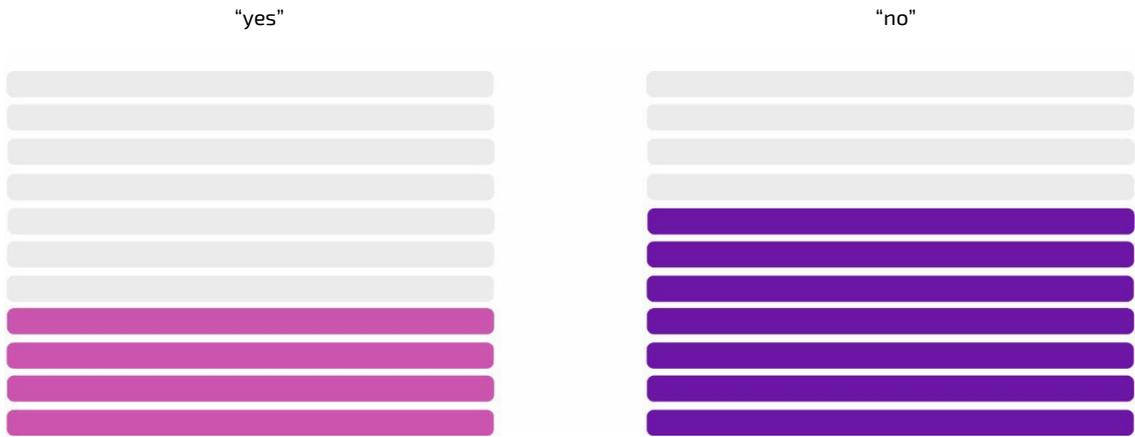
Equality provisions are included in the national Constitutions in Armenia, Kazakhstan and Kyrgyzstan. E.g., the Constitution of Kazakhstan stipulates that *"no one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances"*.

A general equality provision in the Constitution of a country, where there is no separate law defining the breach of equality and setting the responsibility for such breach of equality, may not be considered as an effective means of protection from discrimination and/or inequality.<sup>10</sup>

In the countries, where there are laws defining and prohibiting discrimination – Georgia, Macedonia, Moldova and Ukraine – separate articles or acts contain anti-discrimination provisions in professional area, directly mentioning SOGI in the list of protected grounds. In Georgia and Moldova, only sexual orientation is contained in such list, with no mention of gender identity. A similar provision is contained in the Health Care Act:

*Article 6. Paragraph 1. It is prohibited to discriminate against patients based on their race, skin color, language, gender, genetic inheritance, faith and religion, political and other opinions, ethnic and social background, origin, financial and social status, place of residence, disease, sexual orientation or personal enmity.*

**Are there any national laws prohibiting discrimination that specifically mention SOGI in limited spheres (such as Labor Code or Education Law or Health Care Law)?**



In none of the CEECA countries, aggravating circumstances are recognized on the grounds of SOGI or there is effective investigation of hate crimes.

**Are there specific and clear hate crime provisions in the Criminal Code that protect on the grounds of SOGI?**



Although it may not be considered that a Criminal Code provision with a list of aggravating circumstances clearly and specifically defines hate crimes and sets the punishment for such crimes, it should be noted that article 53.1 of the Georgian Criminal Code directly mentions SOGI in the list of aggravating circumstances:

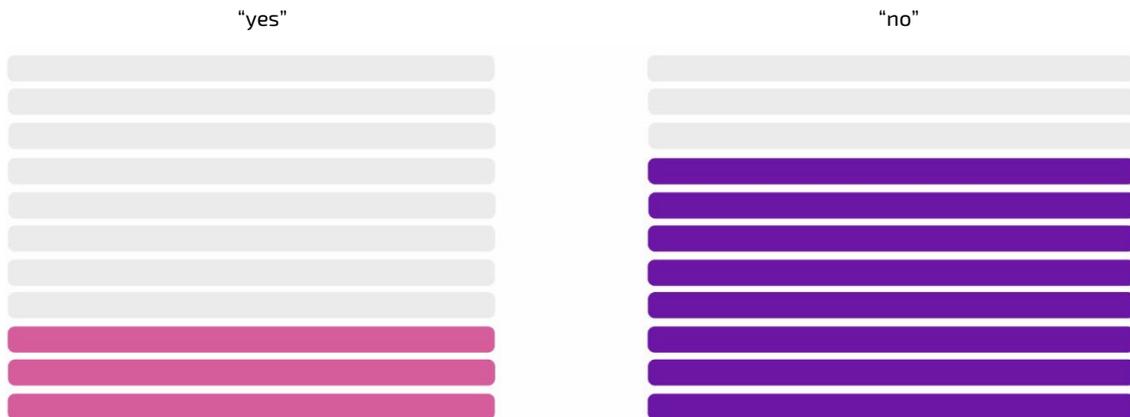
**Article 53.1. Aggravating circumstances**

*Commission of a crime on the grounds of race, color, language, sex, sexual orientation, gender, gender identity, age, religion, political or other beliefs, disability, citizenship, national, ethnic or social background, origin, material status or rank, place of residence or other discriminatory grounds shall constitute an aggravating circumstance for all the relevant crimes provided for by this Code.*

Hate crimes are defined based on the standard developed by OSCE:

*A hate crime is a criminal act committed with a bias motive. A hate crime can be an act of intimidation, a threat, damage to property, assault, murder or any other criminal offence. It is the motive that makes a hate crime different from other crimes. Hate crimes, thus, comprise two distinct elements: they are criminal acts under ordinary criminal law; and the victim or target is deliberately selected because of a particular characteristic, such as “race”, language, religion or ethnicity. In order to identify whether an act is a hate crime, it is not necessary to establish whether “hate” was the cause; rather, it is necessary to determine that a crime was committed and that the motive was some form of bias<sup>11</sup>.*

**Are your country's hate crime provisions in the Criminal Code general and not mentioning SOGI?**



At the same time, in the Criminal Codes of the CEECA countries the following provisions are widespread:

**Article 226. Inciting national, racial or religious hatred**

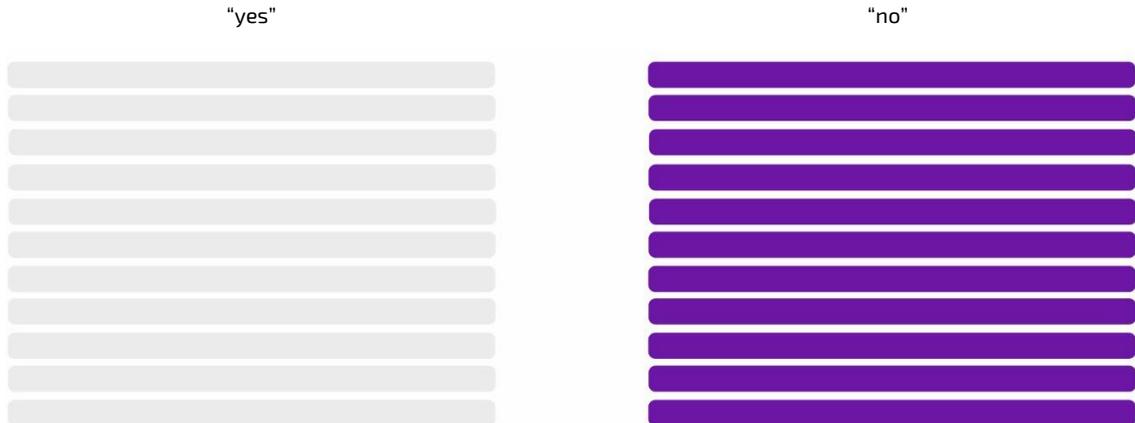
*1. Actions aimed at the incitement of national, racial or religious hatred, at racial superiority or humiliation of national dignity, are punished with a fine in the amount of 200 to 500 minimal salaries, or with correctional labor for up to 2 years, or with imprisonment for the term of 2-4 years.<sup>12</sup>*

*Article 74. Aggravating circumstances, paragraph 2) committing a crime on the grounds of racial, ethnic, national, religious or interregional hatred (discord); article 130. Killing, paragraph 10) killing committed on the grounds of racial, ethnic, national, religious or interregional hatred (discord); article 138. Infliction of severe damage to health, paragraph 9) on the grounds of racial, ethnic, national, religious or interregional hatred (discord).<sup>13</sup>*

**Article 130. Incitement to racial, national or religious hatred or discord**

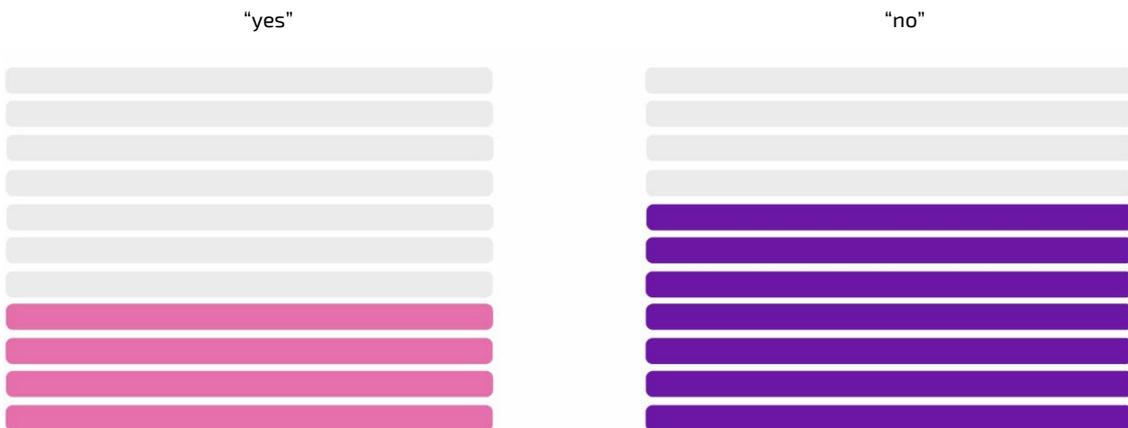
*1. Deliberate actions aimed at incitement to racial, national or religious hatred or discord, humiliation of national honor and dignity.<sup>14</sup>*

**Are hate crimes against LGBTQ people investigated (investigation process is no longer than with other crimes, police looks for evidence, perpetrators are found, cases are prosecuted as hate crimes, not hooliganism, etc.)?**



As for reporting hate crimes, almost in all countries it is hard to say that LGBTQ community members are not afraid to report such crimes. In all countries, there are problems with failure to provide police services, victimization of complainants from the side of police, refusal to open criminal cases based on the reports of hate crimes on the grounds of SOGI and cases, when victims refuse to report to police due to the reasons stated above. Local NGOs and activists point out that the situation gradually and very insignificantly improves in the countries where NGOs and advocates provide legal support to the victims of such crimes and take over further communication with law enforcement agencies.

**Do LGBTQ community members report hate crimes to the police without fear of discrimination and victimization?**



Thus, civil society organizations and human rights advocates act as mediators, representing the interests of victims and making sure that hate crimes are properly investigated and taken to court. Such services are available on a regular basis in Georgia, Macedonia, Moldova, Russia and Ukraine with support of donors. However, it does not resolve the problem of inefficient work of police in such cases, because the resources of civil society are limited and there is every reason to believe that without third party interventions police would not perform its duties properly.

Recently, some community members openly file complaints with police and such cases are investigated. There are examples when offenders are arrested and put to pre-trial detention centers. However, there is still no systematic approach or improvement of the situation. In May 2018, investigators of a district Department of Internal Affairs caught a group of offenders, who were robbing and causing bodily harm to about 5-6 LGBTQ persons for several days in a row. Due to the fact that one of the victims filed a complaint stating SOGI as the motive of offense, all those cases were resolved. Currently, the offenders are in pre-trial detention center waiting for the court judgment. Most victims received legal support and assistance when filing their complaints with police.<sup>15</sup>

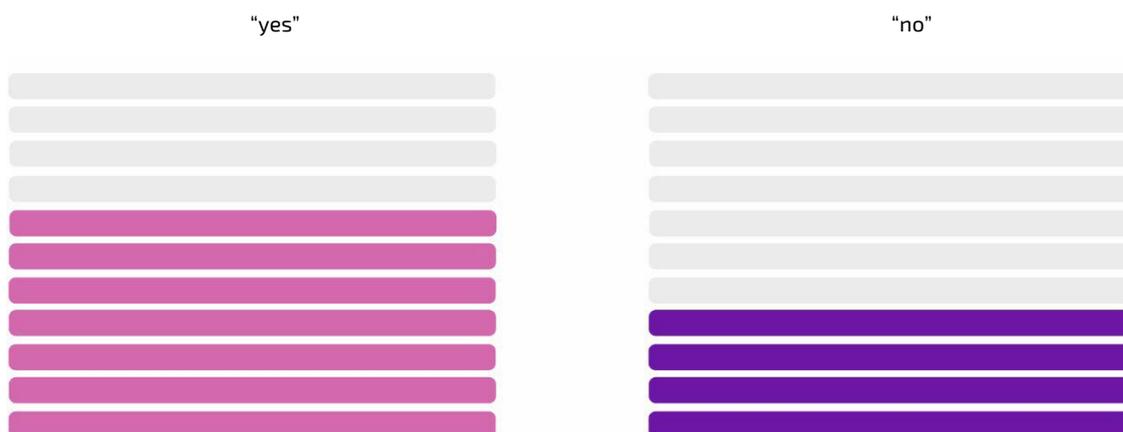
On 7 April 2010, the first court proceedings were started with regard to the case of Victor Ch., a gay man, who was beaten and robbed because of his sexual orientation. The advocate provided by GENDERDOC-M Center tried to prove that it was a hate crime. The court refused to take into account the hatred component as the motive of crime. The court judgment was issued on robbery and causing bodily harm. After that, there was a number of other court hearings with the same result. The grounds of the crime were not taken into account. The only case, where violation of equality based on sexual orientation was taken into account, occurred in 2015. It was the case of Mikhail D. against members of the "Occupy Pedophilia" group. On 24 November 2015, a court judgment was issued, where the group members, three underage young men, were found guilty in committing a crime breaching equality.<sup>16</sup>

## Legal barriers and procedures for trans people

The first important question in defining if there are any legal barriers for trans people is the question if there are formal de jure gender confirmation procedures, orders and medical protocols. It relates not only to medical services for trans people but to all the pathway that a person needs to cover from the moment of trans self-identification to the transition being completed. The part of this pathway relating to the change of name, passport and other identification documents and interaction with the state agencies in this regard is the most complicated and less effectively regulated in the CEECA countries.

The second questions, which is not less important, is what range of medical services is regulated in a given country, how professionally and fully such services are provided, if they are available to trans people and if they include any procedures which might be viewed as discriminating and/or degrading. According to the experts, such procedures may include: requirements to undergo mandatory long-term in-patient examination in mental health clinics, to undergo full sterilization irrespective of trans person's desire to make the full spectrum of surgical corrections, to make the full spectrum of surgical corrections, to get a divorce, to comply with age restrictions not related to health, etc.

### Are there any gender reassignment and/or gender recognition or other related procedures for trans people set in legal acts (laws, bylaws, protocols, etc.)?



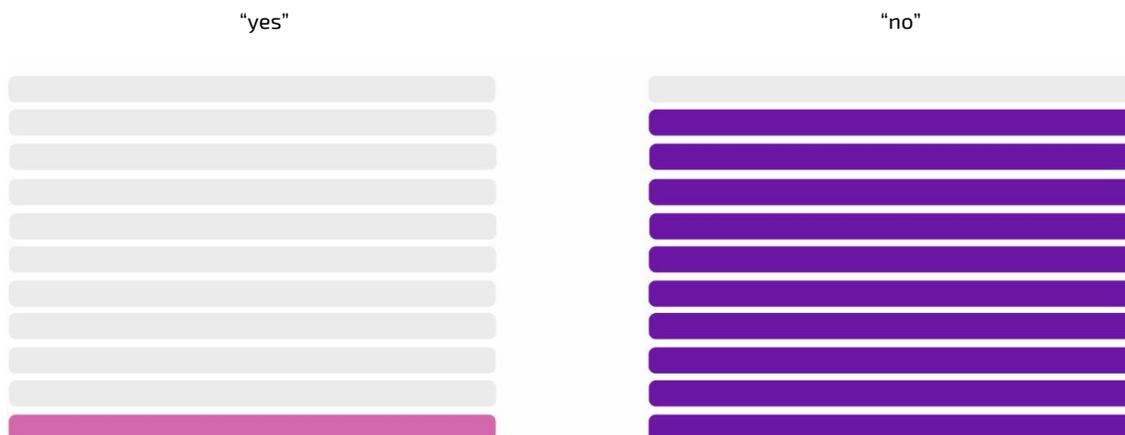
Currently, gender confirmation procedures are missing in Azerbaijan, Armenia, Macedonia and Tajikistan.

*In 2017, a trans man received a certificate from a health institution. Such health institution issued this certificate based on the samples of similar documents from other countries provided by this trans man. With this certificate, he went to a local registration office in Dushanbe to start the procedure to change his gender marker. Head of the registration office rejected his request in a blunt manner, referring to the lack of legal procedures required and said that they would perform any actions only after there is a relevant court judgment. When the trans man went to the court of first instance, the judge refused to accept his complaint very bluntly, on the edge of physical violence. Thus, after all the stress he was exposed to, currently the trans man decided not to go to any further authorities until relevant procedures are clarified.<sup>17</sup>*

In the region, it is typical to have a situation when the laws of a country define only part of the procedures necessary for trans people, while other parts are not regulated at all. Thus, trans people face the circumstances when they cannot complete their gender confirmation within the legal framework, with no judges and advocates engaged. E.g., in Tajikistan the Law "On the civil registration procedure" contains a paragraph about the need to submit a "standard document on sex change issued by a health institution" as a ground to amend the civil status records (or, simply saying, to change the passport), but there is neither standard form of such document nor the procedure defining how such document is to be issued by health institutions. Therefore, trans people are not able to seek assistance in health institutions, receive consultations on transition, get the necessary certificates and change their documents. The cases, which were recorded by NGOs in Tajikistan, are rather exceptions from the

rule with the description of obstacles that people had to overcome. The situation in Armenia is even more hopeless. The Armenian laws do not mention trans people or any procedures that they might need. To change their identification documents, after the transition, which they partly conduct abroad (surgeries), trans people in Armenia use the only option available to change their document – changing their birth certificates.

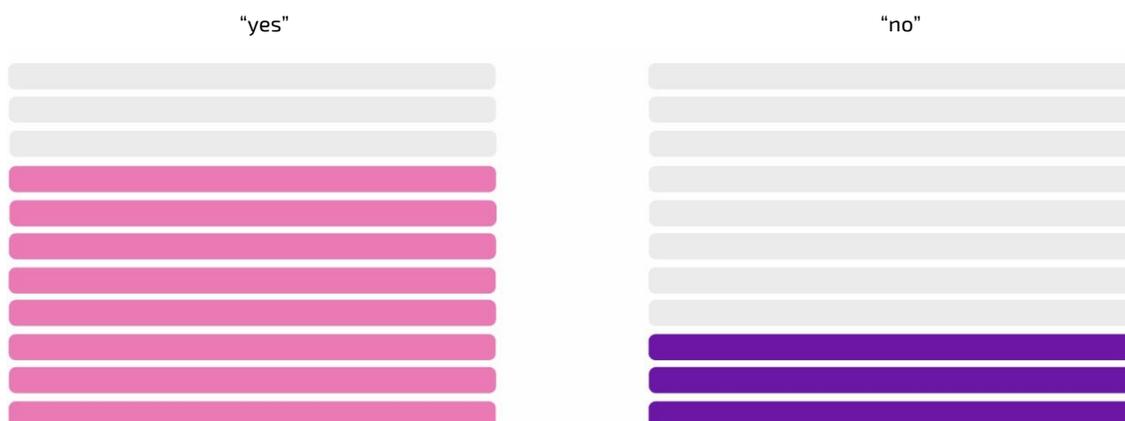
**Is it possible to legally change one's name and gender without third party decision involved (judge, medical commission, etc.)?**



Although Azerbaijan answered the question about the possibility of legal name and gender change in identification documents in the affirmative, such procedure is not regulated in any of the CEECA countries. The possibility of legal name and gender change in identification documents means the situation, when to change such documents the person would not have to obtain a medical certificate, a doctor's permission or a conclusion of the medical board following the transition (and, correspondingly, the whole therapy, including surgery), apply to court and receive legal support of advocates.

*To change their documents, trans people have to apply to a local registration office and provide the necessary documents, including the main certificate issued by the doctor who operates on the patient. In case of any doubts, the case goes to court for consideration. Trans people in Azerbaijan do only plastic surgeries. Gender confirmation surgeries are mainly done in Turkey, Russia and Thailand. In Azerbaijan, there are no professional doctors who could make such surgeries. In particular, in Azerbaijan there are no protocols, which would regulate the scope of services necessary for trans people.<sup>18</sup>*

**Do trans people have to get medical diagnosis (mental health diagnosis) before receiving access to the gender confirmation procedure?**

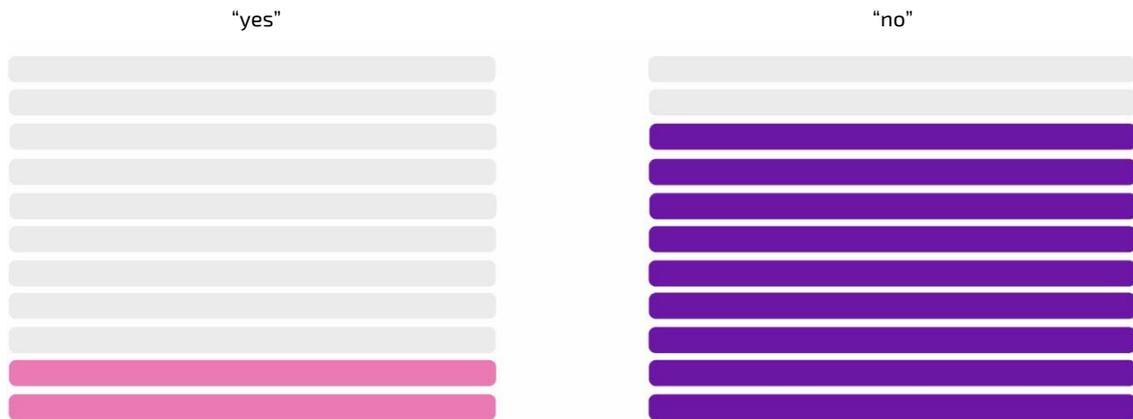


Procedures in the CEECA countries stipulate an almost mandatory linkage among the medical definition of a person's gender identity, undergoing the required treatment and then receipt of the new identification documents (in the countries where this procedure is in some way regulated at certain stages). It is not necessary to receive the "transsexualism" diagnosis only in the countries where this procedure is not regulated at all – Azerbaijan, Armenia and Georgia.

*Petropavlovsk, Kazakhstan, 2017, a trans woman underwent two-year hormone therapy, orchidectomy and chondrolaryngoplasty. Due to the weak health, she refused to have further surgical interventions. It was the reason for her request to change legal gender submitted to the city civil registration office rejected, so she filed a complaint with a court. The court issued a judgment for her benefit. The judgment reads as follows: "there is no need to force a person to undergo surgeries, which are traumatic, expensive and are not part of the obligatory health care, as a mandatory condition to recognize such person's gender identity. Taking into account surgical and hormonal corrections, in this case gender has already been changed from male to female. The court considers that a negative decision refusing to change the name and family name on such grounds violates personal rights and freedoms guaranteed by the Constitution of Kazakhstan". After that, the registration office filed an appeal with support of the prosecutor's office. In the course of the court hearings, the woman received a conclusion of the Kazakhstan specialists who confirmed the fact of gender change. Based on such conclusion, the legal gender was changed.<sup>19</sup>*

Age-related and health-related restrictions for trans people who want to start their gender confirmation procedure and receive health care are embedded in the laws of Belarus, Kazakhstan, Kyrgyzstan, Moldova, Ukraine and Tajikistan. Those are restrictions for minors, usually setting the 18-year-old barrier, and only in Kazakhstan the barrier is set at 21 years of age. There are also certain health-related restrictions for trans people. They are not clearly defined and in practice may be interpreted in different ways.

**Do trans people have to divorce (if they are married) before the gender confirmation procedure?**



There are no direct requirements to go through a divorce procedure for trans people who are married in the laws of any of the CEECA countries. However, activists and NGOs from Ukraine and Moldova point out that civil registration offices impose such requirements when issuing new identification documents. In the past, before the new Order "On setting biomedical and psychosocial indications for gender reassignment" was approved in Ukraine, such requirement was contained in the old protocol regulating activities of the commission issuing certificates to trans people, which were a mandatory prerequisite for trans people to complete the transition and have their documents re-issued. The divorce requirement – directly stated in the laws or applied to trans people in practice – is part of a wider challenge faced by all members of the LGBTQ community in the CEECA countries. This challenge is lack of regulation of same-sex relations, inability to register marriages or other forms of partnership as well as regulate financial and other aspects of marriage-associated relationships, inability to adopt children or act as their legal guardians together.

## Advocacy recommendations

This section contains general recommendations for the CEECA countries related to the topics stated above. Recommendations for each country – key issues requiring immediate and targeted interventions – are given at the end of sub-section describing the major issues in each country of the region.

### **HIV prevention and access to treatment:**

- ✓ cancel the regulations, which require that immigrants submit HIV status certificates;
- ✓ change the rules of providing ART to non-residents and ensure access to treatment for all people on the territory of the country for uninterrupted treatment;
- ✓ cancel criminal responsibility for unintentional HIV transmission.

### **Blood donation and health care:**

- ✓ enforce the procedures to ensure non-disclosure of HIV status and SOGI of all gay men, other MSM and trans people who seek health care;
- ✓ remove any questions about SOGI and lifestyle discriminating against gay men, other MSM and trans people and preventing such people to be blood donors from current regulations.

### **Health services for trans people and legal name change procedures:**

- ✓ embed the gender confirmation procedure in laws;
- ✓ define the national body responsible for the quality of medical services provided to trans people;
- ✓ set forth the legal gender confirmation procedure not linked to the medical procedure;
- ✓ include health services for trans people within sex reassignment/correction procedure into the list of services covered from the state budget.

### **Protection from all forms of discrimination:**

- ✓ approve separate anti-discrimination laws in line with the minimum standards set forth by the international treaty bodies – open list of protected grounds, including SOGI, definition of various forms of discrimination, mechanism of control over the enforcement of such laws and responsibility for discrimination (apart from the CEECA countries where such laws already exist);
- ✓ in the countries where separate anti-discrimination laws already exist, SOGI should be included into the lists of protected grounds in all such laws;
- ✓ introduce changes into the criminal codes to set forth the responsibility for hate crimes on certain grounds, including SOGI;
- ✓ train the police, representatives of prosecutor's offices and judges to effectively document, investigate, qualify and handle reports on hate crimes on the grounds of homophobia and transphobia;
- ✓ develop the national mechanisms to monitor the investigation of hate crimes.

### **Freedom of expression and association:**

- ✓ abolish the laws and draft laws on the so called "gay propaganda";
- ✓ make sure that LGBTQ on equal terms with other social groups can exercise the freedom of expression and the freedom of peaceful assembly and ensure the security of such peaceful assemblies;
- ✓ introduce changes into NGO registration procedures and enable the organizations representing the interests of LGBTQ community to register associations, conduct activities and participate in calls for proposals to receive governmental support from the local budgets on equal terms with other civil society organizations in the country;
- ✓ ensure public order and security of LGBTQ community members when conducting peaceful assemblies and public events;
- ✓ conduct effective public investigation of all the cases of attacks on LGBTQ community members during the previous peaceful assemblies in the CEECA countries and hold the offenders accountable.



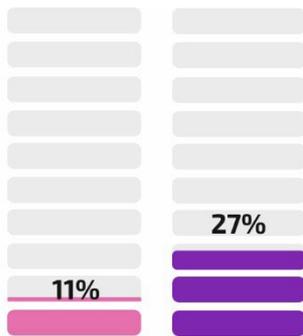
### **Private and family life:**

- ✓ legalize same-sex marriages or partnerships in line with the PACE Resolution 1547 (2007);
- ✓ regulate the procedures for gay couples to settle property-related matters (including partition of property, maintenance obligations, inheritance rights, etc.) on equal terms with heterosexual couples;
- ✓ amend the adoption rules to include same-sex couples in the list of those who can adopt one child together.

**Section 2.**

**Key issues in each  
of 11 CEECA countries**

## AZERBAIJAN



**It is a very good score for the CEECA region in terms of numbers. However, there are some questions about how the lack of barriers and the existing level of protection work in practice to allow gay men, other MSM and trans people exercise their rights and freedoms.**

Thus, analysis of the existing regulatory framework demonstrates the first issue typical for the region – lack of legislation defining discrimination in general and specifying the protected grounds, such as SOGI, in particular. As in all post-Soviet countries of the region, Constitution of Azerbaijan contains an equality clause:

*The state guarantees equality of rights and liberties of everyone, irrespective of race, nationality, religion, language, sex, origin, financial position, occupation, political convictions, membership in political parties, trade unions and other public organizations. Rights and liberties of a person, citizen cannot be restricted due to race, nationality, religion, language, sex, origin, conviction, political and social belonging.<sup>21</sup>*

However, as opposed to many other countries, even such general provision does not contain an open list of protected grounds, and thus may not be used by gay men, other MSM and trans people for protection against discrimination. There is also article 154 of the Criminal Code setting the responsibility for equal rights violation, fully repeating the list of protected grounds contained in the Constitution. Thus, protection of gay men, other MSM and trans people if they fall victim of hate crimes on the grounds of SOGI is very complicated. According to local NGOs and activists, when reporting the hate crimes gay men, other MSM and/or trans people do not disclose their sexual orientation and/or gender identity as such disclosure may lead to abuse and intimidation from the side of law enforcers. In the country where LGBTQ community members are keeping a low profile, with not many of them coming out even to their family members, such situation may lead to even higher stigmatization and violation of rights and freedoms.

The situation with exercising the freedom of expression and peaceful assembly is also critical. Despite the fact that national laws set the procedure of holding peaceful assemblies and such procedure should be accessible to all residents of the country, in practice LGBTQ community members never made any attempts to exercise this right. Partly it is explained by the above-mentioned homophobia and stigma against all LGBTQ in Azerbaijan and low percentage of open LGBTQ community members, including those who can rely on support of their families and friends. The second reason is that the government in general rarely allows holding peaceful assemblies to any social groups. Only political parties may be permitted to conduct such assemblies before elections. Thus, in this instance lack of legal barriers is not a guarantee of the possibility to exercise rights and freedoms, as in many other cases in Azerbaijan.

A particularly vulnerable group in the LGBTQ community is trans people. There is no statutory procedure of gender reassignment and legal name change and documents reissue for trans people. According to the local activists, legal name can be changed and passport can be reissued only when trans people are able to submit the certificates to confirm sex change surgery.

*Trans people have no particular problems re-issuing their documents if they have all the papers required. The most important thing is to have a doctor's conclusion and a certificate from the clinic having performed the sex change surgery. Absence of such documents leads to problems, which, however, may be resolved with legal support.*

As there is no protocol to perform such surgeries in Azerbaijan and no doctors with sufficient qualification, trans people have to go abroad for the surgeries. There is no information on whether a trans person can receive hormone therapy and support of a health professional to have the transition completed in Azerbaijan.

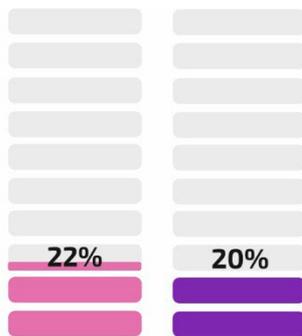
The rules of receiving and/or prolonging long-term residence permits for foreigners stipulate the need to submit an HIV status certificate and deportation in case of HIV positive status. At the same time, all people who live in the country, including non-residents, have access to ART.

Besides, according to local NGOs, in the country there is a procedure to grant state funds to support NGOs providing HIV services, and organizations working with gay men, other MSM and trans people can access such funds.

## **Recommendations:**

- ✓ adopt anti-discrimination laws with SOGI included in the list of protected grounds;
- ✓ ensure investigation of hate crimes, in particular work with the police to prevent stigma against and intimidation of the victims;
- ✓ in consultations with the trans community, develop and approve all the procedures required for gender confirmation, including medical care and support of such patients as well as legal assistance.

## ARMENIA



**It is an average score for the CEECA region in terms of numbers. However, there are some questions about how a few barriers and the existing level of protection work in practice to allow gay men, other MSM and trans people exercise their rights and freedoms.**

The first issue typical for the region is lack of the legislation defining discrimination in general and specifying the protected grounds, such as SOGI, in particular. As in all post-Soviet countries of the region, in Armenian Constitution there is an equality provision containing an open list of grounds, not directly mentioning SOGI:

*Article 29. The Prohibition of Discrimination.*

*Any discrimination based on sex, race, skin color, ethnic or social origin, genetic features, language, religion, worldview, political or any other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited.<sup>23</sup>*

Other regulations are framed in the same general way, without mentioning SOGI, in particular the Criminal Code of Armenia, article 226 whereof may be considered to set the responsibility for hate crimes, but only on three grounds – nationality, race and religion. As this list of protected grounds is closed, gay men, other MSM and trans people may not expect their cases to be investigated in accordance with this article. According to the local NGOs, such cases are usually investigated as hooliganism. This is another common issue for the countries of CEECA region, which has a number of consequences: first, lack of trust from LGBTQ community to police and reluctance to report many cases of rights violations; second, the society in general receives a signal that hate crimes against LGBTQ are minor and quite acceptable offenses; third, offenders are not punished in a way proportionate to their offense.

There are also certain considerations about exercising both the freedom of peaceful assembly and the freedom of expression. While there are no legal barriers as the national legislation does not in any way prevent LGBTQ from exercising such rights and freedoms along with heterosexual people, there are problems with their enforcement in practice. First, there are challenges with peaceful assemblies, which until recently were faced not only by LGBTQ community members but also by heterosexual cis-gender protestants – bans on peaceful assemblies, insufficient work of police to maintain public order, counterdemonstrations, which are not contained, with counterdemonstrators attacking peaceful assemblies:

*On 17 May 2017, during a peaceful march dedicated to the International Day against Homophobia and Transphobia (IDAHOT), Sevan Aghajanyan, a well-known Armenian homophobe, made an attempt to attack the participants of the march. The participants reported to the police, but instead of protecting them, police officers started hampering the march. They informed other police officers that they had to detain participants of the march. As a result, the peaceful assembly was dismissed earlier than planned.<sup>24</sup>*

A particularly vulnerable group in the Armenian LGBTQ community is trans people. There is no statutory procedure of gender confirmation, legal name change and documents reissue for trans people. One of the "loopholes" used by trans people is changing the birth certificate, which is then used to re-issue other identification documents.

*It is not possible to change the sex stated in a person's passport without a certificate issued by a health facility. For example, decision of the civil registration office about corrections or amendments in civil*

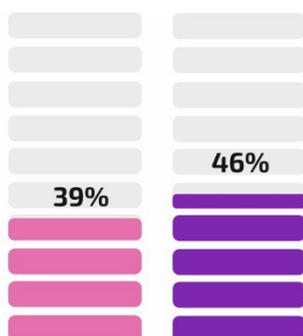
*status records is made in the following cases: health facility issues a standard document on sex reassignment in accordance with the procedure set forth by the laws of the Republic of Armenia. Considering that health facilities do not always issue such certificates, trans people have to explain to everyone why their passport is issued to a boy while the person looks as a girl. In Armenia, health facilities issue certificates but do not do surgeries.*

As there is no protocol to perform such surgeries in Armenia and no qualified doctors, trans people have to go abroad for the surgeries. There is no information on whether a trans person can receive hormone therapy and support of a health professional to perform transition without a surgery.

## **Recommendations:**

- ✓ adopt anti-discrimination laws with SOGI included in the list of protected grounds;
- ✓ amend the Criminal Code so that the crimes against LGBTQ community members are investigated and qualified as hate crimes;
- ✓ in consultations with the trans community, develop and approve all the procedures required for gender confirmation, including medical care and support of such patients as well as legal assistance.

## GEORGIA



It is an average score for the CEECA region in terms of numbers.

However, as well as in other countries, there are some questions about how the lack of barriers and the existing level of protection, set forth in laws and regulations, work in practice to allow gay men, other MSM and trans people exercise their rights and freedoms.

The most important achievement in terms of protection of gay men, other MSM and trans people in Georgia is legislation changes, which not only define discrimination but directly mention SOGI both in the anti-discrimination law and in the Criminal Code. In practice, it should mean the possibility for all LGBTQ to seek help in courts and law enforcement bodies to protect their rights and freedoms in case if such rights and freedoms are violated. However, information from local NGOs shows that, despite SOGI is mentioned in the Criminal Code, for example when community members go to police, they often face homophobic and transphobic attitude to victims, ineffective investigation and even reluctance to accept crime reports:

*LGBTQ community members are often afraid to go to police as they are scared that instead of receiving support they may fall victims of accusations from the side of police. An example to prove this statement: on 9 January 2017, the Ombudsman of Georgia issued a recommendation to the Georgian Minister of Internal Affairs N 287-08-2-201801091524, where he stated the need to: 1. Initiate disciplinary proceedings against the police officer, who violated ethical norms in relation to a victim of domestic violence – lesbian girl, who came to a police station accompanied by her lawyer and an Ombudsman representative with a report of psychological and physical abuse from the side of family members who found out that she was gay. When the police officer learned about the reason of her complaint, he used homophobic statements and abusive words. 2. Educate police officers about the equality. 3. Explain the mandate of the Ombudsman of Georgia considering that the police officer was very aggressive and did not let the Ombudsman representative enter the police station.*

Besides, there are concerns about the lack of gender confirmation procedures for trans people. Despite the fact that gender identity is directly mentioned in all anti-discrimination legislative documents, the laws do not set forth the possibility for an individual to identify his or her own gender identity or further regulate such changes in relations with the state. In the Law of Georgia on civil status acts, the list of grounds to amend civil status records contains such a ground as "sex reassignment". However, there is neither gender confirmation procedure, nor approved sample documents to be submitted to the state registrar.

*On 4 April 2018, the court of Tbilisi issued a decision regarding the case of S.O., when a trans woman demanded to recognize her gender identity based on a psychiatrist's opinion. The court explained that the Law on civil status acts stipulates that making changes in identification documents requires long-term monitoring of a sexologist, a psychologist, an endocrinologist and a psychiatrist, with a relevant health certificate to be issued based on the outcomes of such monitoring and clinical assays in the format approved by the Order of the Minister of Health.*

When this report was prepared, such Order of the Minister of Health did not exist.

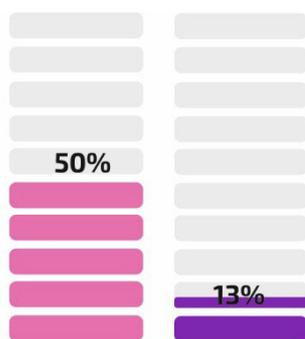
Recently, there have been major changes in exercising the freedom of expression and the freedom of peaceful assembly for the LGBTQ community members in Georgia. Local activists and Ombudsman's reports state that there is a general aggravation of the situation with the freedom of peaceful assembly and adequate protection of the participants of such assemblies from counteractions by law enforcers:

*On 22 June 2018, Equality 17 NGO held an LGBTQ peaceful assembly in the format of social theater in a public park. Representatives of the local major's office came to the venue and told the organizers that they were not allowed to conduct their peaceful assembly as they have not submitted a written request to the major's office and have not received a permission. However, Georgian laws do not require seeking a written approval from any administrative body to conduct a peaceful assembly, except when it is to be conducted in a traffic way. After the organizers called the hotline of the Ombudsman's office, people from the major's office left and no longer interfered with the event. Currently, the Ombudsman's office is considering a complaint filed by Equality 17 NGO with a request to recognize a fact of discrimination and violation of the right to peaceful assembly<sup>28</sup>.*

## Recommendations:

- ✓ create a unit at the Ministry of Foreign Affairs, which will investigate crimes on the basis of SOGI, and staff will undergo special training;
- ✓ in consultations with the trans community, develop and approve all the procedures required for gender confirmation, including medical care and support of such patients as well as legal assistance;
- ✓ develop and approve a law on same-sex partnerships in line with the PACE Resolution 1547 (2007).

## KAZAKHSTAN



**It is a rather bad result even for this region, showing an extremely low level of protection of the rights and freedoms of gay men, other MSM and trans people. The main barriers, typical for the region, are legal uncertainties in terms of anti-discrimination regulations, failure to enforce the rights to private and family life and high level of homophobia and transphobia in the society, which affects the possibilities to exercise the freedom of expression and the freedom of peaceful assembly.**

High level of homophobia in the country comes out both in the attempts to restrict the freedom of expression for LGBTQ, and in the fact that, despite presence of the laws defining the procedure of holding peaceful assemblies for all groups, local LGBTQ activists and NGOs have not even tried to conduct any peaceful assemblies to increase the visibility and/or protect the rights of the LGBTQ community.

Another issue is lack of any laws defining and prohibiting discrimination. As well as in other countries of the region, currently in Kazakhstan there is only a general provision of the national Constitution on equality, failing to directly mention SOGI, but containing an open list of protected grounds, which theoretically should allow LGBTQ to report violations of their rights, but in fact such cases are non-existent. The article of the Criminal Code on aggravating circumstances fails to mention homophobia or transphobia and only contains a closed list of protected grounds, including national, racial and religious hatred, which renders impossible investigating the crimes committed on the grounds of SOGI as hate crimes <sup>32</sup>:

*In 2017, a young trans woman was attacked in Almaty. In court, the case was considered as assault by a group of people, infliction of grave bodily injuries, robbery. She was walking along the street, when the offenders began talking to her. When they realized she was a trans woman, they started insulting her and then attacked her. As a result, the offenders were punished only for robbery. SOGI was not recognized as an aggravating circumstance.*

In the country, there are Rules of Medical Examination and Sex Reassignment for People with Gender Identity Disorders, allowing trans people to go through a relevant procedure and perform not only medical but also legal gender reassignment. Diagnosis is a mandatory requirement and legal gender reassignment is not possible without relevant medical diagnosis and compliance with all the requirements of the protocol, which, inter alia, include a humiliating and inhuman sterilization procedure. Another restriction is the age barrier: a person should be at least 21 years old to get registered and go through the medical examination for people with gender identity disorders (though the age of majority and full legal capacity is 18).

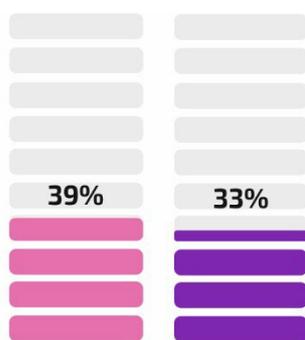
Despite the lack of restrictions for the NGOs providing HIV services to the LGBTQ community in receiving funding from the national or local budgets, there were no cases when NGOs received such funds. It raises a question if the system really works equally for the government to support socially significant services provided by NGOs as the state is not able to offer such vital services.



## Recommendations:

- ✓ adopt anti-discrimination laws with SOGI included in the list of protected grounds;
- ✓ amend the Criminal Code so that the crimes against LGBTQ community members are investigated and qualified as hate crimes;
- ✓ conduct awareness-raising campaigns to reduce the level of homophobia and transphobia in the society.

## KYRGYZSTAN



**It is not the worst score for the CEECA region in terms of numbers. However, there are some gaps and issues in terms of law enforcement, raising concerns, in particular due to the lack of major legislative changes in 2016-2018.**

Analysis of the legislation, the regulations and the law enforcement practices in Kyrgyzstan reveals a wide range of problems both in terms of legislation and in terms of law enforcement, which affects the quality of life of gay men, other MSM and trans people. First, there is no law prohibiting discrimination and, certainly, there are no laws mentioning such protected grounds as SOGI. Thus, according to the local NGOs, complaints to governmental agencies as well as court actions requesting to recognize unequal treatment (all citizens may use such mechanisms according to the Constitution) based on SOGI do not make any sense.

There is the same gap in the Criminal code, which defines hate crimes in a separate article, but the list of protected grounds is limited only to "race, ethnicity, nationality, religion and interregional background", not allowing a broader interpretation. Based on the data provided by local activists, even if hate crimes against gay men, other MSM and trans people are registered, they are investigated based on a different article (often, hooliganism), which, in turn, affects the picture of the scale of hate crimes committed and law enforcement agencies responding to such crimes. However, the trend to silence such cases is changing and, despite unsatisfactory work of the police and legislation gaps, victims from among gay men, other MSM and trans people report the hate crimes committed against them and monitor the investigation of such crimes.

*Recently, LGBTQ community members openly file complaints with police and such hate crimes are investigated. There are examples when offenders are arrested and put to pre-trial detention centers. However, there is still no systematic approach or improvement of the situation. In May 2018, investigators of a district Department of Internal Affairs caught a group of offenders, who were robbing and causing bodily harm to LGBTQ people for several days in a row. Due to the fact that one of the victims filed a complaint stating SOGI as the motive of offense, all those cases were resolved. Currently, the offenders are in a pre-trial detention center waiting for the court decision. Most victims received legal support, assistance when filing their complaints with police and court.*

As for exercising the right to the freedom of expression and the freedom of peaceful assembly, local community members say that the level of homophobia is so high that LGBTQ activists are not ready to conduct open prides or other public activities. This is also confirmed by the attempts of MPs to approve a draft law, which criminalizes "fostering positive attitudes towards non-traditional sexual relations" as well as petitions to the governmental authorities with similar requests. Thus, there is a situation, when there are no legal barriers in exercising the freedom of expression and the freedom of peaceful assembly, but the level of homophobia and lack of confidence in the response of governmental authorities lead to the local community not fully exercising the above-stated freedoms.

The protective measures available to trans community include the Guidelines on the Provision of Medical and Social Support to Transgender, Transsexual and Gender Non-Conforming People<sup>36</sup>.

Extract from the Guidelines: *"Transgender, transsexual and gender non-conforming people are required to go through medical examination in the Republican Mental Health Center and to be diagnosed with one of the diagnoses in section F64 (ICD-10), receive a medical certificate Form N 048/u (based on the results of psychological and psychiatric examination of transgender, transsexual and gender non-conforming people, people with gender dysphoria) issued by the Medical Advisory Board with recommendations on passport sex (gender marker) reassignment to be submitted to the civil status registration office as the required and sufficient document of the set format for legal gender recognition".*

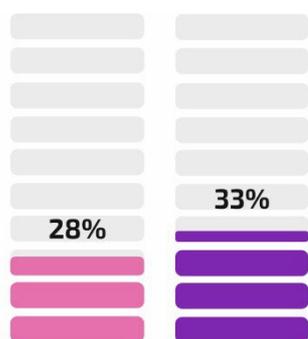
Here, apart from the procedure itself, it is worth mentioning changes in the language and terminology applied to trans people at the level of official documents, which makes an impact on the attitude to patients and clients from the side of medical and other personnel, whom trans people contact while going through such procedure. Currently, the only restriction is age.

There is also no barrier for the NGOs working with LGBTQ community to apply for funding within state social programs. However, community members say that no attempts to access such funding have been made due to the low level of cooperation between the civil society and government authorities, even though there are no legal barriers. It can be explained by the LGBTQ community and service providers keeping a low profile and by the reluctance of authorities to cooperate.

## Recommendations:

- ✓ adopt anti-discrimination laws with SOGI included in the list of protected grounds;
- ✓ amend the Criminal Code so that the crimes against LGBTQ community members are investigated and qualified as hate crimes;
- ✓ withdraw from the national legislation the obligation of non-citizens and stateless persons to annually pass medical examinations for HIV;
- ✓ conduct awareness-raising campaigns to reduce the level of homophobia and transphobia in the society.

## BELARUS



**It is a rather good score for the CEECA region in terms of numbers. However, as well as in other countries, there are some questions about how the lack of barriers and the existing level of protection, set forth in laws and regulations, work in practice to allow gay men, other MSM and trans people exercise their rights and freedoms.**

В Республике Беларусь, как и во многих других странах региона, отсутствует юридически закрепленное определение дискриминации. Кроме того, даже на уровне Конституции нет не только определения дискриминации, но и перечня признаков, по которым должно быть гарантировано равноправие. Конституция Республики Беларусь на редкость лаконична в этом вопросе:

**Article 22.** *All shall be equal before the law and have the right to equal protection of their rights and legitimate interests without any discrimination<sup>37</sup>.*

The list of grounds protected from discrimination is set forth in the Labor Code:

*Discrimination, i.e. restriction of the labor rights or any benefits because of sex, race, national or social background, language, religious or political beliefs, participation or failure to participate in trade unions or other non-governmental associations, material status or rank, age, place of residence, physical or mental disabilities, not preventing individuals from performing their work duties, as well as other circumstances not related to their professional competences or specific work functions, is prohibited..*

Thus, the Labor Code does not include such protected grounds as SOGI. The Criminal Code also fails to mention SOGI. Thus, due to the restricted list of protected grounds and presence of such list only in the legislation regulating separate areas of social life, gay men, other MSM and trans people are not able to fully use the existing anti-discrimination mechanisms. Presence of an open list of protected grounds (phrased as "other circumstances" in the Labor Code and "other social background" in the Criminal Code) allows using such provisions in case if the judicial system works properly. However, according to local activists and NGOs, very few people decide to use this opportunity.

*A Gomel resident faced a case of homophobic violence. The man got acquainted with another man in the internet, they met and then went to the latter man's place. The victim heard the host calling his friend and from their conversation he understood that he was going to be physically abused. The host beat up the victim and broke his nose. The young man managed to call his lady friend who came to help him and called the police. While the victim openly told the police about all the circumstances of him getting acquainted with the offender, police officers were grinning and then started interrogating the man about his sexual orientation and asking if his parents were aware about his sexual preferences. After his negative answer, one of the police officers said that he could inform the victim's parents about it. As a result, the protocol said that the guys just had an argument and started a fight. Moreover, it was written that the victim was the one to initiate the fight, which was not true. Police denied criminal prosecution as it failed to recognize that the offender was demonstrating disorderly conduct. At the same time, the victim was told that he had a right to file an individual complaint with a court based on article 153 of the Criminal Code (infliction of light bodily harm causing short-term health disorders).<sup>39</sup>*

The situation with the freedom of expression and the freedom of peaceful assembly is also critical. Although there are no separate legal barriers for LGBTQ (as the law on peaceful assembly does not set any specific rules for the LGBTQ community), generally there are certain issues with exercising the right to peaceful assembly and association for all citizens of the country irrespective of their SOGI. There is a

regulatory approval system applied to peaceful assemblies, with authorities giving permissions for conducting any mass events. LGBTQ community got such an approval once, in 2011. Since then, nobody submitted any applications for conducting Pride marches or other public events, taking into consideration lack of any regulatory changes and general prohibitions on peaceful assemblies for other groups.

While there are no current regulations banning the so called "gay propaganda", there is a regulation on protecting children from the information harmful to their health and development:

*"Information harmful to children's health and development includes any information which may negatively affect health, physical, moral and spiritual development of children of a certain age category: promoting the habits not contributing to the healthy lifestyle formation; containing obscene words and phrases; discrediting the institution of family as well as marital and family relations".*

According to the local activists and NGOs, this law may be used to restrict the freedom of expression for LGBTQ.

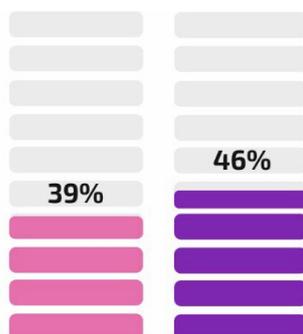
Gender confirmation for trans people is the area, where legal barriers are being reduced. Since 2010, Resolution of the Ministry of Health of the Republic of Belarus "On certain matters of sex reassignment and correction", regulating the relevant procedure and further steps, has been in force. Married people do not have to get divorced. There is no mandatory sterilization requirement. Restrictions include age of majority and a number of health-related contraindications. Unresolved issues – lack of procedure to change digital identifier in individual tax codes: when someone changes one's name and identification documents, the digital identifier remains unchanged and indicates that such person went through a gender confirmation procedure, i.e. discloses the status of such person, which is usually undesirable.

*Nina, a young trans woman, often faces problems. She has a new passport, but her ID still contains a male gender identifier. She often has problems when going through customs control, starting her work for a new employer or when performing bank operations. Her passport states one gender, while the system shows a different one. Once, when she was going through passport control, the customs officer asked her in a loud voice: "Have you changed your gender?"<sup>41</sup>*

## Recommendations:

- ✓ adopt anti-discrimination laws with SOGI included in the list of protected grounds;
- ✓ amend the Criminal Code so that the crimes against LGBTQ community members are investigated and qualified as hate crimes;
- ✓ Article 193-1 stipulating responsibility for unlawful organization of a civil society association, a faith-based organization or a foundation or participation in their activities should be withdrawn from the Criminal Code;
- ✓ guarantee to NGOs a possibility to get registered and perform activities to protect rights and freedoms of the LGBTQ community.

## NORTH MACEDONIA



### **The question is if the existing protection is enough to outweigh the barriers faced by gay men, other MSM and trans people in Macedonia.**

In Macedonia, there were no attempts to restrict the freedom of expression for LGBTQ community and such methods typical for many countries the region, as laws to ban "gay propaganda", are not used. Besides, local activists observe that although there are not formal legal restrictions, there is a low level of public order maintenance and protection of the LGBTQ participants from counteractions.

Another important improvement is the change of political will of the new Government regarding LGBTQ rights. In the previous years the activists observed many homophobic and transphobic messages coming directly from the former Government as well as many uninvestigated cases. However, the new Prime Minister of the Republic of Macedonia opened the ceremony to celebrate the fifth anniversary of an LGBTQ center and promised to support community members as well as any other citizens in exercising their rights and freedoms. In 2017, the Minister of Culture joined celebration of the Pride Week in Skopje.

Anti-discrimination legislation does not directly mention SOGI, but contains an open list of protected grounds and refers to the international documents (and, thus, the principles and grounds set forth in such documents). A similar approach was also used to phrase provisions of the Criminal Code setting the criminal responsibility for hate crimes and defining the list of grounds, based on which certain offenses may be qualified as hate crimes leading, thus, to bigger penalties.

Sexual orientation as a protected ground is directly set forth only in the Labor Law. It should also be noted that only NGOs provide support to the hate crime victims as well as legal assistance to make sure that investigation of such cases is not terminated and includes mandatory definition of homophobic or transphobic motives.

The situation of trans people in the Republic of Macedonia is also causing concerns. Although there are Guidelines on Evidence-Based Medical Practices to Treat Transsexualism (which was last amended in 2014), some other elements necessary for the successful gender confirmation procedure are missing, with the most important being lack of qualified doctors to manage such patients. The only gender confirmation surgery in Macedonia was performed by an invited foreign surgeon within an international symposium held in Skopje. The protocol stipulates setting a diagnosis, with mandatory outpatient follow-up, and defines the list of procedures to be offered to patients. Now the task for Macedonia is to train doctors to be able to manage such patients and define the remaining procedure of transition for trans people in legal acts as at present moment it is not possible to change legal documents (with or without the diagnosis). Nonetheless, there were two cases when the legal gender and the personal identification number were changed after an effective decision of the Administrative court: a fact is that the procedures are long, complicated and non-consistent. A change of name is available procedure, but there is loophole in the law regarding change of gender marker and personal identification number.

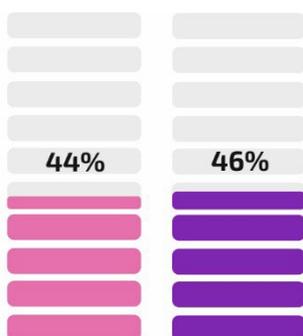
Besides, there are still legal barriers for blood donation; both intentional and unintentional transmission of HIV constitute a criminal offense.

Meanwhile, there are government programs to allocate funding to the NGOs offering HIV services within social contracting mechanism, and organizations both working with the LGBTQ community and representing the community have access to such programs.

## Recommendations:

- ✓ implement a mechanism to monitor the investigation and qualification of hate crimes against LGBTQ;
- ✓ in consultations with the trans community, develop and approve all the procedures required for gender confirmation, including medical care and support of such patients as well as legal assistance, and should be covered within the national healthcare system;
- ✓ develop and approve a law on same-sex partnerships in line with the PACE Resolution 1547 (2007).

## MOLDOVA



**This is an average score for the CEECA region. There are some questions about how the lack of barriers and the existing level of protection, set forth in laws and regulations, work in practice to allow gay men, other MSM and trans people exercise their rights and freedoms.**

The most important achievements in protection of the rights of gay men, other MSM and trans people in Moldova are anti-discrimination provisions in the national legislation and progress in allowing the LGBTQ community to exercise their freedom of peaceful assembly.

Anti-discrimination legislation of the Republic of Moldova approved to comply with the country commitments to the EU within the visa liberalization action plan is an example of a compromise between international requirements and homophobic regulatory framework within the country. On the one hand, there is an anti-discrimination law with an open list of protected grounds in the article defining discrimination, but without directly mentioning SOGI. On the other hand, in the article on labor relations there is a prohibition of discrimination based on sexual orientation. So far, gender identity is not directly mentioned in the legislation as a protected ground. As well as in other countries of the region, the fact that SOGI is not mentioned in the laws is, on the one hand, the reason why gay men, other MSM and trans people rarely report violation of their rights to law enforcement bodies and courts, while, on the other hand, such "extrusion" of SOGI from the legal framework contributes to the existing high level of homophobia and transphobia.

The article of the Criminal Code on hate crimes does not mention SOGI. The list contained in this article is closed and allows qualifying hate crimes only on the grounds of racism, nationalism and religious discord.

*On 7 April 2010, the first court hearings on the case of Victor Ch. started. Victor was beaten and robbed because of his sexual orientation. The advocate provided by GENDERDOC-M Center tried to prove that it was a hate crime. The court refused to take into account the hatred component as the motive of crime. The court judgment was issued on robbery and bodily harm. After that, there was a number of other court hearings with the same outcome. The grounds of the crime were not taken into account.*

*The only case, when violation of equality based on sexual orientation was taken into account, occurred in 2015. It was the case of Mikhail D. against members of the Occupy Pedophilia group. On 24 November 2015, a court judgment was issued, with the group members – three underage young men – found guilty in committing a crime breaching equality.*

Afraid to go to police on their own, all victims first come to NGOs and only with support of friendly lawyers go to law enforcers.

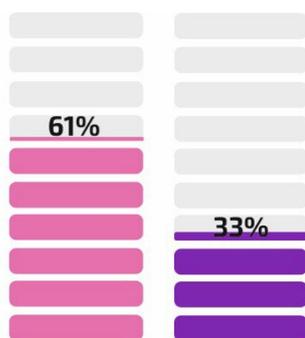
Situation with the opportunities to exercise rights and freedoms for trans people has not changed either. The only document regulating the whole gender confirmation procedure is Order N 1268 dated 17 December 2012 "On Establishing a Gender Dysphoria Registration Commission". For every further step, a trans person needs the certificate issued by this commission: to get a prescription for a hormone therapy course, to make a surgery and change documents, if necessary. Documents can be changed only through court.

Local activists point out that there have been certain improvements in law enforcement practices in terms of law enforcers maintaining public order at Pride marches as well as gradual changes of attitudes to this event in the society. Thus, there have been no violations from the side of police, which was responsible for the security of participants of the public street demonstration to support the LGBTQ rights in 2018 <sup>46</sup>.

## Recommendations:

- ✓ amend the Criminal Code and include SOGI in the list of protected grounds;
- ✓ implement a mechanism to monitor the investigation and qualification of hate crimes against LGBTQ;
- ✓ in consultations with the trans community, develop and approve all the procedures required for gender confirmation, including medical care and support of such patients as well as legal assistance;
- ✓ develop and approve a law on same-sex partnerships in line with the PACE Resolution 1547 (2007).

## RUSSIAN FEDERATION



**This is the worst result in the CEECA region in terms of correlation between the number of barriers and the level of protection existing at least on paper. Even the mechanisms, which are legally available to protect rights and freedoms of gay men, other MSM and trans people, raise a lot of questions. There are also concerns about law enforcement practices, first of all because they are unpredictable and one and the same regulation may be interpreted in different ways.**

B The question of exercising the freedom of association and unhampered operation of the NGOs delivering services to and protecting the rights of

LGBTQ community is probably the most important in this context. Monitoring the violations of human rights of gay men, other MSM and trans people as well as cases of protecting their rights – even rare – would not be possible without operation of NGOs all over the country. This problem consists of two aspects. On the one hand, there is Federal Law N 121-FZ dated 20 June 2012 "On introducing amendments to certain legislative acts of the Russian Federation regulating the activities of non-commercial organizations performing the functions of foreign agents", setting strict requirements to all organizations, irrespective of their beneficiaries, and used by the authorities to censor and restrict the activities of NGOs. This law is applied to all organizations, with no exception, which does not allow stating that it limits the freedom of association only for the organizations protecting the rights of LGBTQ and providing services to them. According to local activists, only one organization with LGBTQ mentioned in its statute is currently included in the register of foreign agents. This may be explained with the fact that many LGBTQ service and/or human rights organizations do not mention working with LGBTQ in their statutory documents. Besides, it is related to bureaucratic challenges in the NGO registration procedures. On the other hand, the existing rules and regulations allow the organizations offering HIV prevention services to access state funding. Organizations providing HIV services have not been formally denied access to such local funding (which, in turn, could relieve them from the necessity of being registered as foreign agents). One of the reasons why LGBTQ human rights and service organizations do not apply for such funding is their confidence that homophobic policies as well as rhetoric of both federal and local authorities serve as sufficient evidence that such efforts would be vain.

Exercising the freedom of expression is the next challenge, where in the recent years there has been no progress. Amendments to the Federal Law "On protection of children from information harmful to their health and development" approved in 2013 as well as changes introduced to the Code of Administrative Offenses are the basis of what may be called the governmental policy of restricting the freedom of expression for the LGBTQ community, set forth in laws, which therefore became a tangible legal barrier. This is not to mention local laws as well as public opinion, in particular taking the form of petitions to the President as well as other authorities with "classic" requirements to ban "gay propaganda" and prohibit LGBTQ, demonstrating the level of homophobic attitudes prevailing in the society.

As for the right to peaceful assembly and the possibilities to exercise this right, the picture of barriers and law enforcement practices does not differ from the previous provisions and years. First, there is a regulatory approval system in practice, which applies to peaceful assemblies in the country, despite the formal notification nature of the law. Local activists and NGOs collected a significant base of cases when approvals were not granted to conduct rallies and protests as well as sanctions, which were imposed on the participants of so-called unauthorized public campaigns. Besides, there are numerous legal precedents, including cases, which Russia lost in the European Court of Human Rights, which have

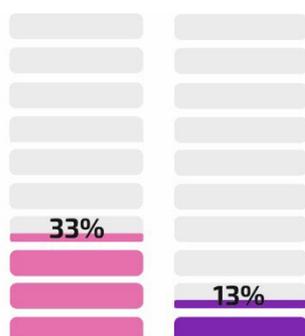
not led to improvement of the situation or relaxation of the prohibitions.

Apart from the above, typical and unresolved issues for the Russian Federation in terms of exercising the rights and freedoms of gay men, other MSM and trans people are: discrimination not defined in laws and lack of anti-discrimination legislation (there is only a general provision in the Russian Constitution, not mentioning SOGI, and several articles of the Criminal Code, stipulating penalties for infringement of the equality of citizens, also not mentioning SOGI); phrasing the articles of the Criminal Code setting the responsibility for hate crimes, without mentioning SOGI, and low level of investigation and qualification of such crimes against the LGBTQ people; issues related to humanization and adequacy of gender confirmation procedure, which would include the possibility of legal gender marker change without an established diagnosis or a court judgment (currently most cases go through court, with certain challenges and violations); issues of HIV criminalization and deportation of the migrants who disclose their HIV positive status as to prolong their residence permits they are required to submit HIV free certificates.

## Recommendations:

- ✓ adopt anti-discrimination laws with SOGI included in the list of protected grounds, in particular amend the Criminal Code;
- ✓ establish statistical indicators for investigating hate crimes based on SOGI, taken into account in the qualification of the police and investigative work of law enforcement bodies;
- ✓ guarantee to NGOs a possibility to freely work in the area of control over observation of human rights and freedoms as well as provision of services to marginalized populations;
- ✓ abolish the law on the so called "gay propaganda";
- ✓ abolish the "foreign agent law".

## TAJIKISTAN



**This is one of the worst scores in the CEECA region in terms of correlation between the number of barriers and the level of protection existing at least on paper, especially when analyzing how the statutory mechanisms work in practice and reviewing the consequences of the lack of other significant mechanisms to protect gay men, other MSM and trans people and to exercise their rights.**

Considering that there are no separate anti-discrimination laws in Tajikistan, the only legal guarantee of equality is article 17 of the Constitution, which states: "all persons are equal before the law and the courts. The government guarantees the rights and freedoms of every person regardless of ethnicity, race, sex, language, faith, political beliefs, education, or social or property status. Men and women have equal rights". Sexual orientation and gender identity are not directly mentioned. Besides, the list of protected grounds is closed, which does not allow to indirectly include SOGI. Other laws, in particular the Labor Code, are phrased in a similar way. They do not directly mention SOGI and do not contain open lists or do not end with "etc.", which does not allow local LGBTQ community members to count on such protection mechanisms.

Provisions of the Criminal Code, which could be viewed as a substitute of the hate crime definition, also contain a closed list of protected grounds and are not applied to gay men, other MSM and trans people. Besides, monitoring of local NGOs showed that gay men, other MSM and trans people often become victims of extortion, blackmailing and violence from the side of law enforcement bodies, which, among other things, is the reason why gay men, other MSM and trans people do not trust law enforcers and, thus, do not report cases when their rights and freedoms are violated.

*The first and only case on extortion against LGBTQ community members from the side of law enforcers was considered by a court of the Republic of Tajikistan.*

*"Usually victims do not go to police because law enforcers can tell their parents about their sexual orientation. But I was not afraid – I reported to the local prosecutor's office and persistently went up the court instances. As a result, six police officers, who unlawfully detained and beat me, were punished. I became well known in my city as I was the first and the only one who was brave enough to file a complaint", Kamil<sup>51</sup>.*

Formally, there are no restrictions for local NGOs to access government funding. At the same time, according to local activists, there are no registered NGOs in the country mentioning in their statutes that they provide services to LGBTQ. On the other hand, local activists and previous reports on human rights violations in Tajikistan state that the authorities are not very supportive of the NGOs providing services to and protecting the rights of LGBTQ, while the level of homophobia and transphobia among public officials at different levels is extremely high<sup>52</sup>.

Formally, there are no legislative restrictions on the freedom of expression and the freedom of peaceful assembly for the LGBTQ community. In fact, in the society where the level of homophobia and transphobia is extremely high due to religiosity and conservatism of the majority of people, in the situation, when many members of the LGBTQ community keep a low profile and do not disclose their SOGI even to their friends and family members, local activists are not ready to make attempts to exercise their rights and freedoms, hold Prides and openly make statements about violations of the rights and the freedoms of LGBTQ.

The procedure of legal gender confirmation is also not settled – neither in terms of medical assistance and support provided to trans people, nor in terms of changing legal documents. The only case when gender reassignment option is mentioned in laws is the Law of the Republic of Tajikistan "On the civil registration procedure":

*Article 74. Conclusion of the civil registration office on introducing corrections, amendments or additions to the civil status act*

*Conclusion of the civil registration office on introducing corrections, amendments or additions to the civil status act shall be made by a civil registration body if:*

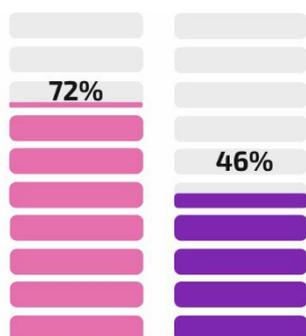
- *a document on gender reassignment issued by a healthcare institution in the set format is submitted.*

All other aspects remain unsettled as there is no procedure to issue such document "in the set format", no agency authorized to issue such documents, and, finally, no set format for such document to be issued. There are also no medical protocols for managing trans patients and no doctors qualified to provide medical services to trans people. Besides, doctors refuse to work with trans people referring to the lack of necessary regulatory framework.<sup>5</sup> It has been reported that most trans people leave Tajikistan and go to Russian Federation.

## Recommendations:

- ✓ adopt anti-discrimination laws with SOGI included in the list of protected grounds;
- ✓ ensure investigation of hate crimes, in particular work with the police to prevent stigma against and intimidation of the victims;
- ✓ in consultations with the trans community, develop and approve all the procedures required for gender confirmation, including medical care and support of such patients as well as legal assistance.

## UKRAINE



**This result is lower than the average score in the CEECA countries. There are some questions about how the lack of barriers and the existing level of protection, set forth in laws and regulations, work in practice to allow gay men, other MSM and trans people exercise their rights and freedoms.**

The most important achievements in protection of the rights of gay men, other MSM and trans people in Ukraine are, first, anti-discrimination provisions in the national legislation and, second, significant progress in allowing the LGBTQ people to exercise their right to peaceful assembly as well as reduced homophobic and transphobic attitudes in the society.

Anti-discrimination legislation of Ukraine approved to comply with country commitments to the EU within the visa liberalization action plan back in 2012 is an example of a compromise between international requirements and homophobic regulatory framework within the country. There is an anti-discrimination law with an open list of protected grounds in the article defining discrimination, but without directly mentioning SOGI. Only in 2015, amendments were introduced to the Labor Code, with SOGI added to the list of grounds protected from discrimination in the area of labor relations. There is also an explanation of the Plenum of the Supreme Court of Ukraine stating that the words "and other" or "etc." in anti-discrimination laws and regulations include SOGI, but the legal precedents show that LGBTQ community members very rarely use the protection offered by the existing laws and almost never go to courts. The second factor contributing to reluctance to use the existing protection mechanisms is the low level of trust to the judicial system in the country in general.

Provisions of the Criminal Code on hate crimes do not contain SOGI. In most articles, the lists of motives are closed and allow qualifying hate crimes only on the grounds of racism, nationalism and religious discord. The only possibility to qualify the crimes committed because of homophobia and/or transphobia as committed on grounds of hatred is article 161 of the Criminal Code, which is very rarely used by the police and the prosecutor's office, who refer to the complicated mechanism of proving such cases and lack of evidence in the victims' reports. Most often, when victims from among gay men, other MSM and trans people report the crimes committed against them to the police, such cases are qualified based on article 296 of the Criminal Code – hooliganism, or other articles that do not take into account the hate motive. Such approach of law enforcement bodies leads to the fact that the statistics of crimes committed on the basis of homophobia and or transphobia shows only the number of allegations of crimes, according to the victims.

The data on detected crimes and the registry data show a completely different picture when, in most cases, the hate motive is not taken into account by the investigation, including due to the lack of an effective qualifying mechanism for hate crimes committed based on homophobia and/or transphobia. However, according to local activists and NGOs, there is a growing number of reports on such cases from the community members. There are two possible reasons. On the one hand, a network of monitoring NGOs has been established in different parts of the country, which collect information from the victims (so that it becomes visible) as well as a network of advocates cooperating with NGOs and providing legal support in such cases, if victims are ready to report to police. On the other hand, local experts observe an increased level of violence against various social groups, in particular LGBTQ people, from the side of far right groups.

Meanwhile, in the recent 2-3 years there has been a significant improvement in terms of the possibility to exercise the freedom of peaceful assembly. For the third year in a row, the annual Pride march is held in the capital city with no violence and with the protection of police. In 2018, the Pride organizers did not make any critical observations when commenting on the work of police. However, the situation with peaceful assemblies in other cities has not noticeably improved. In the recent years, there have been cases when local authorities took legal action requesting the court to prohibit the LGBTQ community holding public events and processions in Odesa, Lviv, Chernivtsi and other cities. Besides, NGOs documented cases when local police refused to provide public order maintenance services, which demonstrates that the situation has only improved in the capital, with the issues typical for the CEECA region retained in other cities.

In 2018, the attempts to restrict the freedom of expression for LGBTQ community have been renewed. Thus, another draft law against "gay propaganda" was submitted to the Parliament; petitions aimed at "prohibiting gay propaganda in Ukraine and protecting the traditional family values" are regularly registered through the online petition mechanism (both at the website of the President of Ukraine and at the websites of local administrations in major cities). There was only one case when, after Ombudsperson's appeal, such petition to the President was withdrawn as it contained calls to discrimination (prohibited by law), while in other cases the requirements for petitions not to contain calls to breach the laws are not observed and moderation is not working.

The issue of inequality in personal and family life for gay couples has also not been resolved in Ukraine. The Family Code states that marriage is a union of a man and a woman. The commitment to develop a draft law on same-sex partnerships undertaken by the Cabinet of Ministers of Ukraine and recorded in the Action Plan to Implement the National Human Rights Strategy of Ukraine has not been fulfilled. In 2018, the Ministry of Justice, which is responsible for developing such a draft law, repeatedly publicly announced that it does not think it is possible to perform this task as, in their opinion, "the society is not ready". Gay men, other MSM and trans people cannot adopt children together with their partners if they are not married to a heterosexual person.

Formally, there are no restrictions for the NGOs providing services to gay men, other MSM and trans people and/or protecting their rights, to participate in tenders to access funding from the national budget or local budgets. It is optional for the organizations working with LGBTQ community to state the area of their activities in their statutes. There have been no cases when LGBTQ organizations submitted proposals in such tenders with projects aimed exclusively at LGBTQ. On the other hand, one of the Kyiv-based LGBTQ human rights organizations submitted a tender proposal to a local council with a project aimed at developing tolerant and non-discriminative informal education. It has not been approved. At that tender, local authorities supported an initiative of a radical group aimed at patriotic education of young people. This case demonstrates the priorities of local authorities when selecting NGOs and supporting civil society initiatives.

## Recommendations:

- ✓ amend the Criminal Code and include SOGI in the list of protected grounds;
- ✓ implement a mechanism to monitor the investigation and qualification of hate crimes against LGBTQ;
- ✓ in consultations with the trans community, develop and approve all the procedures required for gender confirmation, including medical care and support of such patients as well as legal assistance;
- ✓ develop and approve a law on same-sex partnerships in line with the PACE Resolution 1547 (2007).

## Annex 1 – Questionnaire

1.1 Does your country have any regulations that require immigrants to provide information about their health status (and/or HIV status) when applying for long term visa or stay permit?

2.1 Does your country's Criminal Code (or other legislation) specifically set responsibility for intentional HIV transmission?

2.2 Does your country's Criminal Code (or other regulations) set responsibility for unintentional HIV transmission?

3.1 Do your country's healthcare rules set limitations for gay men, other MSM and/or trans people to become blood donors?

3.2 Do your country's donor screening procedures and/or forms that donors have to fill in require donors to answer questions about their SOGI (it could be also questions about "risky sexual behavior", "sex life", etc.)?

4.1 Are there any legal limitations for NGOs providing HIV services to gay men, MSM or trans people?

4.2 Are there any legal limitations for NGOs representing LGBTQ people (human rights, services, community groups, etc.) to get state funding (at the national or local level)?

5.1 Is there a law specifically prohibiting freedom of assembly and freedom of speech for LGBTQ people?

5.2 Are national and/or local authorities banning Pride marches?

5.3 Are there reports about uninvestigated by the police attacks on LGBTQ people and other participants of Pride marches after the march is over?

6.1 Is there an active law about the prohibition of propaganda?

6.2 Are there any draft laws submitted to the Parliament about the prohibition of propaganda?

6.3 Are there petitions to the State (President or the Cabinet of Ministers or local municipalities) about the prohibition of propaganda?

6.4 Are there petitions about traditional values (such as family as a union of man and woman, etc.) that also mention LGBTQ people and/or gender theory?

7.1 Do trans people have to get medical diagnosis (mental health diagnosis) before receiving access to the gender confirmation procedure?

7.2 Do trans people have to divorce (if they are married) before the gender confirmation procedure?

7.3 Do trans people have to go through sterilization procedure?

7.4 Are there any other obstacles that might prevent a person from entering the legal gender confirmation procedure (such as age limitations (both for minors and for people of elder age), minor children, compulsory medical interventions, etc.)?

8. Are there any gender confirmation or other related procedures for trans people set in legal acts (laws, bylaws, protocols, etc.)?

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9. Is it possible to legally change one's name and gender without third party decision involved (judge, medical commission, etc.)?
  10. Is it possible for an immigrant in your country to get ART freely and regularly?
  11. Is there a law regulating legal status of same-sex couples?
  12. Is there a law allowing same-sex couples to adopt children?
  13. Is there a national law prohibiting discrimination that specifically mentions SOGI in the list of protected grounds?
  14. Is there a national anti-discrimination law with an open list of grounds (but it does not specifically mention SOGI)?
  15. Are there any national laws prohibiting discrimination that specifically mention SOGI in limited spheres (such as Labor Code or Education Law or Health Care Law)?
  16. Are there specific and clear hate crime provisions in the Criminal Code that protect on the ground of SOGI?
  17. Are your country's hate crime provisions in the Criminal Code general and not mentioning SOGI?
  18. Are hate crimes against LGBTQ people investigated (investigation process is no longer than with other crimes, police looks for evidence, perpetrators are found, cases are prosecuted as hate crimes, not hooliganism, etc.)?
  19. Do LGBTQ community members report hate crimes to the police without fear of discrimination and victimization?
  20. Does your country have general laws providing for the freedom of assembly and setting rules for the protection of public order?
  21. Does police provide enough security and support to Pride participants to make sure that Pride participants are not attacked by far right and religious groups during the march?
  22. If there are no legal limitations set (rules that limits state funding for NGOs) is there a case when NGOs working with MSM or LGBTQ people received state funding?

## LINKS

- <sup>1</sup>The latest ECOM data on the situation with HIV epidemic among MSM in the CEECA region are available in English at <http://ecom.ngo/en/hiv-msm-eeeca/>
- <sup>2</sup>Judgment of the Constitutional Court of the Russian Federation dated 12 March 2015 N 4-P, St. Petersburg "on the matter of verifying constitutionality of the provisions of part 4 of article 25 of the Federal Law "On the Procedure of Exit from and Entry into the Russian Federation", subparagraph 13 of paragraph 1 of article 7 of the Federal Law "On the Legal Status of Foreign Citizens in the Russian Federation" and paragraph 2 of article 11 of the Federal Law "On prevention of transmission in the Russian Federation of the disease caused by human immunodeficiency virus (HIV infection)" based on citizens' complaints", full text of the judgment is available in Russian at <https://rg.ru/2015/03/30/ks-dok.html>
- <sup>3</sup>Georgia, Order of the Minister of Health dated 24 October 2017 N 01-63/6 on introducing amendments to the Order of the Minister of Health dated 5 December 2000 N 241/6 "On defining contra-indications for the donation of blood and its components", available at <https://matsne.gov.ge/ka/document/view/3833689>
- <sup>4</sup>Several times, LGBTQ assemblies were conducted in St. Petersburg with no police interventions in "designated areas" for campaigns not requiring "approvals", e.g.: <https://www.fontanka.ru/2017/05/17/153/>
- <sup>5</sup>Full text of the Code of Administrative Offenses is available in Russian at <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=ARB002&n=195603#007111015045138003>
- <sup>6</sup>The case was prepared by a local ECOM consultant in Georgia.
- <sup>7</sup>Full text of the draft law in Ukrainian is available at [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=64237](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64237)
- <sup>8</sup>About the court decision and comment of the Russian government <https://www.bbc.com/russian/features-40344788>, full judgment of the court in English is available at [https://hudoc.echr.coe.int/eng#{"itemid":\["001-174422"\]}](https://hudoc.echr.coe.int/eng#{)
- <sup>9</sup>Full text of the law is available in English at <https://matsne.gov.ge/en/document/view/2339687?publication=0>
- <sup>10</sup>Recommendations received by the countries within the United Nations and/or Council of Europe mechanisms.
- <sup>11</sup>Definition from OSCE report, Hate Crimes in the OSCE Region – Incidents and Responses, available in English at <https://www.osce.org/odihr/73636?download=true>
- <sup>12</sup>Criminal Code of Armenia, full text is available in English at [https://www.unodc.org/res/cld/document/armenia\\_criminal\\_code\\_html/Armenia\\_Criminal\\_Code\\_of\\_the\\_Republic\\_of\\_Armenia\\_2009.pdf](https://www.unodc.org/res/cld/document/armenia_criminal_code_html/Armenia_Criminal_Code_of_the_Republic_of_Armenia_2009.pdf)
- <sup>13</sup>Criminal Code of Kyrgyzstan, full text is available in Russian at <http://cbd.minjust.gov.kg/act/view/ru-ru/111527?cl=ru-ru>
- <sup>14</sup>Criminal Code of the Republic of Belarus, full text is available in Russian at [http://kodeksy-by.com/ugolovnyj\\_kodeks\\_rb/130.htm](http://kodeksy-by.com/ugolovnyj_kodeks_rb/130.htm)
- <sup>15</sup>Kyrgyzstan
- <sup>16</sup>Moldova, more information is available in Genderdoc-M report in English at [http://gdm.md/files/untitled%20folder/report\\_GENDERDOC-M\\_2017\\_eng.pdf](http://gdm.md/files/untitled%20folder/report_GENDERDOC-M_2017_eng.pdf)
- <sup>17</sup>The case was prepared by an ECOM consultant from Tajikistan.
- <sup>18</sup>The case was prepared by an ECOM consultant from Azerbaijan.
- <sup>19</sup>The case was prepared by an ECOM consultant from Kazakhstan.
- <sup>20</sup>Full text of the Order in Ukrainian is available at <http://zakon0.rada.gov.ua/laws/show/z1589-16#n17>
- <sup>21</sup>Article 25, paragraph 3 of the Constitution of the Republic of Azerbaijan, text in English is available at [http://azerbaijan.az/portal/General/Constitution/doc/constitution\\_e.pdf](http://azerbaijan.az/portal/General/Constitution/doc/constitution_e.pdf)
- <sup>22</sup>Article 4. State guarantees in the area of HIV response
- 4.0.13. free provision of citizens of the Republic of Azerbaijan, stateless persons permanently living in the Republic of Azerbaijan and persons with refugee status granted by the Republic of Azerbaijan, who live with HIV, with medical care in public health facilities (including specialized medical care) and medications. More detailed information at <http://hiv-legalaid.org/index.php?id=1512561537>
- <sup>23</sup>Full text of the Constitution in English is available at [https://www.constituteproject.org/constitution/Armenia\\_2015.pdf?lang=en](https://www.constituteproject.org/constitution/Armenia_2015.pdf?lang=en)
- <sup>24</sup>The case was prepared by an ECOM consultant from Armenia.
- <sup>25</sup>Law of Georgia "On eliminating all forms of discrimination". Article 1. This Law is intended to eliminate every form of discrimination and to ensure equal rights of every natural and legal persons under the legislation of Georgia, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics, full text in English is available at <https://matsne.gov.ge/en/document/view/2339687?publication=0>
- <sup>26</sup>Article 53.1 Aggravating circumstances for punishment. Commission of a crime on the grounds of race, color, language, sex, sexual orientation, gender, gender identity, age, religion, political or other beliefs, disability, citizenship, national, ethnic or social background, origin, material status or rank, place of residence or other discriminatory grounds shall constitute an aggravating circumstance for all the relevant crimes provided for by this Code.
- <sup>27</sup>The Law of Georgia on civil status acts is available in Georgian at <https://matsne.gov.ge/ka/document/view/1541247>
- <sup>28</sup>The case was prepared by an ECOM consultant from Georgia. There is also information that investigations on violations of the rights of the participants of 2012, 2013, 2016 Pride marches were either not completed or only some cases were brought to court, with no offenders held liable (as in 2013).
- <sup>29</sup>There have been draft laws to ban the so-called "gay propaganda" and a petition to the President to enforce such a ban.
- <sup>30</sup>"No one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances", article 14 of the Constitution of the Republic of Kazakhstan, full text in English is available at [http://adilet.zan.kz/eng/docs/K950001000\\_](http://adilet.zan.kz/eng/docs/K950001000_)
- <sup>31</sup>Full text of the Criminal Code in English is available at <http://adilet.zan.kz/eng/docs/K1400000226>
- <sup>32</sup>Full text in Russian is available at <http://adilet.zan.kz/rus/docs/V1500010843>
- <sup>34</sup>Criminal Code of the Kyrgyz Republic dated 1 October 1997. Full text is available at <http://cbd.minjust.gov.kg/act/view/ru-ru/111527?cl=ru-ru>
- <sup>35</sup><https://kloop.kg/blog/2014/04/16/zakonoproekt-ob-lgbt-zaregistrirovan-v-parlamente/>, <http://kenesh.kg/ru/article/show/3810/2018-zhildin-10-mayindagi-2398-vi-kirgiz-respublikasinin-zhogorku-keneshinin-2018-zhildin-mayindagi-ishinin-kalendar-dik-planin-bekituu-zhonundo>
- <sup>36</sup>Issued by the Expert Council to Assess the Quality of Clinical Guidelines/Protocols and approved by the Order of the Ministry of Health of Kyrgyz Republic N 42 dated 18 January 2017, full text is available at <http://cbd.minjust.gov.kg/act/view/ru-ru/1655?cl=ru-ru>, <https://www.steppeuca.info/single-post/rukovodstvokirgizstan>
- <sup>37</sup>Full text of the Constitution of the Republic of Belarus in English is available at <http://law.by/document/?guid=3871&p0=V19402875e>
- <sup>38</sup>Article 130. Incitement to racial, national or religious hatred or discord: 1. Deliberate actions aimed at incitement to racial, national, religious or other social hatred or discord based on racial, national, religious, language or other social background.
- <sup>39</sup>The case was prepared by an ECOM consultant from Belarus, the wording and style of the original text have been left unchanged.
- <sup>40</sup>Law of the Republic of Belarus N 362-3 dd. 11 May 2016 "On amending some laws of the Republic of Belarus"; Law of the Republic of Belarus "On mass media", Law of the Republic of Belarus "On information, informatization and protection of information"; Law of the Republic of Belarus "On amending some laws of the Republic of Belarus", regulating the issues of protecting children from the information harmful to their health and development. Article 37-1.
- <sup>41</sup>The case was prepared by an ECOM consultant from Belarus, the wording and style of the original text have been left unchanged.
- <sup>42</sup>Law on Prevention of and Protection Against Discrimination in the Republic of Macedonia, full text in English is available at <http://www.refworld.org/pdfid/5aa12ad47.pdf>

<sup>43</sup> Full text in Macedonian is available at <http://zdravstvo.gov.mk/wp-content/uploads/2015/08/Transeksualizam.pdf>

<sup>44</sup> The Law on Equality N 121, full text in Russian is available at <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=343361&lang=2>

<sup>45</sup> Article 7. Prohibiting discrimination in employment

(1) Any distinction, exclusion, restriction or preference based on the criteria established by this law, which have the effect of limiting or undermining equality of opportunities or relations in employment or dismissal, direct performance of professional duties and training are prohibited. Discrimination based on sexual orientation is prohibited in employment and labor relations.

<sup>46</sup> 2018 was the first year when the right of LGBTQ to the freedom of assembly was fully exercised.

[http://gdm.md/files/untitled%20folder/report\\_GENDERDOC-M\\_2017\\_eng.pdf](http://gdm.md/files/untitled%20folder/report_GENDERDOC-M_2017_eng.pdf)

<sup>47</sup> Article 6.21 of the Code of Administrative Offenses "1. Promotion of non-traditional sexual relations to minors in the form of dissemination of information aimed at forming non-traditional sexual preferences, appeal to non-traditional sexual relations, distorted perception of social equality of traditional and non-traditional sexual relations in minors or imposing information about non-traditional sexual relations, causing interest to such relations, provided that such actions do not constitute a criminal offense...", full text is available at

<https://rg.ru/2013/06/30/deti-site-dok.html>

<sup>48</sup> See judgments on the cases of Alekseyev et al. against the Russian Federation, in particular at

<http://hrlibrary.umn.edu/russian/euro/Ralekseyevcase.html>

<sup>49</sup> See position of the Russian Ministry of Foreign Affairs regarding the ECHR judgments on the cases of Alekseyev at

<http://tass.ru/politika/4409925>

<sup>50</sup> Article 104. Murder. 2) Murder: m) on the ground of national, racial, religious, locality hatred or hostility, as well as vendetta... is punishable by imprisonment for a period of 15 to 20 years or death penalty. Full text of the Criminal Code in English is available at

<https://www.legislationline.org/download/action/download/id/1707/file/207b8150765af2c85ad6f5bb8a44.htm/preview>

<sup>51</sup> The case was prepared and published in the report "We just want to be who we are!", LGBT PEOPLE IN TAJIKISTAN: BEATEN, RAPED AND EXPLOITED BY POLICE – joint report by IPHR – International Partnership for Human Rights and HFHR – Helsinki Foundation for Human Rights

<sup>52</sup> "There have been several incidents in recent years where the authorities targeted such NGOs and pressurized them to discontinue their work with sexual minorities" (from the report "We just want to be who we are!", LGBT PEOPLE IN TAJIKISTAN: BEATEN, RAPED AND EXPLOITED BY POLICE – joint report by IPHR – International Partnership for Human Rights and HFHR – Helsinki Foundation for Human Rights).

<sup>53</sup> Several years ago, one of the Friday prayers of imams throughout Tajikistan was dedicated to the topic of "non-traditional sexual relations" in accordance with the guidelines received from the Committee on Religious Affairs, National Traditions, Celebrations and Rites under the Government of the Republic of Tajikistan. Chair of the Ulema Council (Council of Theologians), Mufti Saidmukarram Abdukodirzoda also touched upon this topic during his Friday prayer in the cathedral mosque of Dushanbe, stating that Islam denounces homosexual relations and considers them "deplorable" and that gay people would face a "terrible punishment" in the Judgment Day.

<sup>54</sup> The Law of Ukraine "On the principles of prevention and counteracting discrimination in Ukraine", full text in Ukrainian is available at

<http://zakon2.rada.gov.ua/laws/show/5207-17>

Violation type/area	Azerbaijan	Armenia	Georgia	Kazakhstan	Kyrgyzstan	Macedonia	Moldova	Russia	Tajikistan	Ukraine	Belarus
1.1 Does your country have any regulations that require immigrants to provide information about their health status (and/or HIV status) when applying for long term visa or stay permit											
2.1 Does your country's Criminal Code (or other legislation) specifically set responsibility for intentional HIV transmission?											
2.2 Does your country's Criminal Code (or other regulations) set responsibility for unintentional HIV transmission?											
3.1 Do your country's healthcare rules set limitations for gay men, other MSM and/or trans people to become blood donors?											
3.2 Do your country's donor screening procedures and/or forms that donors have to fill in require donors to answer questions about their SOGI (it could be also questions about "risky sexual behavior", "sex life", etc.)?											
4.1 Are there any legal limitations for NGOs providing HIV services to gay men, MSM or trans people?											
4.2 Are there any legal limitations for NGOs representing LGBTQ people (human rights, services, community groups, etc.) to get state funding (at the national or local level)?											
5.1 Is there a law specifically prohibiting freedom of assembly and freedom of speech for LGBTQ people?											
5.2 Are national and/or local authorities banning Pride marches?											

5.3 Are there reports about uninvestigated by the police attacks on LGBTQ people and other participants of Pride marches after the march is over?											
6.1 Is there an active law about the prohibition of propaganda?											
6.2 Are there any draft laws submitted to the Parliament about the prohibition of propaganda?											
6.3 Are there petitions to the State (President or the Cabinet of Ministers or local municipalities) about the prohibition of propaganda?											
6.4 Are there petitions about traditional values (such as family as a union of man and woman, etc.) that also mention LGBTQ people and/or gender theory?											
7.1 Do trans people have to get medical diagnosis (mental health diagnosis) before receiving access to the gender recognition procedure?											
7.2 Do trans people have to divorce (if they are married) before the gender recognition procedure?											
7.3 Do trans people have to go through sterilization procedure?											
7.4 Are there any other obstacles that might prevent a person from entering the legal gender recognition procedure (such as age limitations (both for minors and for people of elder age), minor children, compulsory medical interventions, etc.)?											
Total country Legal Barriers score	2	4	7	9	7	7	8	11	6	13	5

Violation type/area	Azerbaijan	Armenia	Georgia	Kazakhstan	Kyrgyzstan	Macedonia	Moldova	Russia	Tajikistan	Ukraine	Belarus
8. Are there any sex reassignment and/or gender recognition or other related procedures for trans people set in legal acts (laws, bylaws, protocols, etc.)?											
9. Is it possible to legally change one's name and gender without third party decision involved (judge, medical commission, etc.)?											
10. Is it possible for an immigrant in your country to get ART freely and regularly?											
11. Is there a law regulating legal status of same-sex couples?											
12. Is there a law allowing same-sex couples to adopt children?											
13. Is there a national law prohibiting discrimination that specifically mentions SOGI in the list of protected grounds?											
14. Is there a national anti-discrimination law with an open list of grounds (but it does not specifically mention SOGI)?											
15. Are there any national laws prohibiting discrimination that specifically mention SOGI in limited spheres (such as Labor Code or Education Law or Health Care Law)?											
16. Are there specific and clear hate crime provisions in the Criminal Code that protect on the ground of SOGI?											
17. Are your country's hate crime provisions in the Criminal Code general and not mentioning SOGI?											

18. Are hate crimes against LGBTQ people investigated (investigation process is no longer than with other crimes, police looks for evidence, perpetrators are found, cases are prosecuted as hate crimes, not hooliganism, etc.)?											
19. Do LGBTQ community members report hate crimes to the police without fear of discrimination and victimization?											
20. Does your country have general laws providing for the freedom of assembly and setting rules for the protection of public order?											
21. Does police provide enough security and support to Pride participants to make sure that Pride participants are not attacked by far right and religious groups during the march?											
22. If there are no legal limitations set (rules that limits state funding for NGOs), is there a case when NGOs working with MSM or LGBTQ people received state funding?											
Country discrimination score	4	3	7	2	5	7	7	5	2	7	5