

ANALYSIS OF THE NATIONAL LEGISLATION OF THE KYRGYZ REPUBLIC RELATED TO SOGI AND HIV

2022 ECOM



Analysis of the national legislation of the Kyrgyz Republic related to SOGI and HIV / ECOM — Eurasian Coalition on Health, Rights, Gender and Sexual Diversity. — Tallinn, 2022. — 14 c.

Preparation of the publication: Nadira Masyumova, Elvira Tilek, Yuri Yoursky.

The authors express their sincere gratitude to Mika Okinova from PO «Kyrgyz Indigo» for their active participation and significant assistance in the preparation of the analysis.

Editing and translation: Anna Oleynik and Marcus Oda

Design: Anastasiia Danylevska.









The publication was prepared by ECOM and published as part of the Regional project «Sustainability of services for key populations in the region of Eastern Europe and Central Asia» (SoS_project 2.0), implemented by a consortium of organizations led by the Alliance fir Public Health in partnership with the CO «100% Life», with financial support from the Global Fund.

The views expressed in this publication are those of the authors and may not reflect the views of the consortium organizations as well as the Global Fund.

The Global Fund was not involved in agreeing and approving either the material itself or the possible conclusions from it.

ABBREVIATIONS

CC KR	Criminal Code of the Kyrgyz Republic
ECOM	Eurasian Coalition on Health, Rights, Gender and Sexual Diversity
EECA	Eastern Europe and Central Asia
НС	Hate crimes
ні	Human immunodeficiency virus
KR	Kyrgyz Republic
LGBT	Lesbian, gay, bisexual, and trans* people
MSM	Men who have sex with men
NLA	Normative and legal act
NGO	Non-governmental organization
ODIHR	Office of Democratic Institutions and Human Rights
PIN	Personal identification number
PLH	People living with HIV
SOGI	Sexual orientation and gender identity
WHO	World Health Organization



The purpose of this comparative analysis is to identify legal barriers that affect the quality of life of lesbian, gay, bisexual and trans* people (LGBT) and people living with HIV (PLH). The Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) developed a methodology and survey, which was completed by local partners in the Kyrgyz Republic (KR). The following were used to analyze legal practices: state statistics, judicial practice, reports from activists, statistics from partner organizations, and publicly available data.

Legislation and law enforcement practice were examined in relation to their compliance with international standards on human rights and freedoms, as well as in terms of the actual ability to obtain protection of the rights guaranteed by national and international law.

This analysis provides information on changes in legislation and law enforcement practice that have been implemented in the Kyrgyz Republic since ECOM's previous 2020 analysis.

Based on the data obtained, a list of recommendations was compiled for the state, representatives of international organizations, and the civil sector. This information can be useful when planning advocacy processes to promote the rights of LGBT people and PLH, as well as for removing barriers that limit their access to protection of their rights and freedoms.

INTERNATIONAL HUMAN RIGHTS STANDARDS RATIFIED BY THE COUNTRY¹



RECOGNITION OF THE INDIVIDUAL COMPLAINT PROCEDURE

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women



Optional Protocol to the International Covenant on Civil and Political Rights



CIVIL SOCIETY IN THE KR USED THE SHADOW REPORTS MECHANISM AT THE UN IN 2021-2022

To the fifth periodic report of the KR to the Committee on the Elimination of Discrimination Against Women (2021)

To the third periodic report of the KR to the Committee Against Torture (2021) ···· **犬** ···· : ··· **乂** ···· To the fourth periodic report of the KR to the Committee on Economic, Social, and Cultural Rights (list of issues) (2021)

To the third periodic report of the KR to the Human Rights Committee (2022)

LGBT organizations in the Kyrgyz Republic use the Special Procedures mechanism to promote the rights of LGBT people and PLH. The Kyrgyz Republic is a member of the OSCE, which gives civil society the right to participate in hate crimes monitoring in cooperation with the Office for Democratic Institutions and Human Rights (ODIHR). The state does not provide any official data; however, non-governmental organizations (NGOs) provided data on 46 cases of hate crimes in 2020, of which 20 were based on the SOGI of the victims².

- Information available at: <u>https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=93&Lang=-</u>
- <u>RU</u>
 - ² Full data for 2020 in the ODIHR database is available at: <u>https://hatecrime.osce.org/index.php/incidents?country=KG&-</u>
- year=2020

LAWS	YES	NO	
PROTECTION FROM DISCRIMINATION, HATE SPEECH, HC			
Provision on the prohibition of discrimination in the Constitution			
Separate law defining and prohibiting discrimination, including based on SOGI		\mathbf{x}	
Provision on hate crimes in the CC KR		(\mathbf{x})	
Provision on hate speech		(\mathbf{x})	
Is there a separate law on the rights of PLH prohibiting discrimination?			
Prohibition on migration or entry to the country for PLH		×	
Criminal liability for the intentional/unintentional transmission of HIV			
Prohibition on blood donation by MSM		\mathbf{x}	
Legislatively enshrined procedure for legal transgender transition		(\mathbf{x})	
RIGHT TO PRIVATE AND FAMILY LIFE			
Recognition of same-sex partnerships at the legislative level		(\mathbf{x})	
Criminalization of voluntary homosexual relations		\mathbf{x}	
Trans* people allowed to enter into heterosexual marriages after legal transgender transition			
Adoption for same-sex couples		(\mathbf{x})	
Adoption for single LGBT people			
Adoption for trans* people after legal transgender transition			
Adoption for PLH*			
「 「 に RIGHT TO FREEDOM OF SPEECH AND PEACEFUL ASSEMBLY			
Legislation regulating the process of holding peaceful assemblies			
Permission from the authorities obligatory for holding a peaceful assembly		(\mathbf{x})	
Prohibition on peaceful assemblies for LGBT people		\mathbf{x}	
Fines for holding a peaceful assembly without the agreement of the authorities	\bigcirc		
Law «on the prohibition of gay propaganda»		\mathbf{x}	
Attempts to introduce draft bills limiting the freedom of speech of LGBT people, including bills «on the prohibition of gay propaganda»	\oslash		
FREEDOM OF ASSOCIATION AND NGO FUNDING			
Registration of LGBT public organizations	\bigcirc		
Are there legal restrictions on the activities of registered NGOs?			
Opportunity to receive donor support from international organizations and foundations			
State funding of HIV services for LGBT people		(\mathbf{x})	
Opportunity for NGOs to receive funding from the national and/or local budgets			

Y

The Kyrgyz Republic (KR) is an independent, law-based, secular state that contines to be a leader in Central Asia in terms of freedoms and the development of the human rights movement³. However, there has been a significant regression in the country in terms of both legislation and law enforcement practice.

For two years in a row, the Kyrgyz Republic has lost points in the annual freedom rating published by Freedom House. In 2020⁴ the KR was rated as a partly free country, while in 2022⁵, the KR was in the list of «not free» countries, having lost 12 points during this period. There was significant regression in relation to political rights, as the country received a rating 3 times lower: in 2020, the Kyrgyz Republic received 12 points, and 4 points in 2022.

The alarming growth of anti-gender movements within the country, support of a conservative agenda by the government of the KR, and the persecution of human rights activists and journalists all negatively affect the realization of the rights and freedoms of LGBT people.

In terms of international standards, the KR has ratified all the necessary UN documents in the field of human rights. International law is part of the legal system of the KR. However, the procedure and conditions for the application of international treaties, as well as generally recognized principles and norms of international law, are established by law⁶. The judiciary rarely refers to international law when considering cases.

State bodies submit regular reports to UN Treaty Bodies and during Universal Periodic Review. The KR has repeatedly received recommendations on the adoption of comprehensive anti-discrimination legislation in relation to the observance of the rights of LGBT people and PLH. Some of these recommendations were reflected in the Human Rights Action Plan for 2019-2021, but they were not implemented within the specified period⁷. The updated Human Rights Action Plan for 2022-2024 includes points on the introduction of an anti-discrimination law and normative and legal acts (NLA) on hate speech⁸. The draft plan was published, which made it possible for civil society to provide their proposals to the draft document, but there was no public reaction to the civil society proposals.

The country is not a member of the Council of Europe and has not ratified the Istanbul Convention. At the same time, civil society is actively discussing issues of gender equality and combating domestic violence. The draft National Strategy for Achieving Gender Equality by 2030 includes SOGI in the list of protected characteristics and a section on the adoption of gender-sensitive anti-discrimination legislation⁹.

- ³ In 2022, according to Freedom House, KR received the highest rating in Central Asia, generally, in terms of the level of free-
- dom, and separately in terms of freedom of expression and freedom of association. Country reports available at: <u>https://</u>
 <u>freedomhouse.org/</u>
- ⁴ Full text of the report available at: <u>https://freedomhouse.org/country/kyrgyzstan/freedom-world/2020</u>
- $^{
 m 5}$ Full text of the report available at: https://freedomhouse.org/country/kyrgyzstan/freedom-world/2022
- ⁶ Constitution of the KR, article 6, paragraph 3, available at: <u>http://cbd.minjust.gov.kg/act/view/ru-ru/112213?cl=ru-ru</u>
- ⁷ The plan is available at: <u>http://cbd.minjust.gov.kg/act/view/ru-ru/216902</u>
- 8 Draft of the plan available at: http://koomtalkuu.gov.kg/ru/view-npa/1537?comment=324&ver=1537&block#

Information available at: <u>https://mlsp.gov.kg/2021/11/10/kyrgyzstan-razrabotal-strategiyu-po-dostizheniyu-genderno-</u>

go-ravenstva-do-2030-goda/

In 2022, the KR ranked 72nd in the «Reporters Without Borders» press freedom rankings¹⁰, where it was noted that the country is an exception in Central Asia, as it enjoys relative freedom of speech and the press, despite an unstable economy and rampant corruption among official bodies. The report noted the existence of a pluralism of opinions and the growth of data and investigative journalism, while also pointing out attempts by authorities to increase censorship through legislative amendments and serious threats to the safety of journalists.

According to ECOM partners, hate speech against LGBT people is still widespread, and does not result in any adequate response, as such statements often come from politicians and officials. There are no laws on hate speech in the KR.

ECOM documents cases of violence, hate crimes and hate speech against LGBT people in the KR. State bodies often do not respond to such cases, and sometimes they themselves are violators of human rights. The difficulty of observing human rights in the KR is related to the fact that, although the country seems progressive compared to the other countries of Central Asia, the authorities tend to make declarative statements rather than any real efforts to respect the rights of LGBT people. Political instability and frequent changes in legislation are observed in the KR: any progress achieved can quickly be replaced by regression.

¹⁰ Available at: <u>https://rsf.org/en/country/kyrgyzstan</u>



LEGISLATION AND LAW ENFORCEMENT PRACTICE



CHANGES IN LEGISLATION IN 2020-2022

In the KR, over the past two years, an inventory of legislation was carried out and primary NLA were amended.

On May 5, 2021, the updated Constitution of the KR came into force, which radically changed the form of government: unlimited powers were given to the President, the status and powers of the Parliament were reduced to a minimum, executive power was transferred to the full control of the President, and the President's control over the judiciary was strengthened. According to human rights organizations, the updated Constitution of the KR lacks a system of checks and balances between the branches of government¹¹. Freedom House stated that the new Constitution returned a super-presidential form of government to the KR¹².

On June 17, 2021, the Parliament of the KR adopted amendments to the laws of the KR «On non-profit organizations» and «On state registration of legal entities»¹³. The country's human rights movement condemned the amendments as burdensome and discriminatory, and stated that they are aimed at narrowing civic space¹⁴. The amendments oblige non-profit organizations (NPOs) to disclose information about their work, including accounting documents, property and accounts of the organization, and the personal data of employees. Prior to the amendments, public organizations were already required to provide necessary information to state bodies. However, the obligation to publish such data is not only onerous, but also leads to the threat of persecution of human rights defenders. Information about employees of LGBT organizations can be used to commit hate crimes due to the high level of homophobia and transphobia in the country. In addition, if an organization does not provide reports within the specified timeframe, the tax authority has the right to apply to the courts with an application for the forced liquidation of the institution. The amendments do not apply to municipal and state non-profit institutions.

On October 28, 2021, the new Criminal Code of the KR (CC KR) came into force. The new version of the Code has been criticized by human rights activists and the legal community, primarily since the new version is, in fact, a return to the 1997 version. According to experts, the Code gives priority to the interests of law enforcement agencies, rather than to the protection of the rights of citizens¹⁵. The previous versions of the CC KR of 2017 and 2019 were recognized by international experts as the best among the countries of Central Asia, while the new version rolls back everything that has been achieved in recent years in the country.

- ¹¹ Detailed analysis available at: <u>https://rus.azattyk.org/a/30975909.html</u>
- ¹² Available at: https://freedomhouse.org/country/kyrgyzstan/freedom-world/2022#PR
- ¹³ Available at: <u>https://kloop.kg/blog/2021/07/07/zhaparov-podpisal-popravki-v-zakon-o-nekommercheskih-organizatsi-</u>
 yah-chto-eto-znachit/
- ¹⁴ Available at: https://cabar.asia/ru/popravki-v-zakon-ob-nko-v-kyrgyzstane-suzhayut-grazhdanskoe-prostranstvo
- In Detailed analysis available at: https://cabar.asia/ru/novoe-ugolovnoe-zakonodatelstvo-kyrgyzstana-ot-
- kat-nazad-ili-kurs-na-rezultativnost

The only positive change in the legislation of the KR concerns the rights of PLH. In January 2021, the Constitutional Chamber of the Supreme Court recognized the rule on the prohibition of adoption of children by PLH as contrary to the Constitution of the KR¹⁶.



PROTECTION FROM DISCRIMINATION, HATE SPEECH, HATE CRIMES

The Constitution of the KR, as well as a number of other NLA, prohibit discrimination¹⁷. However, there is no separate anti-discrimination law in the country that would define discrimination, its forms and the mechanism for restoring rights in cases of its manifestation. In addition, there is no mention of the prohibition of discrimination on the basis of SOGI, although in some spheres, such a basis may be covered due to the open-ended list of protected grounds (*«as well as other circumstances»*), which is contained in Article 24 of the Constitution of the KR and in other laws, such as the law «On the protection of health in the KR».

The KR criminalized the transmission of HIV by introducing Article 143 **«Infection with a venereal or incurable** *infectious disease*» to the CC KR, which established liability for persons who put another person **«at risk of** *infection with the human immunodeficiency virus*» nor who infected another person, including through negligence. At the same time, in all cases, except for intentional infection, the person responsible is absolved from liability, **«if the other person, put at risk of contracting HIV infection, was warned in a timely manner that** *the person had this disease and voluntarily agreed to undertake the actions that posed a risk of infection*».

The legislation of the KR does not contain a definition of hate crimes (HC) and hate speech. Therefore, HC targeting LGBT people are often considered as hooliganism or some other crime, and do not take SOGI into account as the main motive for the commission of the crime. At the same time, the CC KR contains a provision on the «violation of equality, namely, the direct or indirect restriction of rights or the establishment of direct or indirect privileges depending on "…", which, through negligence, caused significant harm». Although, on the one hand, this norm may seem progressive, the international community believes that the violation of equality (discrimination) should be dealt with administratively rather than criminally.

Voluntary homosexual relations were decriminalized in 1998, but according to ECOM and partners, LGBT people experience violence and discrimination from both state and non-state actors. «Fake dates» are common in the country, by which homophobes or police officers meet LGBT people and then threaten to reveal their SOGI to their relatives unless they are paid money.

- ¹⁷ The prohibition on discrimination is mentioned in the Labor Code of the KR, the Family Code of the KR, and in the Laws «On
- HIV/AIDS» and «On state guarantees of the equal rights and equal opportunities for men and women».



PRIVATE AND FAMILY LIFE

The KR does not recognize either same-sex marriages or any form of civil partnership. Issues of paternity/ maternity in relation to LGBT people are not regulated, which limits the access of representatives of this group to parenthood. The realization of such a right is possible through the adoption of a child by one person from a couple, the birth of a child in heterosexual relationships, as well as for unmarried women, including with the use of assisted reproductive technologies.



LEGAL GENDER RECOGNITION

Changes in legislation have had a negative impact on trans* people. In 2020, the law «On acts of civil status» was amended, and a norm giving trans* people the right to change their gender marker was removed. ECOM partners have registered cases of refusal to change the documents of trans* people.

A trans* man changed the gender marker in his passport before amendments to the Civil Status Act were implemented. In 2022, he received a general civil (foreign) passport with a female gender marker. Now his internal passport has a male gender marker, and his general passport has a female marker. **PO «Kyrgyz Indigo»**

Following the amendments made to NLA, one trans^{*} man managed to change his gender marker by applying to an administrative court with the help of a lawyer from the PO «Kyrgyz Indigo». He was successful due to the fact that he filed the application prior to the change in legislation.

At the same time, trans* people who changed their gender marker before 2020 are still unable to change their personal identification number (PIN), the first digit of which indicates the sex assigned at birth. Due to this, trans* people often face problems, including the inability to open bank accounts, difficulties in obtaining vaccination certificates due to system errors, etc.



FREEDOM OF PEACEFUL ASSEMBLY

The constitutional right to freedom of peaceful assembly is regulated by the Law «on peaceful assemblies», according to which the organizers of a peaceful assembly are not required to notify the authorities about holding a peaceful assembly, and the decision to restrict a peaceful assembly can only be taken by a court. There is no ban on holding peaceful assemblies on LGBT issues in the NLA of the KR. Despite progressive legislative norms, in recent years the right to peaceful assembly has been narrowed, including through restrictions on the rights of LGBT people. The authorities of the KR have repeatedly used COVID-19 as an excuse to ban peaceful assemblies organized by civil society, while official celebrations with the participation of a large number of people have not been banned.

Movement 8/365 organizes marches for women's rights in the Kyrgyz Republic. In 2021, law enforcement officers contacted the organizers and notified them that there would be a ban on peaceful assemblies in the city of Bishkek for several months. However, they were not given an official document attesting to the ban, and were threatened with arrest if the march was held. Meanwhile, state celebrations and other peaceful gatherings were repeatedly held during this period of time.

In 2020, there was a trial to ban the march for women's rights, and although the authorities officially stated that this was related to COVID-19, during the trial, a law enforcement representative stated that the real reason was that **«transvestites¹⁸ come to the march and this is not part of our mentality»**.

According to a Freedom House report, throughout 2021, protesters were frequently subjected to violent attacks and arbitrary detention. In April, a group of «national patriots» violently attacked a demonstration against gender-based violence in front of the police, using slogans, such as «*We're against NGOs and LGBT people*»¹⁹. In July 2021, the government adopted a five-year action plan for the implementation of the concept of spiritual and moral development and physical education of individuals²⁰. This plan has been criticized by human rights activists due to concerns about its use to justify violence and discrimination against certain groups of the population.



FREEDOM OF ASSOCIATION FOR LGBT PEOPLE AND PLH

There are officially registered LGBT organizations in the KR. The human rights movement in the country can be described as steadily developing and inclusive, while the issues of equality and non-discrimination are in focus and included in their agenda.

The previously mentioned amendments to the law «On non-profit organizations»²¹, may negatively affect the right to freedom of association for LGBT organizations.

The European Union expressed concern about the adoption of this version of the law and the fact that it «contravenes the international obligations of the Kyrgyz Republic»²².

- ¹⁸ Correct term: trans* people or transgender people.
- ¹⁹ Available at: <u>https://freedomhouse.org/country/kyrgyzstan/freedom-world/2022</u>
- ²⁰ Available at: https://www.president.kg/ru/sobytiya/novosti/21903_v_bishkeke_prezentovali_plan_meropriyatiy_po_re-
- alizacii_koncepcii_duhovno_nravstvennogo_razvitiya_i_fizicheskogo_vospitaniya_lichnosti
- ²¹ Law available at: <u>http://cbd.minjust.gov.kg/act/view/ru-ru/112273</u>
- ²² Information available at: <u>https://kloop.kg/blog/2021/09/08/protivorechit-obyazatelstvam-kyrgyzstana-evrosoyuz-obe-</u>
- spokoen-prinyatiem-skandalnyh-zakonov-o-fejkah-i-nko/

Paragraph 225 of the Joint OSCE/ODIHR and Venice Commission Guidelines on Freedom of Association²³ states: «Associations should not be required to submit more reports and information than other legal entities, such as businesses». Similar conclusions are enshrined in the decisions of the UN Human Rights Committee.

Donor organizations remain the only source of funds to support human rights activities when it comes to LGBT people. An LGBT organization has never received funding through a state social order.



PERSECUTION OF LGBT+ ACTIVISTS

Over the past two years, there has been an increase in the persecution of human rights activists and journalists in the KR. LGBT people face illegal surveillance by law enforcement agencies and public outings.

In 2021, a video about "Kyrgyz Indigo" was published, which revealed the personal data of employees and the address of their office²⁴.

In 2020, a hidden camera sex tape of two gay men was released. Their names and places of work/ study were disclosed in the video. Prior to this, they were contacted by law enforcement officers who blackmailed them by threatening to publish the video, and demanded that they disclose information about LGBT activists.

> In 2022, a human rights activist was blackmailed by people presenting themselves as law enforcement officers. He was shown a screenshot of a hidden camera video of him and another man having sex. As he was a citizen of another country, he left the KR, and then tried to return a few months later. He was denied entry without explanation, and refered to the State Committee for National Security. PO «Kyrgyz Indigo»

PO «Kyrgyz Indigo» appealed to the UN Special Rapporteurs on the situation of human rights defenders, on freedom of opinion and expression, and on freedom of peaceful assembly and association, and to the UN Independent Expert on sexual orientation and gender identity. The Special Rapporteurs prepared a joint appeal to the government of the KR²⁵, however, the response of the KR did not contain any information about the investigation of this incident²⁶. Following this, no further action was taken by the authorities on this case. In addition, civil society in the KR publishes information about the persecution of human rights defenders in shadow reports to UN committees. Thanks to this, the country has repeatedly received recommendations on the establishment of mechanisms for the protection of activists.

- ²³ Available at: http://www.osce.org/ru/odihr/160961?download=true
- ²⁴ Information available at: https://srdefenders.org/kyrgyzstan-surveillance-marginalisation-and-targeting-of-lgbt-de-
- fenders-joint-communication/
- ²⁵ Available at: <u>https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gld=26532</u>
- ²⁶ Available at: https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gld=36538

The draft Human Rights Action Plan for 2022-2024, which was developed to fulfill the international obligations of the KR in the field human rights and freedoms, provides for the adoption of measures to protect human rights defenders and journalists from unjustified prosecution in cases related to their professional activities, including in criminal and civil proceedings²⁷.



STATISTICAL DATA

Not enough data is collected at the official level. Despite the fact that the KR is an OSCE state-party, the country does not report on the number of registered HC and does not maintain such statistics²⁸; there is no publicly available data on complaints of discrimination. Such data is only collected by NGOs, but does not reflect the full scale of problems and does not show how the state is involved in resolving these problems.

In the field of healthcare, the Republican AIDS Center collects and publishes data on the number of PLH disaggregated by various groups, including MSM. Although trans* people are identified as a separate category in the national HIV program, data on this group is not yet collected separately from MSM. In the KR, research is being conducted as part of sentinel epidemiological surveillance (SES), which makes it possible to estimate the number of MSM and the HIV prevalence. In 2021, SES was carried out for the first time among trans* people.

The KR maintains official data on domestic violence²⁹, but there is no separate data on LGBT people or PLH.

• noe-nasilie-sredi-zhenshin-i-muzhchin/

²⁷ Available at: http://koomtalkuu.gov.kg/ru/view-npa/1537?comment=323&ver=1537&block

 ²⁸ Full data for 2020 in the database of the ODIHR is available at: <u>https://hatecrime.osce.org/index.php/incidents?country=K-</u>
 G&year=2020

²⁹ Information available on the website of the National Statistical Committee of the KR: http://www.stat.kg/ru/news/semej-

CONCLUSIONS

The KR is at a stage of regression in terms of human rights. Over the past two years, there has been a deterioration in legislation that limits the human rights of LGBT people and increases the powers of the President and law enforcement agencies.

Law enforcement practice does not take into account the international obligations of the KR and is discriminatory and selective in nature.

LGBT activists become victims of harassment by state bodies, and measures to improve legislation in human rights plans are often superficial and are not implemented within the specified timeframe.

As part of the analysis of legal barriers, country partners filled out a form to evalute two sections: «Legal barriers» and «Protection of rights». Each of the sections included a set of questions that could be answered «yes» or «no», for which a score of either 1 or 0 was assigned. Each component was assessed according to various aspects, which increases the objectivity of such an assessment and allows for an evaluation of the level of existing legal barriers and their impact on the LGBT community in practice. The higher the score, the more barriers exist in the country.

The KR received 30 points out of 60, which indicates the existence of serious legal barriers and the lack of effective mechanisms for protecting the rights of LGBT people. Thus, out of 34 possible points in the «Legal barriers» section, the KR received 13 points, and 17 out of a possible 26 points in the «Protection of rights» section. On the one hand, this data indicates that the country has problems with both legislation and law enforcement practice. On the other, it demonstrates that the ineffectiveness of protection tools is the primary problem, and prevails over the problem of the lack of certain guarantees at the the legislative level.



RECOMMENDATIONS



- Reinstate the right of trans* people to change their gender marker;
- Adopt a policy on changing PIN for trans* people;
- Stop identifying biological sex in PIN;
- Abolish additional reporting requirements for non-profit organizations, which are contrary to the international obligations of the KR;
- Adopt a law on hate crimes and include SOGI and HIV status in the list of protected characteristics;
- Adopt a law on hate speech and include SOGI and HIV status in the list of protected characteristics;
- Adopt a comprehensive anti-discrimination law and include SOGI and HIV status in the list of protected characteristics;
- Investigate cases of persecution of LGBT activists by the government;
- Decriminalize the unintentional transmission of HIV;
- Conduct fair investigations of cases of persecution of LGBT activists by law enforcement agencies.



- Collect disaggregated data on the number of complaints of discrimination, including HC based on SOGI and HIV status; publish such data together with information on what action the government is taking to punish such human rights violations and to prevent such violations;
- With the involvement of key stakeholders, initiate the restoration of the right of trans* people to change their gender marker.



- Support the advocacy of local LGBT organizations on improving legislation and law enforcement practices related to LGBT people and PLH;
- Call upon the KR to comply with the norms of international law and fulfill its assumed obligations.





