



**ANALYSIS
OF NATIONAL LEGISLATION
RELATED TO LGBT
AND HIV RIGHTS
IN 12 CEECA COUNTRIES**



This publication was developed by ECOM and published as part of the regional project «Sustainability of services for key populations in the EECA region», implemented by a consortium of organizations from the countries of the EECA region under the leadership of the ICF «Alliance for Public Health» in partnership with the CO «All-Ukrainian Network of PLHIV», the «Central Asia Association of People Living with HIV» and the Eurasian Key Population Health Network, with financial support from the Global Fund to Fight AIDS, Tuberculosis and Malaria.

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The Global Fund to Fight AIDS, Tuberculosis and Malaria did not participate in the coordination and approval of both the material itself and the possible conclusions arising from it.

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ACRONYMS AND ABBREVIATIONS



CAO RF Code of Administrative Offenses of the Russian Federation

CEECA Central and Eastern Europe and Central Asia

HC Hate crimes

HIV Human immunodeficiency virus

LGBT Lesbian, gay, bisexual and trans people

LGBTQ Lesbian, gay, bisexual, trans and queer people

MSM Men who have sex with men

NGO Non-governmental organization

PLH People living with HIV

RB Republic of Belarus

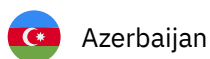
RF Russian Federation

SOGI Sexual orientation and gender identity

UNAIDS Joint United Nations Programme on HIV/AIDS

WHO World Health Organization

LIST OF CEECA COUNTRIES ANALYZED:



Azerbaijan



Kazakhstan



Tajikistan



Armenia



Kyrgyzstan



Turkmenistan
(the country was included for the first time)



Belarus



Moldova



Uzbekistan



Georgia



Russian Federation



Ukraine



INTRODUCTION



The goal of this comparative analysis of legislative barriers preventing LGBT people from fully realizing their rights in 12 CEECA countries is to show progress or, on the contrary, regression in terms of the development of legislation and law enforcement practice, enabling or preventing LGBT people from realizing their human rights.

An updated analysis of activities from the end of 2021 to the beginning of 2023 shows the main changes and provides a list of key advocacy recommendations on where the attention of national teams and international organizations is needed to improve the human rights situation in 12 countries of the region.

For this type of analytical review, ECOM developed a methodology and survey back in 2018 (see appendices), which was completed by ECOM partners in Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan¹, Uzbekistan and Ukraine. The analysis takes into account regulatory documents, judicial practice, statements from activists, information from organizations involved in documenting cases of human rights violations, press reports, as well as reports from non-governmental organizations to international bodies.

Legislation and law enforcement practice are considered in terms of their compliance with international standards on human rights and freedoms. The analysis takes into account not only the existence or lack of relevant laws and their compliance with standards, but also the accessibility of existing normative and legal acts for gay men, other MSM and trans people. A law that exists on paper, but which cannot be used by a certain segment of the population, indicates that there are barriers in the legal environment.

This report considers the following cases as legislative barriers:

- ◆ situations where a country's legal system explicitly prohibits LGBT people from enjoying the same rights as heterosexual cisgender people (for example, prohibiting gay people from donating blood or requiring immigrants to provide proof of HIV status);
- ◆ situations where existing legislation in the country excludes LGBT people from various spheres of public life without mentioning their existence (lack of SOGI in the anti-discrimination legal framework, lack of a procedure for gender reassignment/transition and other circumstances).

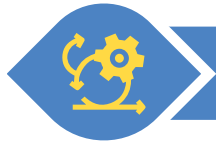
In this report, legislation that ensures the ability to exercise one's rights and freedoms is understood as:

- ◆ situations where existing regulatory documents directly mention SOGI (for example, references to SOGI in an anti-discrimination law or in the criminal code);
- ◆ existence of separate, clear and realistic procedures for gender reassignment;
- ◆ situations where legislation does not mention SOGI, but is applied equally to protect people regardless of their identities (for example, the ability of LGBT people to exercise the right to freedom of speech, freedom of peaceful assembly, and freedom of association).

¹ In 2023, data from Turkmenistan was added to the comparative analysis for the first time.

In order to provide information on current legislation, as part of this analysis, excerpts from legal and regulatory acts and citations to them are presented. Unfortunately, they are not always correct and do not always comply with international standards and principles. In such cases, the original wording is used to objectively reflect the existing regulatory field and the adopted language in the issues under examination. All citations of legal and regulatory acts are highlighted and are accompanied by links. All links to verify such information are provided at the end of this report.

The information presented in this document can be useful both for non-governmental organizations and community activists, as well as for government officials, in the planning of advocacy processes and the promotion of the rights of LGBT people in order to overcome barriers that impede their access to services and the protection of their rights and freedoms.



METHODOLOGY



The tools used for desk research included the guide for completing the country tables and the country scoring tool, which were developed specifically for ECOM's regional program «Right to Health» and the project «Together for Our Rights» in order to assess progress in eliminating legal barriers for LGBT people in their daily lives and when accessing HIV and other health services.

The scoring tool (and collecting information on each country) consists of two main sections: «legal barriers (in legislation and practice)» and «protection of LGBT rights». Accordingly, both existing legal barriers and the actual level of protection of the rights and freedoms of LGBT people in each of the countries in the region were analyzed in areas such as healthcare, the exercise by LGBT people of the rights to freedom of speech, peaceful assembly and association, the possibility of legal name change and gender transition for trans people, protection from discrimination based on SOGI, and the possibility of receiving government funding by organizations providing assistance to LGBT people.

In each of the two blocks, questions relating to each of the analyzed areas were duplicated, while taking into account different nuances. A complete list of questions can be found in Appendix 1.

Each component was assessed comprehensively, 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 lives and rights of LGBT people in practice. Each response is supported by relevant regulations (link and citation), while individual responses are also supported by case studies related to human rights violations collected by country teams.

In the first section, **«Legal Barriers (in legislation and practice)»**, an answer of either «yes» or «no» was required in Column B. Then, a score needed to be entered in Column C, with a «yes» answer receiving 1 point, and a «no» answer receiving 0 points.

A «yes» answer in this section means that a certain legal barrier exists (a law or regulation containing a prohibition or restriction on certain actions, rights, or freedoms for LGBT people as opposed to heterosexual cisgender people).

A «no» answer in this section means that all people, regardless of their sexual orientation and/or gender identity, are subject to the same legal standards, and LGBT people have the same rights as heterosexual cisgender people.

For the second section, entitled **«Protection of LGBT rights»**, a different scoring system was used; in this section, a «yes» answer is assigned 0 points, and a «no» answer is assigned 1 point. Accordingly, the lower a country's final score, the better the situation is for LGBT people.

Section 1 of this report compares the number of legal barriers, as well as the level of protection, and shows how the existing level of perceived protection corresponds to the number of barriers indicated. In addition, law enforcement practice is also analyzed, which often indicates that a low level of barriers or a high level of protection is only the «tip of the iceberg», and the actual situation of LGBT people can only be assessed by analyzing the combination of these indicators and their practical manifestation.

Section 2 of this report provides brief profiles of each country, and highlights the most important developments, unresolved issues, and case studies to illustrate the current state of affairs.



SUMMARY



The countries of the CEECA region analyzed in this review have a number of negative factors in common, which did not change significantly during the period of the analysis:

- 1** the first is the unsatisfactory response of national governments to the spread of HIV, as well as their continued dependence on international funding programs in this area;
- 2** the second is gaps in legislation and outdated legal norms that prevent LGBT people from fully realizing their rights and living in safety on an equal basis with other residents of these countries;
- 3** the third is the consequences of the COVID-19 pandemic, which demonstrated the vulnerability of the LGBT community in terms of access to medical care, employment, their ability to maintain a decent standard of living, as well as their vulnerability to domestic violence;
- 4** the fourth is public attitudes that are characterized by a high level of homophobia and transphobia, which, together with the presence of legal barriers and the weakness of laws protecting LGBT people, lead to the displacement of LGBT people from active public life and their isolation;
- 5** the fifth is that 2 countries of the region continue to criminalize voluntary same-sex relations between adult men, which makes the work of LGBT NGOs impossible, and prevents gay men, other MSM and trans people from filing complaints about violations of their rights, since they are at risk of persecution and criminal prosecution.

A serious problem is the barriers to accessing government funding by NGOs providing HIV prevention and treatment services for gay men, other MSM and trans people in some countries of the region. Such barriers stem not only from the target groups of these NGOs, but also from bureaucratic procedures and the general level of human rights protection in these countries.

The consequences of the full-scale invasion of the Russian Federation into the territory of Ukraine and the occupation of a significant part of the country should be noted separately. The military actions of the Russian Federation have led to an increase in the number of internally displaced persons within Ukraine, the displacement of a significant part of the population outside Ukraine, casualties among civilians and military personnel, an economic crisis and other consequences, which necessarily have an impact on the LGBT community, both within the territories controlled by the Ukrainian government, as well as in temporarily occupied territories.

In countries of the region, systematic barriers, prohibitions on the holding of peaceful assemblies and protests by civil society, and norms restricting freedom of speech have been identified, which, among other things, contribute to isolating the LGBT community from the rest of the population, and hinder efforts to increase inclusion and tolerance. In some countries of the region, significant law enforcement barriers remain, which limit the freedoms of assembly and association. Although it is formally possible to register NGOs, including those working to protect the rights of the LGBT community, initiative groups applying for registration are often refused.

An important legislative gap characteristic of the entire region is the absence of separate anti-discrimination legislation (with the exception of Georgia, Moldova and Ukraine). In 2022, a relevant law prohibiting discrimination was adopted in Tajikistan.

However, even in countries where there are separate laws defining discrimination, gaps remain in terms of their equal application to all protected characteristics, including SOGI, and in the development of judicial practice. Taking into account the hidden nature of the LGBT community and the general level of mistrust towards the law enforcement and judicial systems, the number of formal complaints about discrimination to government agencies filed by LGBT people is significantly less than the number of cases indicated by data provided by NGOs as part of their monitoring activities.

The situation regarding the documentation and effective investigation of hate crimes against LGBT people, including war crimes (such cases committed by the Russian military have been documented in Ukraine) remains critical. One of the main barriers in the CEECA region is not only gaps in legislation, but also the reluctance of law enforcement agencies to accept statements from LGBT people, effectively investigate such cases, and initiate legal proceedings against offenders. No significant changes in law enforcement practice in this area were noted in any of the 12 countries in the region. However, the situation is better in countries with anti-discrimination legislation and strong NGOs that provide assistance to victims and monitor the work of police. In these countries, victims have somewhere to turn for help, and law enforcement agencies are obligated to register such offenses. However, offenders are brought to trial and convicted only in isolated cases.

The situation is no less critical with regard to the existence of a non-stigmatizing and humane procedure for legal gender recognition, including the possibility of amending documents without requirements to undergo mandatory medical operations. In this case, all countries of the region, to varying degrees, demonstrate either a lack of any norms at all, or provide mixed procedures, where some elements are available in the country and others are not (a requirement to undergo gender reassignment procedures in order to amend documents, a lack of a protocol for carrying out such a procedure, or a lack of qualified medical professionals who can treat trans people). Alternatively, certain countries require trans people to undergo mandatory surgical procedures in order to change the gender marker in their official documents.

More details about barriers in various areas and the level of protection available to LGBT people, as well as a detailed description of each country in the CEECA region, can be found in the section «Comparative Analysis of the Situation».



COMPARATIVE ANALYSIS: EXISTING BARRIERS AND OPPORTUNITIES TO PROTECT THE RIGHTS OF LGBT PEOPLE IN 12 CEECA COUNTRIES FOR 2021-2023



Desk research conducted by ECOM's national consultants in 12 countries in the CEECA region provided answers to questions needed to assess the number and nature of existing legal barriers for LGBT people (for a comparative table with scores, see Appendix X).

The responses received showed some minimal progress in certain countries in terms of reducing the number of legal barriers and new opportunities for effective protection of violated rights and freedoms or, on the other hand, significant regression.

The assessment covers various areas of activity, including:

- ◆ immigration rules for LGBT people living with HIV;
- ◆ issues of NGO registration and the possibility of receiving national funding as part of social orders;
- ◆ holding of peaceful assemblies and freedom of speech;
- ◆ existence and possibility of using mechanisms for the effective protection of LGBT people in cases of discrimination, hate speech and/or hate crimes;
- ◆ assessment of legal barriers for trans people and access to health services for gay men and other MSM;
- ◆ attention of governments to LGBT human rights issues: data collection and analysis;
- ◆ working conditions for local human rights organizations and activists.

Based on the results of the analysis, it should be noted that the largest number of legal barriers to the rights of LGBT people were identified in Uzbekistan, Turkmenistan (the country was included in the review for the first time) and the Russian Federation, where the situation has significantly worsened compared to the previous period.

The impact of the aggression of the Russian Federation towards Ukraine in terms of processes within Ukraine itself, as well as the final abandonment of any illusions regarding the possibility of legal protection of citizens of the Russian Federation in their country, should be also be noted separately.



ISSUES RELATED TO BANS ON ENTRY AND IMMIGRATION INTO THE COUNTRY OF PLH, CRIMINALIZATION OF HIV TRANSMISSION AND BLOOD DONATION



In 3 countries of the CEECA region, Turkmenistan, Russia and Azerbaijan, there is a direct legislative prohibition on visiting the country and/or immigration to the country for people living with HIV (PLH). At the same time, separate restrictions for PLH on visiting the country and/or immigration are also in effect in 6 countries of the region: Azerbaijan, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Turkmenistan.

Russia, together with a direct prohibition, also imposes additional conditions, according to which a foreigner will be refused a residence permit or their residence permit will be revoked if they *«do not have a certificate stating that they do not have a disease caused by the human immunodeficiency virus (HIV infection)... or have not submitted medical documents and a certificate issued based on the results of a medical examination...»*².

All countries in the CEECA region impose liability for deliberate/intentional HIV transmission, while 7 countries of the region (Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Turkmenistan and Uzbekistan) continue to impose penalties for the unintentional transmission of HIV.

Country consultants note that in the countries of the region there is no approved algorithm at the legislative level to determine intent in relation to HIV transmission, although 3 countries have practical tools that law enforcement agencies use in such cases. For instance, in the Republic of Tajikistan, intent is determined based on whether the person was previously tested for HIV, while in Russia, forensic experts consider whether the person suspected of committing the crime underwent specific treatment (undergoing treatment indicates that the person knew that they had HIV).

No country in the region requires different levels of medical testing for gay men, other MSM and/or trans blood donors than for heterosexual donors. Only the legislation of Belarus contains restrictions on blood donation by gay men, other MSM and/or trans people. In relation to trans people, there is a clear and permanent prohibition on blood donation by people diagnosed with mental and behavioral disorders (F00 - F99)³. In 4 countries in the region (Armenia, Kazakhstan, Turkmenistan and Ukraine), screening procedures and/or donor forms contain questions about SOGI (or ask about «risky sexual behavior», «sexual life», etc.). Meanwhile, according to information from the country consultant, the legislation of Moldova does not require such questions, but the donor form filled out at blood donation centers contains a question about «recent experiences of same-sex sex».

² URL: https://www.consultant.ru/document/cons_doc_LAW_37868/6ca38bcc11f0c2245ade0c7e66649a2c-b8161a37/

³ URL: <https://mcct.by/informatsiya-donoram/perechen-protivopokazanij-k-donorstvu>



ISSUES OF REGISTRATION OF NGOS WORKING WITH MSM OR LGBT PEOPLE, THEIR ACCESS TO GOVERNMENT FUNDING FOR THE PROVISION OF SOCIAL AND HEALTH SERVICES THROUGH OPEN TENDERS, AND ACCESS TO INFORMATION

In 3 countries of the region (the Republic of Tajikistan, Turkmenistan and the Republic of Uzbekistan) there are legal restrictions on the registration of NGOs providing HIV services for gay men, other MSM and trans people. At the same time, these restrictions are not directly prescribed in legislative acts, however, the existence of criminal liability for «sodomy» (Turkmenistan and the Republic of Uzbekistan), as well as a prohibition on the establishment and activities of NGOs, «*infringing on the rights and legitimate interests of citizens, human health and public morals*» (Republic of Tajikistan) ensure that the registration of such NGOs is impossible.

The legislation of the Russian Federation does not contain direct restrictions on the registration of such NGOs, but in practice, there is a possibility that registration by the state will be refused if «the founding and other documents of a non-profit organization (public association) submitted for state registration contradict the Constitution of the Russian Federation and the legislation of the Russian Federation». This provision leads to refusals to register LGBT organizations. Stricter implementation of the Federal Law on Foreign Agents is another factor limiting the work of LGBTQ organizations, since they may be accused of promoting «non-traditional sexual relations and (or) preferences, or gender reassignment» (liability for such actions is established by Article 6.21 of the CoAO RF).

In 5 countries of the region (Azerbaijan, Armenia, Belarus, Moldova and Uzbekistan), there are documented cases where NGOs working with MSM and HIV received government funding for HIV services as part of state social orders. There is no information on the receipt of such funding by NGOs working with LGBT people.

Obtaining responses from government bodies, enterprises, organizations, and institutions of other forms of ownership remains quite difficult. In two countries in the region (Ukraine and Moldova), responses are provided to requests that relate to the interests of LGBT people. Country consultants in Azerbaijan, Kazakhstan, Kyrgyzstan and Tajikistan provided information about isolated cases where such requests were submitted and responses received, except for Azerbaijan .



ISSUES RELATED TO THE FREEDOM OF PEACEFUL ASSEMBLY AND THE FREEDOM OF SPEECH



This section contains information about prohibitions on organizing public events in support or protection of members of the LGBT community and the extent to which public order is maintained during such events, as well as an analysis of laws prohibiting so-called «propaganda of homosexuality».

Only 4 countries (Armenia, Moldova, Kyrgyzstan and Ukraine) do not have legislation requiring prior permission to hold a peaceful assembly. At the same time, the legislation of Armenia, which establishes a notification procedure for holding peaceful assemblies, does not require notification in cases of spontaneous assemblies. It is worth separately noting the situation in Ukraine, where there has been a temporary restriction on a number of constitutional rights and freedoms since the beginning of the full-scale invasion of the Russian Federation and the introduction of martial law. This includes the power of military administrations to prohibit peaceful assemblies. At the same time, even in such conditions, LGBT organizations have been able to hold peaceful assemblies. For example, on September 25, 2022, an Equality March called «MetroPride» was held in Kharkov, which took place in the metro due to security reasons.

In 2023, the only documented case where authorities banned a peaceful assembly occurred in Kazakhstan: permission to hold the Women's March scheduled for March 8 was denied. The authorities stated that another organization planned to hold an event at the same time in the place designated for events and marches. At the same time, the country consultant for Belarus indicates that *«for 5 years, there have been no known cases of such requests from NGOs and/or activists, which does not indicate a lack of interest (since unauthorized and/or spontaneous actions by LGBT individuals have taken place, and some of these activists have been prosecuted). Rather, this attests to the overall atmosphere of a lack of freedom and the fact that legal mechanisms regulating relations between the state and activists are not functioning»*.

Only 2 countries of the region (Kyrgyzstan and Moldova) do not impose liability for organizing, holding, or participating in unauthorized or uncoordinated peaceful assemblies. Meanwhile, Ukraine imposes administrative liability⁴ for violating the procedure for organizing or holding peaceful assemblies, although the legislation of the country does not contain such a procedure.

The legislation of Armenia, Moldova, Kyrgyzstan and Ukraine establishes that notification must be provided about the holding of events. Organizers must inform the authorities of their intention to hold a peaceful assembly and, if necessary, ask the police to strengthen measures to ensure public order. At the same time, the authorities cannot independently prohibit an event, although they can turn to the courts if there is reason to believe that the nature of the peaceful assembly will pose a threat to public safety and order.

⁴ Source - <https://zakon.rada.gov.ua/laws/show/80731-10#n1971>

In 2023, country consultants did not record any cases where police failed to effectively investigate attacks on LGBT people and other participants of equality marches during or after such events. At the same time, in 2023, during Pride Week in Georgia «*an aggressive crowd of about five thousand people broke through the cordon and entered the territory [of the march]*», the police failed to provide adequate resistance, indicating insufficient support for and protection of participants in equality marches.

3 countries in the region (Russian Federation, Kyrgyzstan and Turkmenistan) have legislation that in some way prohibits the «propaganda of homosexuality». The legislation of the Russian Federation prohibits the dissemination of information that «rejects family values, promotes non-traditional sexual relations, and creates disrespect towards parents and (or) other family members». In addition, the country imposes administrative liability for the «propaganda of non-traditional sexual relations among minors».

Officially, there is currently no similar prohibition in Belarus, however, the country consultant notes that «*such a ban exists in practice; it has already been announced by the Ministry of Labor and Social Protection in the context of concern for the demographics of the country. For example, in April 2023, the Ministry of Information of the Republic of Belarus sent out 500 warning letters to publishers and bookstores around the country stating that if literature 'promoting homosexuality' is found on sale, 'certain administrative measures will be imposed on sellers'*»⁵.

Meanwhile, the country consultant for Kazakhstan reports that in 2022, the animated film by Pixar and Walt Disney Pictures «Buzz Lightyear» was banned in Kazakhstan due to a scene with a same-sex kiss⁶.

In 2022-2023, information was received in 3 countries of the region (Belarus — 2022, Kyrgyzstan — 2023⁷, Uzbekistan — 2022) about the submission of bills to legislative bodies proposing to introduce prohibitions on the «propaganda of homosexuality».

⁵ URL: <https://t.me/housegovby/10225>

⁶ URL: <https://www.the-village-kz.com/village/city/news-city/23943-multfilm-bazz-layter-ne-vyydet-v-prokat-v-kazahstane>

⁷ Adopted in the summer of 2023.



LEGAL BARRIERS AND PROCEDURES FOR TRANS PEOPLE



An analysis of the procedures that trans people need to undergo to change their gender marker, and the conditions for undergoing such procedures, demonstrated that resolving these issues is relatively difficult, and that there is a lack of transparent, accessible and quick procedures.

Until the beginning of 2023, the official (enshrined in a separate legal document) procedure for changing gender markers for trans people existed in 4 countries in the region: Belarus, Kazakhstan, the Russian Federation and Ukraine. In July 2023, Russia adopted a legislative act that completely prohibited transgender transition, which states: «It is prohibited to carry out medical interventions, including the use of medications, aimed at gender reassignment...».

Only 4 countries (Azerbaijan, Armenia, Moldova and Georgia) do not require a psychiatric diagnosis as the basis for changing one's gender marker.

Medical or surgical interventions to change one's gender marker is required in 8 countries in the region: Azerbaijan, Armenia, Kyrgyzstan, Tajikistan, Uzbekistan, Ukraine, Georgia and Kazakhstan. At the same time, in Ukraine, hormone replacement therapy can fulfill this requirement, but only if an F64.0 psychiatric diagnosis has been provided.

A list of contraindications for changing one's gender marker exists in 3 countries in the region: Belarus, Kazakhstan, and Kyrgyzstan. At the same time, according to information received from country consultants, these countries have completely different approaches to determining medical contraindications. For example, in Belarus, such contraindications include: «consumption of alcohol, low-alcohol drinks, beer, consumption of narcotic drugs, psychotropic substances, their analogues, toxic or other intoxicating substances», and «homosexuality, transvestism». In Kyrgyzstan, the only contraindications are «exclusion criteria of the current International Classification of Diseases».

According to information received from country consultants, in 5 countries (Azerbaijan, Belarus, Kazakhstan, Moldova, and Tajikistan) being married is an obstacle to legal gender reassignment, while having a minor child is an obstacle in 2 countries: Azerbaijan and Kazakhstan.

A mandatory sterilization procedure is required in 2 countries: Georgia and Kazakhstan. Based on information received from the country consultant in Kazakhstan, «*the surgical genital corrections, mentioned as a mandatory requirement in the Rules for obtaining an opinion from the Commission for changing one's full name in identity documents, involve sterilization*». In turn, information was received from the country consultant in Georgia that «*there is no legal obligation to do this, however, based on court decisions, courts indicate that a person must undergo gender reassignment surgery in order to change their gender in official documents*».

Additional obstacles to changing one's gender marker, such as age and/or legal issues, were also noted (Belarus and Ukraine – reaching the age of majority of 18 years; «outstanding criminal record, police investigation» – in the Republic of Uzbekistan).

⁸ URL: <http://publication.pravo.gov.ru/document/0001202307240059?index=3>



ISSUES RELATED TO PROTECTION FROM DISCRIMINATION AND RESPONDING TO HC



4 countries of the CEECA region (Georgia, Moldova, Tajikistan and Ukraine) have a separate law defining what discrimination is and prohibiting discrimination in various spheres of public life. Moreover, in Moldova and Georgia, these laws include SOGI as separate protected characteristics. In Kyrgyzstan, in 2023, a bill «on ensuring the right to equality and protection from discrimination» was submitted for public hearings, in which «gender» was identified as a protected characteristic.

In a number of countries in the region, criminal liability for HC is enshrined in a separate article: Azerbaijan, Belarus, Russia, Uzbekistan and Ukraine. In some countries (Armenia, Georgia, Kyrgyzstan, Moldova and Tajikistan), HC are only an aggravating factor and are linked to definitions of «racial/ethnic/national/religious hatred/intolerance». At the same time, the criminal codes of two countries, Georgia and Moldova, mention SOGI as separate characteristics.

The situation with respect to the investigation of HC and appeals to law enforcement agencies has worsened throughout the region. The country consultant for Armenia noted that *«investigations into cases where LGBT people are the victims are often delayed, cases are often closed»*, and *«in 2022, only 16 out of 45 cases resulted in a complaint being filed with law enforcement agencies»*. In Ukraine, the situation regarding complaints by LGBT people about HC committed against them is quite worrying, where, according to independent sources, the number of incidents is significantly higher than official statistics. Only 2 countries in the region (Moldova and Georgia) noted that representatives of the LGBT community report hate crimes committed against them without fear of discrimination and victimization, and stated that such incidents are properly investigated.



ISSUES RELATED TO THE AVAILABILITY OF DATA AND STATISTICS



12 countries in the region publish and/or submit official data on the number of people living with HIV to the World Health Organization (WHO) and/or UNAIDS. Turkmenistan does not publish or submit such data⁹. There is no confirmation that such statistics are openly available in Georgia. Only Kyrgyzstan provides official statistics with disaggregated data on the number of LGBT people among people living with HIV. Belarus includes data on LGBT people in the general group of «people with risky behavior», which also includes migrants, people who have served sentences for committing crimes, and people who use drugs. The lack of data on the number of LGBT people living with HIV in official statistics indicates that this group is invisible in terms of the actions that states plan and implement to prevent and combat the HIV/AIDS epidemic. It also shows that LGBT groups and organizations cannot qualify for funding through social orders for HIV/AIDS prevention and must «invent» general projects rather than focusing on a specific target group (the LGBT community).

The situation regarding the documentation of cases of domestic violence is even worse: only 7 countries¹⁰ in the region publish official statistics on the number of recorded complaints of domestic violence. In general, the majority of complaints recorded are filed by women. In Kyrgyzstan, there is separate data on the number of protection orders issued per year (to victims of domestic violence), which are disaggregated by gender and age (i.e. the number of orders issued to adult women and men, the number of orders issued to minor boys and girls). No country in the region has official statistics on complaints of domestic violence by LGBT people, which indicates that this issue remains in the shadows. Consultants note separately that in countries where same-sex relations are highly persecuted, victims do not file such complaints, since they fear prosecution.

At the same time, the data collected in this analysis and data from national organizations indicate that the level of domestic violence against LGBT people in the region is quite high. Victims do not turn to either law enforcement agencies, or to specialized NGOs. In addition, there has been an intensification of anti-feminist attitudes in the region. For example, in Kazakhstan there were attempts to register a petition against so-called «anti-family values». The authors of the petition demanded that 3 bills submitted to the Parliament of Kazakhstan be withdrawn from consideration: the bills «on introducing amendments and additions to certain legislative acts of the Republic of Kazakhstan on issues of combating domestic violence», «on introducing amendments and additions to certain legislative acts of the Republic of Kazakhstan on issues of protection of the rights of the child» and «on combating domestic violence». These petitions were successful, and the bills were withdrawn from consideration¹¹.

Only 2 countries in the region (Georgia and Ukraine) collect and publish data on the number of complaints of hate crimes (or provide such information in response to requests for information). These statistics also contain information on the number of complaints filed based on SOGI. In the countries of the region, the situation is similar with regard to the lack of data on complaints about all forms of discrimination.

⁹ URL: <https://rus.azathabar.com/a/30303710.html>

¹⁰ Azerbaijan, Armenia, Georgia, Kazakhstan, Kyrgyzstan, and Ukraine.

¹¹ URL: <https://zonakz.net/2020/11/05/antisemejnye-cennosti/#>

With the exception of Georgia¹², Moldova and Ukraine, no country maintains such official statistics. In the three countries mentioned, ombudsmen (Georgia and Ukraine) and/or a special Equality Commission¹³ (Moldova) are responsible for maintaining data in the field of non-discrimination.

In the two countries of the region (Uzbekistan and Turkmenistan) where criminal liability for same-sex voluntary sexual relations between adult men still exists, there is no accurate data for 2022-2023 on the number of such cases, either on the number of cases initiated or on the number of convictions. In Turkmenistan, there were instances where information on «the number of people detained on suspicion of sodomy»¹⁴ was published, while in Uzbekistan, there are statistics on the number of convictions in previous years (2016-2021)¹⁵. In all three of the countries mentioned above, activists note that cases of blackmail, extortion and violence against gay men, other MSM and trans people occur as a direct result of the existence of criminal penalties for voluntary sexual relations between adult men. Moreover, the criminalization of such relations is the reason why LGBT people do not report violations of their rights to law enforcement agencies in these countries.

Information on the use of international and national legal remedies was also collected and analyzed by country teams as part of the collection of statistical data and complaints of human rights violations by LGBT communities.

Firstly, in most countries of the CEECA region without separate laws prohibiting discrimination (with the exception of Georgia, Moldova, Tajikistan and Ukraine, where there is no law enforcement practice yet), very few cases of appeals to the courts have been documented. Only in exceptional cases and with the support of community organizations, do people facing violations of their rights turn to law enforcement agencies and the court. This is true even in Georgia, the only country where the law includes a list of protected characteristics.

In countries where consensual relations between adult men are still criminalized, the support of NGOs and lawyers is needed to defend those who are subject to such accusations and prosecution. However, in these countries, it is nearly impossible to find lawyers who are willing to handle such cases. Lawyers are worried about their own reputation and are afraid of persecution due to their association with LGBT people.

«The last criminal prosecution under Article 120 took place in city X in 2023. A trans woman sex worker was convicted. Activists spent nearly a month looking for a lawyer who would take on the case, however, local lawyers and lawyers from other cities refused. Even after being offered money, the public defender refused to take on the case, file an appeal, or to even provide copies of documents».

Secondly, there is no practice of using available international remedies in individual cases. In all countries, activists and NGOs should be able to use UN mechanisms to submit alternative reports on human rights violations. However, there are no cases in any countries of the region where the individual complaint mechanism of UN Committees has been used. This could serve as an alternative to develop law enforcement practice for states that are not members of the Council of Europe.

¹² URL: <https://www.geostat.ge/en/modules/categories/680/hate-crimes-statistics>

¹³ URL: <https://egalitate.md/>

¹⁴ URL: <https://www.currenttime.tv/a/turkmenistan-zaderzhaniya-podozrevaemykh-v-gomoseksual-izme/31495991.html>

¹⁵ URL: <https://www.currenttime.tv/a/uzbekistan-lgbt/31219483.html>

Third, in countries with ombudsman institutions, members of the community increasingly file complaints about violations of their rights, but there is still little information about the actual impact of such complaints. In addition, ombudsmen in only a few countries include cases of human rights violations against LGBT people in their annual reports. This indicates a high level of stigma surrounding the human rights issues of the community, and a low level of attention from ombudsmen towards such violations.

«In some cases of violations of LGBT rights, activists and NGOs turn to the Ombudsman. In a number of cases, the problem was resolved through the exercise of the Ombudsman's authority. However, it should be noted that issues of discrimination against LGBT people were not included in the annual report for 2022».

Factors holding back both the community and organizations from developing cooperation with ombudsmen may include the following: lack of actual independence of the ombudsman institution from other authorities in the country, a low level of response to individual complaints, and the ombudsman's lack of any actual powers.

«NGOs and LGBT activists do not make adequate use of the ombudsman complaint mechanism because there is a lack of trust in the independence of this mechanism. For example, in the opening remarks in the report for 2022 on the activities of the Commissioner for Human Rights of the Russian Federation, the Ombudsman stated: "Never before has the topic of human rights been exploited so shamelessly and nakedly to justify political ambitions and neo-Nazism. We were actually forced to change the focus of our protection of human rights and concentrate on LGBT people and oppositionists. Of course, the rights of any member of society must be protected from abuse and violence. But it is unacceptable to use the institution of human rights protection as a tool of propaganda».



RECOMMENDATIONS FOR ADVOCACY



Based on the results of the analysis of changes in the region as a whole and in individual countries for 2021-2023, recommendations for subsequent advocacy were collected and are presented below, which can be useful not only for the work of ECOM, but also for other international community organizations and donor organizations.

Recommendations are grouped by topic, according to how the existing barriers and opportunities for effective protection of human rights were analyzed.

HIV PREVENTION AND ACCESS TO THERAPY:

- ◆ repeal regulations requiring immigrants to provide evidence of their HIV status;
- ◆ change the rules for issuing ART to non-residents and ensure access to therapy to all people in the country for continuous treatment;
- ◆ decriminalize unintentional HIV transmission.

BLOOD DONATION AND HEALTH CARE:

- ◆ ensure procedures to prevent the disclosure of the HIV status and SOGI of all gay men, other MSM and trans people seeking medical care;
- ◆ remove from regulations questions related to SOGI and lifestyle that discriminate against gay men, other MSM and trans people and prevent these people from being blood donors.

MEDICAL SERVICES FOR TRANS PEOPLE AND LEGAL NAME CHANGE PROCEDURE:

- ◆ legislatively enshrine the procedure for changing gender markers;
- ◆ identify a national body responsible for the quality of medical services provided to trans people;
- ◆ establish a procedure for legal gender recognition, including the possibility of changing passport documents without requiring medical procedures;
- ◆ include medical services for trans people as part of the gender reassignment/gender affirming procedure in the list of services covered by the state budget.

PROTECTION FROM ALL FORMS OF DISCRIMINATION:

- ◆ adopt separate anti-discrimination laws in accordance with the minimum standards established by international treaty bodies: an open-ended list of protected characteristics, including SOGI, a definition of various forms of discrimination, a mechanism for monitoring the implementation of legislation, and a certain form of liability for discrimination (except for countries in the region that already have such regulations);

- ◆ in countries where there are already separate laws prohibiting discrimination, add SOGI to the lists of protected characteristics;
- ◆ amend criminal codes to establish liability for hate crimes on certain grounds, including SOGI;
- ◆ provide training to police, prosecutors and judges to effectively document, investigate, classify, and review allegations of homophobic and transphobic hate crimes;
- ◆ ensure national oversight mechanisms for hate crime investigations;
- ◆ establish cooperation between LGBT organizations and ombudsmen in countries where there is formal independence of the ombudsman institution from other authorities;
- ◆ work with the legal profession: improve the knowledge and skills of lawyers, represent the interests of LGBT people, build partnerships between independent lawyers and LGBT organizations in countries.

FREEDOM OF SPEECH AND FREEDOM OF ASSOCIATION:

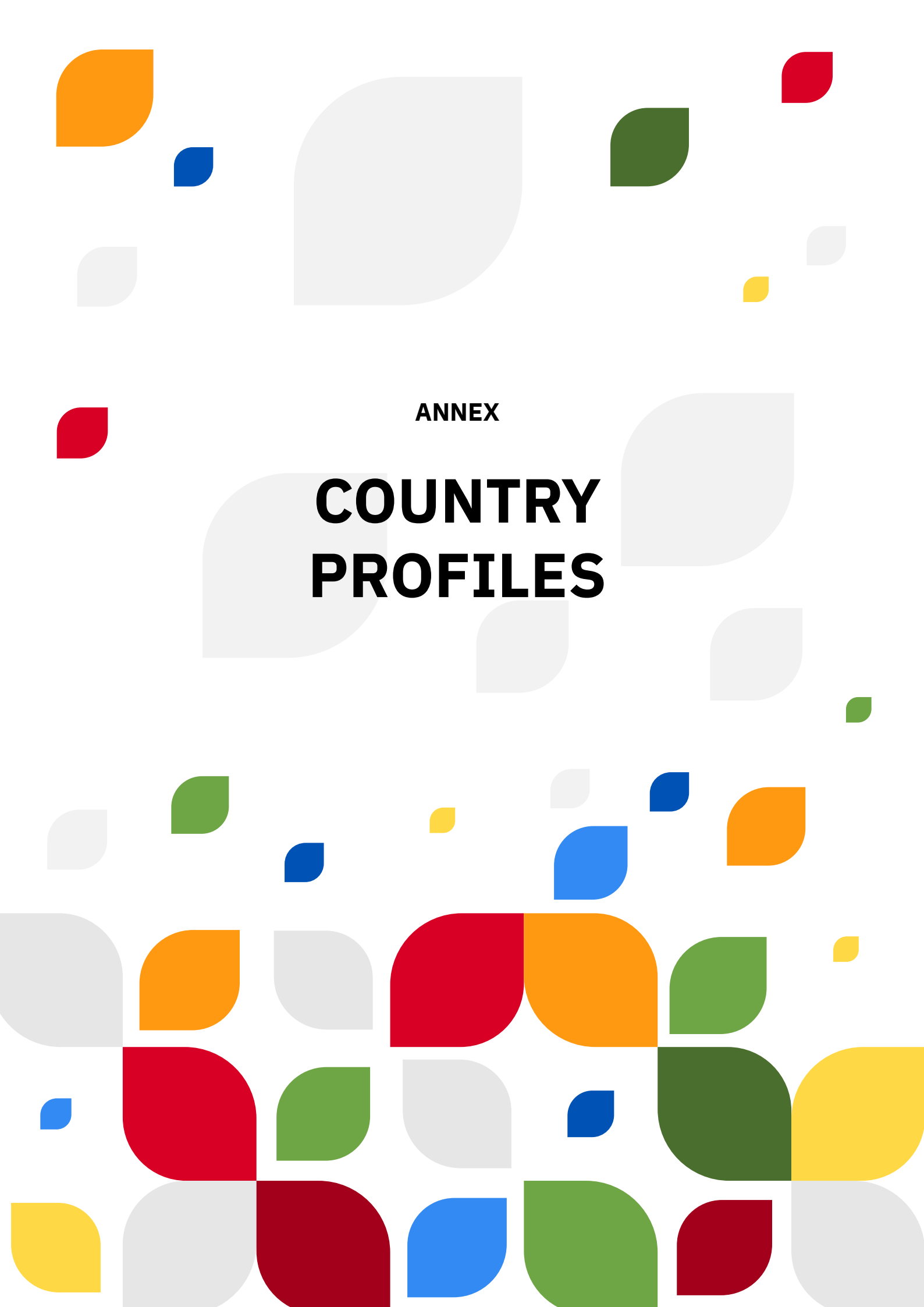
- ◆ advocate for the repeal of laws and bills on so-called «gay propaganda»;
- ◆ advocate for the repeal of laws that criminalize consensual sexual relations between adult men;
- ◆ guarantee LGBT people, on an equal basis with other social groups, the opportunity to enjoy freedom of speech and freedom of peaceful assembly, and ensure the safety of participants in such peaceful assemblies;
- ◆ amend NGO registration procedures and guarantee organizations representing the interests of the LGBT community the opportunity to register associations, carry out activities, and participate in competitions for state support and support from local budgets on an equal basis with other civil society organizations in the country;
- ◆ ensure security and public order during peaceful assemblies and public events of members of the LGBT community;
- ◆ conduct effective and public investigations of all cases of attacks committed during past peaceful assemblies in CEECA countries, and bring those responsible to justice.

INTERNATIONAL PROTECTION AND SOLIDARITY:

- ◆ international refugee protection programs should include integration activities and support for LGBT refugees (including those who became refugees due to the full-scale invasion of Ukraine by the RF);
- ◆ international humanitarian organizations implementing programs to support internally displaced persons in Ukraine, as part of their work, must assess the needs of all target groups and provide any assistance necessary for LGBT people;
- ◆ international humanitarian organizations and donors should consult with LGBT NGOs in order to effectively assess needs and develop programs that take into account LGBT rights.

ANNEX

**COUNTRY
PROFILES**





AZERBAIJAN

● legal barriers

● level of protection

Points for
2019-2021



6



10

Points for
2021-2023



10



13

In 2023, the assessment detailed the number of barriers trans people face during transition and when attempting to legally change their gender marker and/or name. There is no separate procedure in the country, but it is possible to legally change one’s name and gender marker on the basis of a court decision: *Trans people can change their legal gender on the basis of a court decision. In order to change the gender in their passport, a citizen must first apply to the Civil Registration Service with a request to change the gender in their birth certificate (metrics). If an official refusal is received, the citizen must then file a lawsuit to determine the legal fact in court. The court considers this issue (it may order a forensic examination to confirm information about gender affirming surgery), provides a legal assessment, and makes the appropriate decision. Based on the court decision, the citizen has the right to apply to change their birth certificate (metrics) and identity card. Since this is not an easy process, and it requires certain legal knowledge to draft an application to the court, many trans people hire a lawyer to carry out this procedure.*

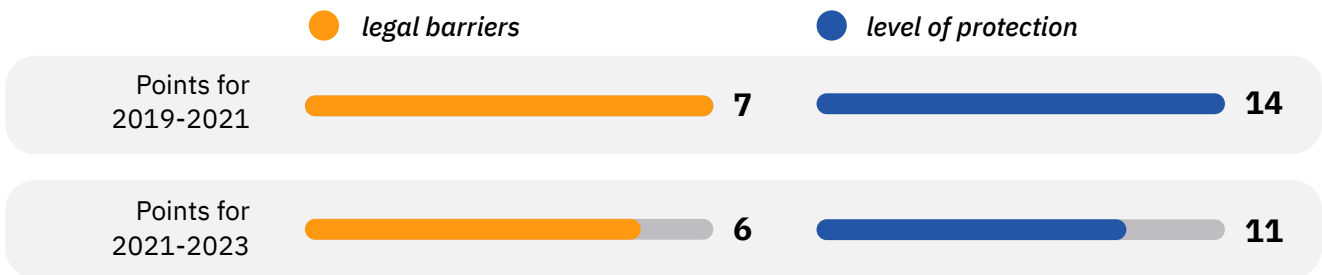


UNRESOLVED ISSUES

- legislation — lack of protection against discrimination (no anti-discrimination law), lack of a transparent and accessible procedure for transgender transition, including legally changing one’s name and gender marker;
- law enforcement practice — ineffective investigation by law enforcement agencies of complaints from LGBT people about violations of their rights, including allegations of hate crimes;
- high level of stigma towards LGBT people influences decision-makers; deputies and representatives of executive authorities are not ready to publicly support human rights issues in relation to the community. This also directly affects the ability of LGBT people to access even the minimal protection mechanisms that exist at the national level — LGBT people do not file complaints with the Ombudsman and/or national courts.



ARMENIA



Overall, the situation in Armenia has remained virtually unchanged from 2021 to the present, but positive changes in relation to access to blood donation for gay men and other MSM should be noted. According to the country consultant, in 2022, changes were made to the Order of the Ministry of Health of Armenia of 02/07/2013 No. 06-N, which «*previously considered gay men a risk group, and this was an excluding circumstance for blood donation*».

In addition, in 2022, a new version of the Criminal Code of Armenia came into force, which defines one of the circumstances that aggravates criminal liability or punishment as «*the commission of a crime motivated by hatred, intolerance or enmity, due to racial, national, ethnic or social grounds, religion, political or other views, or other circumstances of a personal or social nature*» – although this is not a separate article establishing liability for HC, the fact that there is a separate, open-ended list of protected characteristics suggests that SOGI may be included under «other circumstances» in the future.



UNRESOLVED ISSUES

- lack of a legally established procedure for changing gender markers, and clear conditions and processes for undergoing such procedures;
- lack of separate anti-discrimination legislation;
- existence of criminal liability for unintentional HIV infection;
- lack of effective investigations of HC leading to the fact that LGBT people are afraid to file corresponding complaints with law enforcement agencies, which do not even keep separate statistics on SOGI issues.



BELARUS

● legal barriers

● level of protection

Points for
2019-2021



9



10

Points for
2021-2023



14



10

Since 2021, the situation of LGBT people in Belarus has worsened. Despite the absence of legislative and legal restrictions on the registration of NGOs providing HIV services for gay men, other MSM and trans people, as well as on already existing organizations, it was noted that «*in refusing (registration), officials referred to the criterion of social utility, arguing that organizations with an MSM or PLH profile 'are not socially beneficial'*». TInformation was also received that «*since 2021, the Ministry of Justice of the RB has issued warnings to NGOs based on articles related to extremist symbols, and demands that mention of the MSM group be removed from social media, and replaced with the wording "men with risky behavior"*».

There has been significant deterioration in relation to the issue of «gay propaganda»: in December 2022, it was announced that a law similar to the Russian law prohibiting «the propaganda of homosexuality» would be considered and adopted; in April 2023, Belarusian deputies proposed to expand the media law by adding a prohibition on «LGBT propaganda», and in June 2023, the General Prosecutor's Office of Belarus approved a plan for activities and initiatives «to protect children from violence and sexual exploitation», which includes «imposing administrative liability for the promotion of non-traditional sexual relations, gender reassignment, pedophilia and childfreeness».

In 2021, almost 200 people were detained in Belarus for comments made online after the death of a KGB officer. Belarusian human rights activists believe that security forces use threats to disclose the homosexuality of certain detainees as an additional tool of repression.

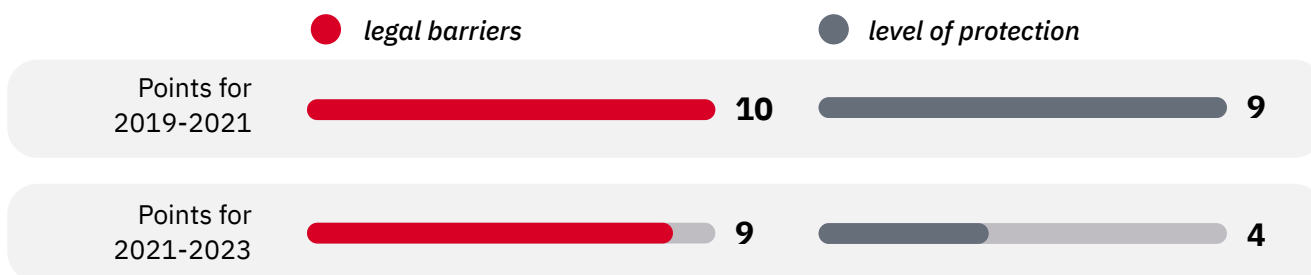


UNRESOLVED ISSUES

- lack of separate anti-discrimination legislation;
- direct prohibitions on blood donation for trans people;
- criminal liability for unintentional HIV infection;
- requirement that trans people who wish to change their gender marker get divorced;
- totalitarian regime in the country.



GEORGIA



In Georgia, from 2021 to 2023, there was an obvious increase in pro-Russian influence and a strengthening of «anti-Western policy». For example, in 2023, the «Power of the People» party initiated a law on agents of foreign influence in the Parliament of Georgia, which was not adopted only thanks to the active protest movement in the country and the support of international organizations.

The situation with respect to far-right groups has also become more complex, despite the existence of legislative norms prohibiting discrimination and establishing criminal liability for violating the equality of people, including on the basis of SOGI. For instance, in June 2021, the Ministry of Internal Affairs of Georgia called on organizers to cancel the «Dignity March» due to the planned large-scale counter-protests. The riots provoked by radical groups resulted in a significant number of victims, including journalists; the organizers of the attacks were not arrested.

In June 2022, during Tbilisi Pride Week-2022, events were held on private property due to threats of violence; an anti-LGBT rally was held in the center of Tbilisi, which attracted more than two thousand people.

HC are also a difficult issue; in 2022, «a man went to an apartment where several trans women were present and demanded that they provide sex services. After they refused, he called over a whole group to help him and five trans people were beaten up. According to preliminary data, up to 30 people armed with stones took part in the group attack. The victims told reporters that they believe the attack was planned in advance».

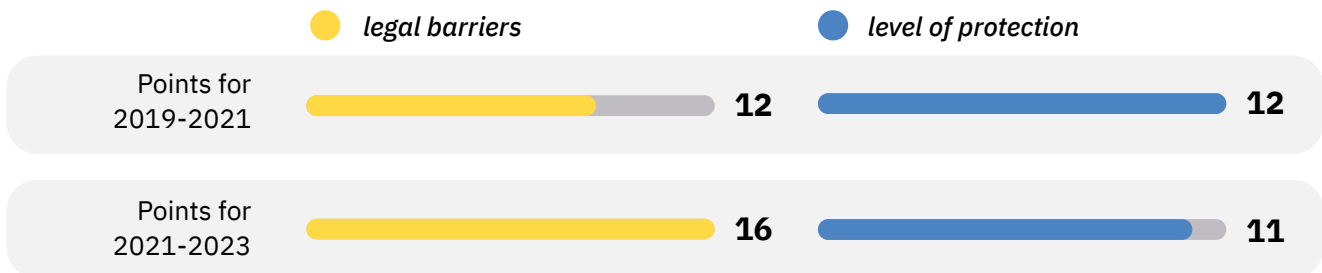


UNRESOLVED ISSUES

- lack of a transparent procedure for changing gender markers;
- lack of effective investigations of HC;
- inability to fully realize the right to freedom of speech and peaceful assembly.



KAZAKHSTAN



Since 2021, there has been no progress in terms of the human rights situation in Kazakhstan. The procedure for changing one's gender marker remains extremely inhumane; an unreasonably long stay in a psychiatric hospital (from 14 to 21 days) and mandatory surgical intervention are still required. Questions about SOGI in screening procedures for blood donors is also an area of concern (2022 version of the Order of the Ministry of Health of the Republic of Kazakhstan with requirements for medical examination of donors). One of the reasons for temporarily excluding a person from donating blood and its components is «*a specific pattern of behavior that is highly likely to lead to loss of health, physical or social well-being (risk behavior factors), including providing sexual services; promiscuous heterosexual and homosexual sexual intercourse; regular relationships with homosexual partner(s); use of injecting drugs*». At the same time, the period of ineligibility is designated as «*an indefinite period, until the provision of a conclusion on the possibility of engaging in blood donation from an organization operating in the field of HIV/AIDS prevention*».

Separately, it is worth noting the deterioration of the situation regarding freedom of speech and peaceful assembly. In 2023, a court prohibition on street protests was documented: «*The court in Astana upheld the refusal to allow an LGBT activist to hold a protest in June, during Pride Month. The city akimat refused to approve the site of the protests three times, citing 'repair work'*».

In 2023, in order to receive permission to hold the Women's March scheduled for March 8, activists had to organize several pickets protesting the authorities' refusal to allow the mass event.



UNRESOLVED ISSUES

- lack of anti-discrimination norms and legislation regulating the prosecution of HC and the protection of the human rights of LGBT people;
- inconsistency of the procedure for changing gender markers with international standards;
- inability to fully realize the right to freedom of speech and peaceful assembly.



KYRGYZSTAN

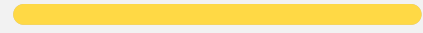
● *legal barriers*

● *level of protection*

Points for
2019-2021



9

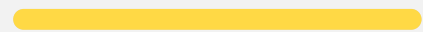


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Points for
2021-2023



12



11

On August 9, 2023, the first legislative act came into force in Kyrgyzstan, directly prohibiting the «propaganda of homosexuality», albeit in a more limited form than the corresponding law of the Russian Federation. The Law «on amendments to certain legislative acts of the Kyrgyz Republic (the Code of the Kyrgyz Republic on Offenses, the Laws of the Kyrgyz Republic «on measures to prevent harm to the health of children, their physical, intellectual, mental, spiritual and moral development in the Kyrgyz Republic», and «on the media»)» stipulates that information that is harmful to the health and development of children includes information «*negating familial and traditional social values, promoting non-traditional sexual relations, and creating disrespect towards parents or other family members*».

The situation with respect to the rights of trans people has worsened: due to the adoption of the Law «on civil status acts» in 2020, the legislation of Kyrgyzstan no longer provides trans people the possibility to amend their birth certificate in order to change their gender marker. Currently, this issue is exclusively resolved through legal proceedings, and entails unreasonably long procedures and unjustified financial costs. It also delays the process of socialization and hinders their ability to live a full-fledged life: «*a trans woman who had not yet changed her passport details was unable to register at her place of residence due to the inconsistency between her gender identity and passport*».

It is worth noting that liability for HC was established with the entry into force (2021) of the Criminal Code: «*Actions aimed at inciting racial, ethnic, national, religious or interregional hostility (hatred), humiliation of national dignity, as well as the propaganda of exclusivity, superiority or inferiority of citizens based on their attitude to religion, nationality or race, committed publicly or using the media, as well as on the Internet*». This definition is not sufficiently clear, and has a truncated and closed-ended list of protected characteristics.

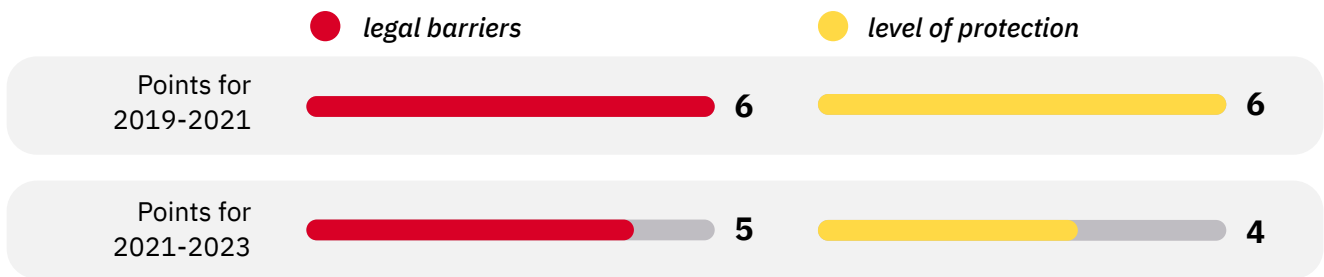


UNRESOLVED ISSUES

- inability to make amendments to one's birth certificate when changing one's gender marker;
- lack of separate anti-discrimination legislation.



MOLDOVA



The period from 2021 to 2023 shows that Moldova has not lost its leading position in the protection of rights and freedoms, although there has been a noticeable trend towards the intensification of homophobic attitudes and attempts to prohibit «the propaganda of homosexuality»: *On November 7, 2022, the Children’s Rights Information and Documentation Center (CRIC) launched the “LGBT Children in Your School” campaign. The campaign took place online and was aimed at providing information to and raising awareness among teachers in the Republic of Moldova about the problems faced by children within and beyond the LGBT community due to stereotypes and prejudices. Teachers have the opportunity to test their knowledge about LGBT children and their own level of acceptance. Members of the Party of Socialists of the Republic of Moldova (PSRM) made several homophobic statements, attacked the ruling party and the President of the Republic of Moldova, and accused them of «launching a campaign of LGBT propaganda in schools». The deliberate distortion by the PSRM of the purpose of the campaign and the intentions of the organizers, which was picked up and actively promoted by public figures, led to an avalanche of negative reactions and manifestations of intolerance towards LGBTQ people.*

The strengthening of such conservative tendencies in society leads to irreparable situations (harassment and bullying in the educational process), which require immediate responses: *in April 2022, a trans teenager committed suicide after systematic bullying from classmates, and numerous appeals to the school administration were unsuccessful. This tragic incident showed the urgent need for change in the education system. Following a protest in front of the Ministry of Education organized by «GENDERDOC-M» on April 15, 2022, the Ministry issued a statement about the inadmissibility of discrimination against trans people in schools and asked GDM staff to provide cooperation to prevent such situations in the future.*

The country consultant also separately noted the issue of obstacles that prevent people from changing their gender marker. *There is no clear mechanism for legal gender recognition, so in each case it is necessary to obtain a court decision. After the new ICD-11 came into force, the old norms are no longer applicable (commission at a psychiatric clinic), and the new ones have not yet been developed.*

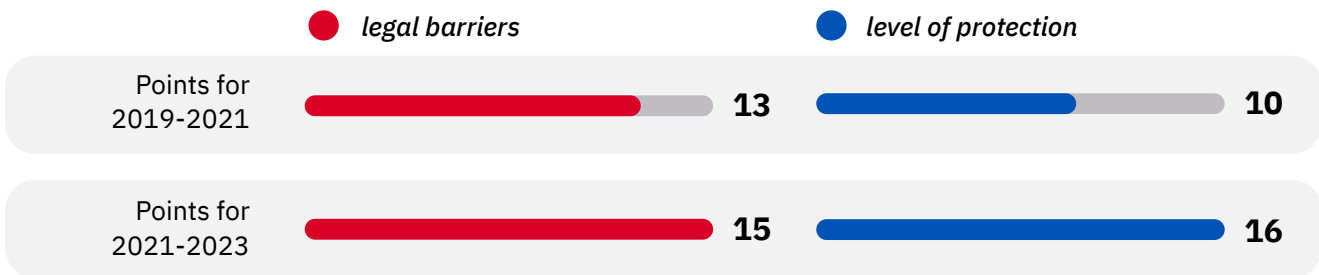


UNRESOLVED ISSUES

- lack of a training block for teachers and educators that includes the issues of human rights, non-discrimination, and tolerance.



RUSSIAN FEDERATION



Since 2020, there has not been a single change in the Russian Federation towards improving the situation of LGBT people and/or the human rights situation in general. On the contrary, international organizations and a few local activists have noted that the situation is catastrophic and that there has been a deterioration in people's ability to realize their rights and freedoms, including LGBT people. In 2021, Russian activists submitted an appeal to the UN Independent Expert on SOGI. They provided information about the situation of LGBT people in the Russian Federation, and in particular, reported an increase in violence and hate speech based on SOGI. A significant part of the report is devoted to the criminal activity of homophobic and extremist communities on the Internet, which, feeling a sense of impunity, spread hate speech, and commit attacks against LGBT people.

Although there is an Ombudsman in the country, the position is entirely political. Civil society and/or victims of human rights violations do not receive any support. NGOs and LGBT activists do not use the Ombudsman's complaint mechanism due to their lack of trust in the independence of this mechanism. For example, in her opening remarks in the report on the activities of the Commissioner for Human Rights for 2022, M. stated: *«Never before has the topic of human rights been exploited so shamelessly and nakedly to justify political ambitions and neo-Nazism. We were actually forced to change the focus of our protection of human rights and concentrate on LGBT people and oppositionists. Of course, the rights of any member of society must be protected from abuse and violence. But it is unacceptable to use the institution of human rights protection as a tool of propaganda».*

In 2022, the new Law 478-FZ was adopted, prohibiting the dissemination of any information that, in the opinion of Russian authorities, «promotes non-traditional sexual relations, pedophilia or gender reassignment» among people of all ages. It came into force on September 1, 2023. *An openly gay couple from Kazan were filming a video blog about their daily life as a young gay couple. In early 2023, they began receiving threats from homophobic activists who made public complaints about their blog. One of the guys in the couple says that these threats began precisely after December 2022, when the new law on «gay propaganda» was passed. Both of the guys were detained under the article on «gay propaganda» due to the content on their blog. A case was opened after their denunciation by a resident of Novosibirsk.*



UNRESOLVED ISSUES

- law on gay propaganda and the persecution of activists, law on foreign agents, and the impossibility of the work of non-governmental organizations;
- legislation – lack of protection from discrimination (no anti-discrimination law);
- totalitarian regime in the country.



TAJKISTAN

● *legal barriers*

● *level of protection*

Points for
2019-2021



8

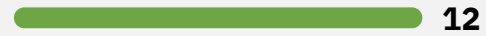


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Points for
2021-2023



8



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The main change that occurred in the country during the assessment period was the adoption of a basic anti-discrimination law. The Law of the Republic of Tajikistan on Equality and the Elimination of All Forms of Discrimination is the first law on equality in the Central Asian region. The law defines discrimination and its forms (direct and indirect discrimination, harassment in the workplace, incitement to discrimination, segregation and others) and contains a fairly broad list of protected characteristics. It does not mention SOGI, but contains the wording «other circumstances», which should allow for the inclusion of SOGI in practice and through court decisions.

The country is also currently developing a new Criminal Code, which may take into account changes in anti-discrimination legislation and detail liability for extreme forms of hate speech and hate crimes. There is currently insufficient detail with respect to these provisions in the existing Criminal Code. The list of protected characteristics is not only limited, but is also closed-ended, which does not allow for the inclusion of SOGI (the current version reads: «on the basis of national, racial, religious, parochial hatred or enmity, or blood feud»).

On the other hand, despite a step forward in protection against discrimination, the country continues to prohibit the establishment and activities of NGOs that «*infringe on the rights and legitimate interests of citizens, human health and public morals*», which makes it impossible to register any NGOs that include the goal of working with the LGBTQ community in their Charter. The same law puts both community activists and the advocacy community at risk. According to country consultants, it is not easy to find lawyers who are willing to take on cases of violations of LGBT rights.

Complaints by the community of rights violations documented in the country mainly concern abuse of power by law enforcement agencies and harassment for the purpose of blackmailing and extorting trans people.



UNRESOLVED ISSUES

- legal — the absence of SOGI in the anti-discrimination law and the Criminal Code; liability for NGO activities that «*infringe on the rights and legitimate interests of citizens, or on people's health and public morals*»; lack of a procedure for legal transition and for legally changing one's name and gender;
- law enforcement — LGBT people cannot file a complaint against the actions of the police and other law enforcement agencies; they do not go to court due to a lack of knowledge and legal support.



TURKMENISTAN

● *legal barriers*

● *level of protection*

Points for
2019-2021

Оценки в 2019-2021 годах не было

Points for
2021-2023

14

12

A key barrier for LGBT people and human rights activists in the country remains the existence of criminal liability for voluntary same-sex relations between adult men. Article 133 of the Criminal Code of the Republic of Turkmenistan imposes imprisonment for a term of two years. There is no openly available official data on the number of convictions under this article, but local media occasionally write about the arrests of men. The very existence of an article criminalizing voluntary same-sex relations between adult men is a factor leading to the persecution of LGBT+ people and human rights violations.

Back in 2017, the UN Human Rights Committee noted that the criminalization of consensual same-sex relations cannot be justified, and called on the government of Turkmenistan to decriminalize such relationships, but no action was taken in this regard.

The Law «on public associations» separately contains Article 33, which prohibits the registration of public associations that offend morality, and the national and religious feelings of citizens. This is the reason why there is not a single LGBT service or human rights organization in the country. Not only does this prevent LGBT people from assembling, advocating for their rights, and/or seeking change, but it also prevents victims of human rights violations from seeking redress. LGBT people do not report violations to law enforcement agencies or public organizations, due to fears of outing and persecution.

There have been no changes in terms of removing barriers for trans people. There are no procedures for transition and/or changing one's gender marker in Turkmenistan.



UNRESOLVED ISSUES

- repeal Article 133 of the Criminal Code of Turkmenistan;
- adopt anti-discrimination legislation;
- launch informational campaigns to promote acceptance and human rights values in the country.



UZBEKISTAN

● *legal barriers*

● *level of protection*

Points for
2019-2021



14



11

Points for
2021-2023



11



13

The key barrier to the realization of any LGBT+ rights in the country is the existence of criminal liability for voluntary same-sex relations between adult men, i.e. Article 120 of the Criminal Code of the Republic of Uzbekistan. The government systematically ignores all recommendations from international treaty bodies that relate to the need to remove this norm from the Criminal Code of Uzbekistan, as well as to how this article is the reason for the persecution, blackmail and human rights violations of homosexual men, other MSM, and trans people. The Ministry of Internal Affairs «reports» that at least 13 adult men have been convicted of committing same-sex sexual acts. They are serving prison sentences and are undergoing «conversion therapy» or psychological treatment for «homosexuality disorder» in order to «avoid reoffending», according to the US State Department report on the state of affairs in Uzbekistan in 2022¹⁶.



KEY ISSUES IN THE COUNTRY

- low level of knowledge about rights, low motivation to protest and resist the repressive state machinery: both among LGBT people and among the heterosexual majority;
- low level of trust in civil society institutions; the human rights community itself refuses to support LGBT people and is publicly homophobic;
- fear of law enforcement and high tolerance for corruption;
- impunity for abuse of power and other systemic offenses by government officials.

On the other hand, it is precisely because of such criminal liability that LGBT people do not report violations of their rights and are not willing to seek justice.



UNRESOLVED ISSUES

- repeal Article 120 of the Criminal Code of Uzbekistan;
- adopt anti-discrimination legislation;
- launch informational campaigns to promote acceptance and human rights values in the country.

¹⁶ Available in English – URL: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/uzbekistan/>



UKRAINE

● *legal barriers* ● *level of protection*

Points for 2019-2021  **8**  **10**

Points for 2021-2023  **8**  **8**

The key barrier for everyone living in Ukraine remains the restrictions associated with mobilization and the consequences of the invasion of the Russian Federation: on the one hand, LGBT+ people are subject to the same restrictions as the heterosexual population, on the other hand, no one is safe in the country where the war is ongoing. In 2022-2023, trans people faced restrictions on leaving the country related to the current law on mobilization and the prohibition on leaving the country for men aged 18-60 years. Many LGBT+ activists and others from fields not related to human rights became volunteers and enlisted in the Armed Forces of Ukraine (AFU), as the full-scale invasion of the Russian Federation on February 24, 2022 provoked a large wave of voluntary mobilization of both men and women to the front.

The consequences of this mobilization, as well as the visibility of LGBT people in the ranks of the AFU, provoked a wide discussion in society about the need to legalize same-sex partnerships. In the spring of 2023, a bill was submitted to parliament proposing a procedure for registering civil partnerships for both same-sex and opposite-sex couples. The main argument for promoting this bill is to create conditions for the protection of those who are currently fighting in the Armed Forces of Ukraine and members of their families. Six months after the registration of the bill, thanks to the broad support of civil society and public discussion, the bill was supported by the Ministry of Justice of Ukraine and the Ministry of Defense of Ukraine (the bill is currently before the Committee on Human Rights of the Verkhovna Rada, and is being prepared for its first reading). In 2023, the European Court of Human Rights ruled in the case *Maimulakhin and Markiv v. Ukraine*¹⁷, and found a violation of Article 14 of the Convention together with Article 8: violation of the right to private and family life due to discrimination on the basis of sexual orientation.

Another important event for the promotion of LGBT rights in the country is the process of the European integration of Ukraine: in the summer of 2022, Ukraine received the status of a candidate country for membership in the European Union and is awaiting the start of candidate negotiations. It is in the context of these negotiations that the government will be forced to return to the issues of revising national legislation and making changes necessary to comply with EU requirements. This includes amending anti-discrimination legislation, regulating liability for the commission of hate crimes based on SOGI, issues of same-sex partnerships, as well as the issues of data collection in relation to cases of discrimination, and the access of victims to effective legal remedies.



UNRESOLVED ISSUES

- pass a law on civil partnerships;
- introduce SOGI into anti-discrimination legislation and the Criminal Code of Ukraine.

¹⁷ Decision on the website of the ECtHR
<https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-224984%22%5D%7D>

The logo for ECOM, featuring a white icon of a 2x3 grid of squares to the left of the word "ECOM" in a bold, white, sans-serif font.

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