



ANALYSIS OF THE NATIONAL LEGISLATION OF ARMENIA RELATED TO SOGI AND HIV

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ACRONYMS AND ABBREVIATIONS

CC Criminal Code

CoE Council of Europe

ECOM Eurasian Coalition on Health, Rights, Gender and Sexual Diversity

ECHR European Court of Human Rights

ECRI European Commission against Racism and Intolerance

EECA Eastern Europe and Central Asia

HC Hate crimes

HIV Human immunodeficiency virus

ILGA Europe International Lesbian, Gay, Bisexual, Trans and Intersex Association

LGBT Lesbian, gay, bisexual, and trans people

MSM Men who have sex with men

NGO Non-governmental organization

PLH People living with HIV

RA Republic of Armenia

SOGI Sexual organization and gender identity

UN United Nations

The Republic of Armenia (hereinafter referred to as Armenia or RA) is a sovereign democratic state, the primary legal act of which is the Constitution. The Constitution of the RA ensures fundamental human rights, including the right to be free from discrimination¹. The legislation of the RA also consists of international treaties ratified by the country, as well as codes, laws, by-laws, etc.²

The goal 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). ECOM developed a methodology and survey, which was completed relying on data from partners in the country. The following were used to analyze legal practice: state statistics, judicial practice, reports of activists, statistics from partner organizations, and materials from open sources.

This analysis can be a valuable resource for international organizations, and may be used to study Armenian legislation related to the protection of the rights of the LGBT community and PLH, as well as for government bodies and non-governmental organizations in the RA to develop equality policies and propose amendments to legislation.

¹ Constitution of the RA (with amendments adopted in 2015), Article 29.

² Constitution of the RA (with amendments adopted in 2015), Article 5.



INTRODUCTION

Various legal acts of the RA contain legal regulations related to protection from discrimination, however, LGBT people and PLH in Armenia often face discrimination and are subjected to treatment that humiliates their honor and dignity. This is the result of both stereotypes present in society, as well as legislative gaps and shortcomings.

Many international and non-governmental organizations³, for example, the Bureau of Democracy, Human Rights and Labor and the Human Rights Defender (ombudsman) of the RA have reported on discrimination and violence against LGBT people and PLH⁴. According to the 2023 annual report on the activities of the Human Rights Defender of the RA (hereinafter referred to as the Defender), during the reporting period, the Defender received 9 complaints, including 4 written statements and 5 telephone calls to the hotline of the Defender's office, in connection with human rights violations based on sexual orientation and gender identity (SOGI)⁵.

It is worth noting the annual ranking of countries by Freedom House, which examines political rights and civil liberties in the country. In 2023, Armenia received 54 points out of a possible 100. The country received 2 points out of 4 for each of the following two criteria: «*Do various segments of the population (including ethnic, racial, religious, gender, LGBT+ and other relevant groups) have full political rights and electoral opportunities?*» and «*Do laws, policies, and practices guarantee equal treatment of various segments of the population?*», since «*No openly LGBT+ people have run in elections or been appointed to public office in Armenia*», «*(...) LGBT+ people continue to experience violence and mistreatment at the hands of police and civilians*»⁶.

Each year, ILGA Europe publishes a «Rainbow Map» assessing the legal and political situation of LGBT people in 49 European countries. According to 2023 data, Armenia ranks fourth from the bottom (9.16%), ahead of only Russia (2%), Azerbaijan (2.25%) and Turkey (4.75%)⁷. Of these countries, only Armenia increased its score after repealing the prohibition on blood donation by men who have sex with men⁸.

According to the ECOM's national report on violations of the rights of LGBT people and MSM in Armenia in 2023, ECOM documenters recorded 67 cases of violations against LGBT people in the country. Violations of the following rights were documented: the right to life, the right to be free from torture, inhuman or degrading treatment or punishment, the right to privacy of private and family life, honor and good name, the right to medical care, the right to liberty and personal security, the right to free choice of work, the right to property, and the right to protection from discrimination⁹.

³ Armenia 2023/24. Annual Report. — Amnesty International. — URL: <https://eurasia.amnesty.org/armenia/doklad-armenia/>

⁴ URL: <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/armenia/>

⁵ Annual Report on the Activities of the Human Rights Defender of the Republic of Armenia, 2023. — Part 17, Chapter 2, p. 762. — Yerevan, 2024. — URL: <https://www.ombuds.am/images/files/c21b3daa983465bea149c85cf9f2cec3.pdf>

⁶ URL: <https://freedomhouse.org/country/armenia/freedom-world/2024>

⁷ URL: <https://rainbowmap.ilga-europe.org/>

⁸ URL: <https://www.ilga-europe.org/report/rainbow-europe-2023/>

⁹ National report on violations of the rights of LGBT people and MSM in Armenia, 2023. — ECOM / Eurasian Coalition on Health, Rights, Gender and Sexual Diversity. — Tallinn, 2024. — p. 26-27. — URL: <https://ecom.ngo/library/natsionaljniy-otchet-armeniya-23>.



INTERNATIONAL OBLIGATIONS OF THE REPUBLIC OF ARMENIA AND THEIR IMPLEMENTATION

As previously mentioned, international treaties are part of the legislation of the RA. By ratifying international conventions, Armenia has taken on the obligation to comply with international human rights standards and to bring its legislation into line with such standards.

Armenia has ratified and is party to the following international instruments:

- ✓ UN Universal Declaration of Human Rights;
- ✓ International Covenant on Civil and Political Rights;
- ✓ Optional Protocol to the International Covenant on Civil and Political Rights;
- ✓ International Covenant on Economic, Social and Cultural Rights;
- ✓ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- ✓ UN Convention on the Rights of the Child;
- ✓ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- ✓ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- ✓ International Convention for the Protection of All Persons from Enforced Disappearance;
- ✓ International Convention on the Elimination of All Forms of Racial Discrimination;
- ✓ Convention on the Elimination of All Forms of Discrimination against Women;
- ✓ UN Convention on the Rights of Persons with Disabilities;
- ✓ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women¹⁰;
- ✓ European Convention for the Protection of Human Rights and Fundamental Freedoms¹¹.

It should be noted that Armenia has signed but not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families¹² and the Council of Europe Convention on Preventing and Combating Violence against Women (Istanbul Convention)¹³.

By signing on to international agreements, the RA has the obligation to implement the decisions of the bodies established on the basis of these agreements. In some cases, they are advisory in nature, for example, recommendations of UN committees, and in some cases they are binding, for example, decisions of the ECHR.

¹⁰ URL: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=8&Lang=EN.

¹¹ URL: <https://www.coe.int/en/web/conventions/full-list?module=treaties-full-list-signature&CodePays=ARM>.

¹² URL: https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-13&src=TREATY.

¹³ <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatyenum=210>.

In June 2023, the European Commission against Racism and Intolerance (ECRI) published its report on the current situation in Armenia based on the results of the sixth round of monitoring. According to the report, Armenia has not yet established a fully-fledged equality body, LGBT people continue to face discrimination, and this lack of legal protection is due to the fact that SOGI are not directly included in the grounds for discrimination prohibited by the Constitution or any other laws. «24. ECRI also regrets to note that Armenia does not provide for any form of legal recognition of same-sex partnership», «28. ECRI learnt that the procedures for changing the first names of transgender people had been simplified. However, it had become virtually impossible to register a change of gender in identity documents since a gender-reassignment surgery seemed no longer to be a sufficient criterion», states the report. ECRI also notes the high level of hate speech and hate crimes against LGBT people and the community as a whole. ECRI stressed the importance of adopting legislative norms, in particular an anti-discrimination law. It also noted the need to establish an equality body or provide the Defender with adequate mandates and resources. To combat discrimination, ECRI proposed conducting educational and awareness-raising activities in various areas, including in schools, migration services, law enforcement agencies, and society as a whole. Recording and maintaining statistics are crucial for improving the effectiveness of hate crime investigations. In addition, ECRI stressed the importance of combating hate speech on media platforms and ensuring the effectiveness of legislative regulations in this regard¹⁴.

In 2023, progress in relation to the implementation of the ECHR decision in the case of Oganezova v. Armenia was recorded¹⁵. On 17 May 2022, the European Court of Human Rights published its judgment in the case, which concerns the 2012 explosion at the «DIY» club. The court found that Armenia had violated the applicant's rights, including protection from torture, inhuman treatment and discrimination, due to gaps in legislation and ineffective investigations¹⁶. The Republic of Armenia is implementing the Court's judgment under the supervision of the Committee of Ministers of the Council of Europe. The latter reviewed the implementation process and requested updated information on the reopened criminal cases. The Committee provided recommendations to ensure effective control over this process: finalizing and adopting the Law on Equality in line with international standards; providing information on the application of the new Criminal Code, particularly in relation to homophobic motives in criminal cases; continuing public awareness campaigns and training law enforcement officers in investigating hate crimes and supporting victims¹⁷.

¹⁴ ECRI REPORT: ON ARMENIA (6th monitoring cycle), 2023, <https://rm.coe.int/sixth-report-on-armenia/1680ab9e33>.

¹⁵ THE HUMAN RIGHTS SITUATION OF LGBT PEOPLE IN ARMENIA DURING 2023. ANNUAL REPORT. – p. 11. – URL: <https://pinkarmenia.org/wp-content/uploads/2024/05/lgbtreport2023en.pdf>.

¹⁶ ECHR Decision. – URL: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-217250%22%5D%7D>.

¹⁷ Decision H46-1 (Application No. 71367/12) in the case of Oganezova v. Armenia / Committee of Ministers of the Council of Europe. – Meeting 1468, 5-7 June 2023 (DH) – URL: https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680ab57e5.



TABLE: COMPLIANCE OF DOMESTIC LEGISLATION WITH INTERNATIONAL STANDARDS

LEGAL REGULATIONS	YES	NO
PROTECTION FROM DISCRIMINATION		
Provision prohibiting discrimination in the Constitution	✓	
Direct mention of the prohibition of discrimination based on SOGI in the Constitution		✗
Open-ended list of characteristics protected from discrimination in the Constitution	✓	
Provisions on the prohibition of discrimination in other legislation in specific fields (Labor Code, Law on Education, Law on Healthcare, etc.)	✓	
Direct mention of the prohibition of discrimination based on SOGI in other legislation		✗
Open-ended list of characteristics protected from discrimination in other legislation	✓	
Separate Law on Equality (Bill was proposed in 2018)		✗
HATE CRIMES (HC)		
Liability for hate crimes in the Criminal Code	✓	
Definition of the concept of HC with clear provisions		✗
Direct mention of SOGI as a protected characteristic in connection with HC		✗
Open-ended list of characteristics protected from HC	✓	
Official statistics on the number of hate crimes based on SOGI		✗
Crimes against LGBT people treated as HC during investigations		✗
FREEDOM OF SPEECH AND HATE SPEECH		
Law on the prohibition of gay propaganda/direct prohibition on the freedom of speech of LGBT people		✗
Liability (civil, administrative, or criminal) for hate speech	✓	
Definition of the concept of hate speech		✗
Use of hate speech against LGBT people, PLH by politicians	✓	
Use of hate speech against LGBT people, PLH by official religious figures	✓	
Use of hate speech against LGBT people, PLH in the media	✓	
Proper investigation of hate crimes based on SOGI		✗

LEGAL REGULATIONS	YES	NO
FAMILY LEGISLATION		
Official registration of same-sex marriages		✗
Law/regulation governing the legal status of same-sex couples		✗
Law/regulation allowing adoption by same-sex couples		✗
Law on the prohibition of domestic violence	✓	
Provision protecting same-sex couples from domestic violence		✗
RIGHT TO HEALTH		
Direct ban on entry to the country and immigration for people living with HIV		✗
Criminal or other liability for intentional transmission of HIV	✓	
Criminal or other liability for unintentional transmission of HIV	✓	
Algorithm for determining intent in cases of transmission of HIV		✗
Restrictions on blood donation by gay and other MSM		✗
Questions about SOGI (or questions about «risky sexual behavior», «sex life», etc.) in screening procedures and forms for blood donors	✓	
Free and regular access to ART for immigrants	✓	
RIGHT TO HEALTH FOR TRANS PEOPLE		
Law/regulation governing the procedure for legal gender transition or other similar procedures		✗
Requirement of medical or surgical intervention to change the gender marker in one's passport	✓	
Requirement to obtain a psychiatric diagnosis prior to accessing the legal gender transition procedure		✗
Approved list of contraindications to legal gender transition		✗
Law/regulation governing legal gender transition or other similar procedures		✗
Mandatory sterilization procedure for trans people		✗
FREEDOM OF ASSEMBLY AND ASSOCIATION		
Legislation regulating the procedure for holding peaceful assemblies	✓	
Permission from local authorities required to hold a peaceful assembly		✗
Prohibition on peaceful assemblies for LGBT people		✗
Criminal or other liability for holding a peaceful assembly without the consent of the authorities	✓	
Legal restrictions on the registration of NGOs providing HIV services to gay men, other MSM and trans people		✗
Legal restrictions on the activities of NGOs representing the interests of LGBT people (human rights and service organizations, community groups, etc.) in connection with receiving public funding (at the national or local level)		✗



ANALYSIS OF LEGAL REGULATIONS AND THEIR APPLICATION



ANTI-DISCRIMINATION LEGISLATION

According to the Constitution of the RA, every person has the right to be free from discrimination. Discrimination based on religious beliefs, gender, race, skin color, ethnic or social origin, genetic characteristics, language, worldview, political or other views, belonging to a national minority, property status, birth, disability, age or other personal or social characteristics is prohibited¹⁸.

It is important to note that the Constitution of the RA does not directly prohibit discrimination based on sexual orientation and gender identity. However, the Constitution provides an open-ended list of characteristics protected from discrimination. This implies that SOGI should be protected from discrimination on an equal basis with other characteristics¹⁹.

The legislation of Armenia imposes penalties for discrimination under the framework of the Criminal Code, which briefly defines discrimination as unequal treatment that violates human rights and freedoms, or that provides advantages to a person without objective grounds and a legal purpose based on certain characteristics²⁰. It should be noted that in practice, law enforcement agencies do not apply this article.

Despite the fact that various international organizations have underscored the importance of adopting a separate comprehensive law on equality in the RA in order to ensure the elimination of discrimination, there is still no separate law ensuring equality in the country. Back in 2018, the draft Law of the RA «on ensuring equality» was submitted for discussion, but has not yet been adopted. The government of the RA published a draft Action Plan for 2023-2025, stemming from the National Strategy for the Protection of Human Rights, which states that in 2024, the draft Law of the RA «on ensuring equality» should be finalized and submitted for approval to the National Assembly of the RA²¹.

¹⁸ Constitution of the RA (with amendments adopted in 2015), Article 29.

¹⁹ *Identoba and others v. Georgia*, 2015, § 96; *Salgueiro da Silva Mouta v. Portugal*, 1999, § 28; *Fretté v. France*, 2002, § 32; *Vejdeland and Others v. Sweden*, 2012, § 55; Committee Against Torture, General Comment No.2: Implementation of Article 2 by State parties, paras 21, 22.

²⁰ Criminal Code of the RA (adopted in 2021), Article 203.

²¹ URL: <https://www.e-draft.am/projects/5472/about>



HATE CRIMES

In Armenia, legal discussions about hate crimes are new. Currently, hate crimes are regulated to some extent under the framework of the Criminal Code of the Republic of Armenia. The Code provides for circumstances aggravating punishment²², the list of which includes the commission of a crime motivated by hatred, intolerance and hostility caused by religious belief, national, racial, ethnic or social origin, political or other views, or other circumstances of a personal or public nature. SOGI are not explicitly included in this list, but are included as other circumstances of a personal or public nature.

Human rights organizations emphasize that LGBT people often prefer not to contact law enforcement agencies when crimes are committed against them. This is due to the fact that victims do not wish to or are afraid of disclosing their SOGI, do not believe that a positive solution will be found in personal matters, are worried about their lives and safety, do not trust law enforcement agencies, etc.²³ According to a report by Pink Armenia, in 2023, only 12 out of 51 cases of rights violations were reported to law enforcement agencies by victims²⁴. It should be noted that even in cases where the victim contacts law enforcement agencies, the motive of hatred provided for by the CC is not taken into account during investigation of the case²⁵. There are even cases when investigators and police officers violate the rights of LGBT people themselves, for example, by beating them, mocking or insulting them, extorting money, threatening to prosecute them, etc.²⁶ Additionally, the state does not collect official statistics on hate crimes against LGBT people, which does not allow for the proper identification of existing problems.



FREEDOM OF SPEECH AND HATE SPEECH AGAINST LGBT PEOPLE

The right of LGBT people to freedom of speech in Armenia is not limited by specific acts. There is no law banning «gay propaganda» in Armenia. The Constitution of the RA establishes the freedom of expression, and also provides grounds for limiting the possibility of self-expression²⁷.

Hate speech is one of the grounds for restricting freedom of expression. The concept of hate speech does not have a universal definition in international law. According to Recommendation CM/Rec(2022)16 of the Committee of Ministers of the Council of Europe «(...) *hate speech is understood as all types of expression that incite, promote, spread or justify violence, hatred or discrimination against a person or group of persons, or that denigrates them, by reason of their real or attributed personal characteristics or status such as «race», colour, language, religion, nationality, national or ethnic origin, age, disability, sex, gender identity and sexual orientation*»²⁸. The document is of a recommendatory nature for all Council of Europe countries, including Armenia.

²² Criminal Code of the RA (adopted in 2021), Article 71.

²³ National report on violations of the rights of LGBT people and MSM in Armenia, 2023 / ECOM. — Tallinn, 2024. — p. 27.

²⁴ THE HUMAN RIGHTS SITUATION OF LGBT PEOPLE IN ARMENIA DURING 2023. ANNUAL REPORT. — p. 6-7.

²⁵ In 2024, only one crime was treated as a hate crime during investigation, which was an exception. — URL: <https://pinkarmenia.org/news-events/courtial-hatecrime/>

²⁶ National report on violations of the rights of LGBT people and MSM in Armenia, 2023 / ECOM. — Tallinn, 2024. — p. 27.

²⁷ Constitution of the RA (with amendments adopted in 2015), Article 42.

Currently, the prohibition of hate speech is regulated to some extent under the framework of the criminal legislation of the RA, according to which «*public calls for violence against a person or group of persons on the basis of racial, national, ethnic or social origin, religion, political or other views or other circumstances of a personal or social nature, public justification or propaganda of such violence, as well as the distribution of materials or objects for this purpose (...)*» are punishable²⁹.

Hate speech against LGBT communities is widespread in Armenia. Cases have been observed in which the media disseminates news about the murders of trans women or the suicides of gay men. Such news has been accompanied by calls for violence in the comments or statements justifying the murders. Often, there are calls to burn or destroy LGBT people. In this case, despite the regulation, the article does not apply to calls for or justifications of violence against LGBT people. Criminal cases based on alleged crimes are not initiated primarily on the grounds that the alleged offender exercised their freedom of expression, and that the statements did not pose a real threat and were made in the heat of the moment³⁰.



LEGISLATION IN THE FIELD OF FAMILY LAW AND DOMESTIC VIOLENCE

The Constitution of Armenia defines marriage only as the union of a man and a woman³¹. In the RA, a union between persons of the same sex cannot be registered by the state, i.e. gay and lesbian couples cannot legally register their marriage. There is no legislative act regulating the formation of such unions.

The lack of legal regulation of same-sex marriage creates a situation where couples in de facto marital relationships cannot be considered parents of the same child. In addition, they cannot adopt a child together, since unmarried people cannot jointly adopt the same child³².

The Law «On the prevention of domestic and everyday violence, the protection of persons subjected to domestic and everyday violence» has been in force in Armenia since 2018, which provides for restrictive measures for physical, economic, sexual, and psychological violence committed by family members³³. Amendments to the law came into force on 1 July 2024, according to which domestic violence also includes violence committed by partners, former family members or former partners, regardless of the circumstances of cohabitation³⁴. This provision will allow for the investigation of violence between same-sex couples in accordance with the law on domestic violence.

²⁸ Recommendation CM/Rec(2022)16 of the Committee of Ministers of the CoE to member states on combating hate speech. – URL: <https://search.coe.int/cm?i=0900001680a67955>

²⁹ Criminal Code of the RA (adopted in 2021), Article 330.

³⁰ THE HUMAN RIGHTS SITUATION OF LGBT PEOPLE IN ARMENIA DURING 2023. ANNUAL REPORT. – p. 47.

³¹ Constitution of the RA (with amendments adopted in 2015), Article 35.

³² Family code of the RA, Article 116, Part 2.

³³ Law of the RA «on the prevention of domestic violence, the protection of persons subjected to domestic violence, and the restoration of solidarity in the family», Article 3, 6-8.

³⁴ <https://www.arlis.am/DocumentView.aspx?docid=192526>



LEGISLATION IN THE FIELD OF HEALTH

The Constitution of the RA establishes the human right to the protection of health³⁵. It should be noted that the Law of the RA «on the prevention of diseases caused by the human immunodeficiency virus» states that people living with HIV have the right to non-discriminatory treatment³⁶, and that HIV infection cannot be the basis for restricting a person's rights and freedoms, except in cases established by law³⁷. The same law establishes the right of a person to receive medical care and services, and defines the duties and responsibilities of persons providing medical care and services. Although discrimination against PLH is prohibited, the Criminal Code of the RA establishes liability for the intentional transmission of HIV³⁸. It also establishes liability for HIV infection through negligence³⁹. The Criminal Code defines the concepts of intent and negligence. However, it does not differentiate the determination of intent for specific crimes, such as HIV transmission. In practice, intent is established through investigative actions, such as interrogations and confrontations.

Order No. 06-N of the Minister of Health of the RA «on the procedure for a blood donor to undergo a free medical examination and the list of contraindications to donation in order to preserve the health of a blood donor before collecting blood or its components» is in force in Armenia. It previously considered men who have sex with men a risk group, and blood donation by them was only permitted in exceptional circumstances. However, the Order was amended in December 2022, and this restriction was lifted⁴⁰. At the same time, it should be noted that the Order of the Minister of Health of the RA No. 02-N sets out a questionnaire for donors, which includes some problematic questions. In particular, it contains the following question: «*Question 17: Have you had sex with a casual partner in the last 6 months?*». At the end, the donor must sign a consent form acknowledging responsibility for the transmission of HIV: «*(...) I was also informed that I bear criminal liability under the Criminal Code of the RA, Article 123 (infection with the human immunodeficiency virus), Article 124 (infection with a venereal disease or other venereal diseases), since I may cause harm to the health of the recipient (...)*»⁴¹.

There are no restrictions in the legislation of the RA on immigration and entry into the country of citizens of other countries living with HIV. At the same time, HIV-positive foreign citizens and stateless persons arriving in the Republic of Armenia, after receiving an entry permit for up to 90 days at the diplomatic missions and consular offices of the Republic of Armenia, are provided relevant information and sign a corresponding bond. Foreign citizens and stateless persons living with HIV are warned in advance that they must incur the cost of any medical treatment they undergo, and must prove their ability to pay before receiving an entry visa. As an exception, treatment of foreign citizens and stateless persons infected with HIV or AIDS may be organized free of charge, with the final decision on the appropriateness of this being made by a licensed medical institution⁴². When such persons arrive in Armenia, they are under the responsibility of the medical institution where their treatment is organized⁴³.

³⁵ Constitution of the RA (with amendments adopted in 2015), Article 85.

³⁶ Law of the RA «on the prevention of diseases caused by the human immunodeficiency virus», Article 14.

³⁷ Id., Article 6.

³⁸ Criminal Code of the RA (adopted in 2021), Article 177.

³⁹ Id., Article 178.

⁴⁰ URL: <https://www.arlis.am/DocumentView.aspx?DocID=171918>

⁴¹ URL: <https://www.arlis.am/documentview.aspx?docid=126240>

⁴² Resolution of the Government of the RA No. 284 of 12.04.2001 «on approval of the procedure for entry into the Republic of Armenia of foreign citizens and stateless persons infected with the human immunodeficiency virus and acquired immunodeficiency syndrome for the purpose of treatment», Article 6.

⁴³ Id., Article 8.



RIGHT TO HEALTH FOR TRANS PEOPLE

In 2023, in addition to the numerous cases of violence and human rights violations committed against trans people, two trans women were brutally murdered⁴⁴. The lack of legislation regulating the process for changing the gender marker in one's passport makes life difficult for trans people. Armenian legislation does not regulate legal gender recognition; changing the gender marker in a passport and medical interventions for trans transition are not provided for by law in the country. Changing the gender marker in a passport is only possible on the same general grounds that allow for the correction of other data in a passport⁴⁵. In order to make any changes to passport data, a person must provide documents justifying such corrections. The relevant authorities require documents proving a person has undergone a gender affirming operation in order to change the gender marker in a passport. However, it is difficult to obtain such documents, since such operations are not separately included in the list of medical services available in the country⁴⁶. In practice, such operations are officially registered as «corrections» of bodily deformities.



FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

The right to freedom of assembly in the RA is established by the Constitution⁴⁷, and a separate law⁴⁸. These legal acts regulate the procedure for holding peaceful assemblies. Permission to hold a peaceful assembly is not required, but written notification must be provided to the authorized bodies, with the exception of extraordinary and spontaneous assemblies of up to 100 participants⁴⁹. The purpose of providing written notification is so that the state can take the necessary measures to ensure the normal and peaceful course of the assembly, as well as to protect the fundamental rights of other persons and the interests of society⁵⁰.

The right to freedom of assembly is not absolute. In certain cases, it may be limited, for example, for reasons of state security, crime prevention, or for the protection of public order, health and morals or the fundamental rights and freedoms of others. It should be noted that there are also administrative⁵¹ and criminal⁵² penalties for violations of the rules for holding assemblies in Armenia

⁴⁴ National report on violations of the rights of LGBT people and MSM in Armenia, 2023 / ECOM. – Tallinn, 2024. – p. 27.

⁴⁵ Law «on the passport of a citizen of the Republic of Armenia», Article 5, Part 10, Paragraph. 3.1; Article 6, Part 1, Paragraph 1.

⁴⁶ List of specified medical services is determined by the Decree of the Government of the RA No. 276-N of March 27, 2008 «on the definition of the list of types of medical care and services provided in the Republic of Armenia». – URL: <https://www.arlis.am/DocumentView.aspx?DocID=69784>

⁴⁷ Constitution of the RA (with amendments adopted in 2015), Article 44.

⁴⁸ Law of the RA «on freedom of assembly». – URL: <https://www.arlis.am/DocumentView.aspx?DocID=178234>

⁴⁹ Id., Article 9.

⁵⁰ Id., Article 10.

⁵¹ Code of the RA on Administrative Offenses, Article 180.1.

⁵² Criminal Code of the RA, Article 326.

The right of LGBT people to freedom of assembly is not separately regulated. This means that the same rules apply to assemblies of LGBT people as to gatherings of other groups or in support of other issues. However, it should be noted that in practice, the LGBT community faces certain problems in exercising their right to freedom of assembly. When the LGBT community tries to hold open events in public places, they are not protected by authorities and may be attacked by homophobic groups. On 21 August 2023, following the brutal murder of a trans woman in Yerevan, the LGBT community gathered in one of the city's central parks to hold a candlelight vigil in her memory. During the vigil, participants were attacked; eggs and bottles filled with sand were thrown at them, which hit some participants and caused physical pain and injury. Despite participants reporting the incident to law enforcement authorities, a criminal case was not initiated due to a lack of grounds⁵³.

The Constitution of the RA establishes the right to freedom of association⁵⁴. There are no legal restrictions on the registration of NGOs providing HIV prevention services to gay men, other MSM and trans people. There are also no restrictions on the receipt of state funding by these NGOs, but there is no information on whether they have received state grants for activities in this specific area.

⁵³ URL: <https://www.armtimes.com/hy/article/267250>

⁵⁴ Constitution of the RA (with amendments adopted in 2015), Article 45.



RECOMMENDATIONS

In order to ensure the protection of the rights of LGBT people and PLH in Armenia, we recommend that the state:

- ★ Adopt a comprehensive anti-discrimination law, including a definition of the concept of discrimination and its types, as well as a direct reference to SOGI as protected grounds;
- ★ Amend the legal acts governing various areas and the existing norms prohibiting discrimination by explicitly establishing SOGI as characteristics protected from discrimination;
- ★ Amend the regulation of hate crimes, in particular, more clearly define the concept of hate-motivated crimes in the Criminal Code of the Republic of Armenia, and include SOGI in the list of protected characteristics;
- ★ Provide clearer regulation in the area of hate speech, in particular by setting out a definition of hate speech in accordance with international standards, and directly including SOGI as characteristics in the list of grounds protected from hate speech in the CC;
- ★ Organize trainings for law enforcement officers on discrimination, hate crimes and criminal investigations of cases of hate speech to increase their awareness about LGBT people, create a climate of sensitivity, and to combat re-victimization and discrimination;
- ★ Properly investigate cases of discrimination, hate crimes and hate speech, including by political and public figures;
- ★ Maintain official statistics on hate-motivated crimes, discrimination, and hate crimes against LGBT people;
- ★ Take steps to raise awareness and disseminate information about LGBT and HIV issues to the public to combat existing stereotypes and false narratives;
- ★ Take steps to prevent domestic violence against LGBT people and PLH, including by ratifying and incorporating relevant international standards into domestic legislation, such as the Istanbul Convention, applying existing measures to protect victims of domestic violence, and by maintaining statistics on domestic violence based on HIV and SOGI;
- ★ Amend legislation to give trans people the right to change the gender marker in their passports and other identification documents, subject to due legal process;
- ★ Ensure the freedom of assembly of LGBT people, not only in legal documents but also in practice, and in the event of violations of this right, hold those responsible accountable.

