



REGIONAL REPORT

on violations of the right to health
of gay men, other msm and trans people
in the EECA region in 2020

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The information presented in this document may be useful for both non-governmental organizations and community activists, and for government officials, in the planning of advocacy processes, promoting the rights of gay men, other MSM, and trans people, as well as in overcoming barriers that prevent them from accessing services.

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The views expressed in this publication belong exclusively to the authors and may not align with the views of «MPact Global Action for Gay Men's Health and Rights» and «Robert Carr Fund».

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TABLE OF CONTENTS

○	Introduction	3
●	Goal and objectives of the report	5
●	Data collection methodology	7
●	Overview of major legislative changes in the EECA region in relation to the right to health and other related rights in 2020	10
●	Analysis of cases collected in 2020	13
●	Main conclusions	22
●	Key recommendations	24
○	Annex 1: Number of documented cases in 2020 by type of violation	26
○	Annex 2: Number of documented cases in 2020 by category of perpetrators	27

LIST OF ACRONYMS

EECA	Eastern Europe and Central Asia
HIV	Human immunodeficiency virus
LGBT	Lesbian, gay, bisexual, and trans people
MSM	Men who have sex with men
NGO	Non-governmental organization
PLHIV	People living with HIV
SOGI	Sexual orientation and gender identity
STI	Sexually transmitted infection
WHO	World Health Organization

LIST OF EECA COUNTRIES INCLUDED IN THE 2020 REPORT

 Belarus	 Moldova	 Tajikistan
 Kazakhstan	 Russian Federation	 Uzbekistan
 Kyrgyzstan		

THE MONITORING OF CASES¹ IN 2020 WAS CARRIED OUT IN 11 CITIES BY ECOM'S NETWORK OF MONITORS

Almaty

Dushanbe

Chisinau

Kaliningrad

Khujand

Minsk

Novosibirsk

Osh

Tashkent

Samarkand

Saint Petersburg

¹ The monitoring of cases was carried out according to the methodology developed by ECOM and used in EECA countries since 2017: <https://ecom.ngo/library/manual-on-monitoring-and-documentation-of-lgbtq-human-rights-violations/>

INTRODUCTION

In 2020, the situation regarding the observance of the human rights of LGBT people in EECA countries remained rather difficult. As in previous years, even before the COVID-19 pandemic began, there was no significant progress on human rights. Regression in relation to individual rights in a number of countries of the region was often more frequent than any small improvements. The efforts of a large number of activists and NGOs were needed simply to prevent a substantial deterioration in the situation in countries where significant attacks on democratic values have been widely recorded, as, for example, what has repeatedly taken place in the Russian Federation. Meanwhile, in some countries, such as Uzbekistan, not a single positive change has occurred in a number of years.

However, the hard work of the many parties involved, the continued support of donors, and the determination of members of the community have helped individual countries inch towards progress, with each tiny victory not only making a small difference in the life of the community, but also setting an example for neighboring countries. In order to document these efforts, record all improvements, and to thoroughly analyze legal obstacles and rights violations, ECOM annually monitors the observance of the right to health and human rights more broadly in countries of the EECA region.

In 2020, more than ever, there are fewer stories of victory, improvements in the situation in individual countries, or even chances to say that there has been no significant deterioration. The COVID-19 has affected regimes that systematically ignore the rights of the LGBT community. The global pandemic and the actions and inaction of governments in the face of the virus have hit the most marginalized groups², including LGBT people³, the hardest. A survey of NGOs providing services to community members carried out by ECOM in 2020 showed changes and decreases in services due to quarantine measures and other related restrictions.

Respondents noted that the provision of the following services decreased the most:

-  HIV testing — 39% of respondents
-  STI testing — 30% of respondents
-  Condom and lubricant distribution — 27% of respondents
-  Counseling on various issues — 24% of respondents
-  Accompaniment to AIDS centers and other medical institutions — 21% of respondents
-  Various support groups, including for PLH — 18% of respondents⁴

² The impact of COVID-19 on civil society organisations in Eastern Europe and Central Asia. AFEW International, 2020 (<http://afew.org/headlines/the-impact-of-covid-19-on-civil-society-organisations-in-eastern-europe-and-central-asia-russian-version/>, as of 2 March 2021)

³ 2020 Annual Report of Frontline Defenders available in English at https://www.frontlinedefenders.org/sites/default/files/fld_global_analysis_2020.pdf?fbclid=IwAR0nV82GrcSnylAm4exHeBslFdz_M-r2s0VfKDeJx2rFTLFBbx33YxRe0us

⁴ COVID-19 Situation Assessment: Quarantine Measures affect to LGBTcommunity NGOs working in the field of HIV prevention: <https://ecom.ngo/wp-content/uploads/2020/04/COVID-Report-ENG-1.pdf>

Most of the empirical material for analysis is an array of cases collected by ECOM's network consultants as part of the monitoring of violations of the right to health carried out in 2020 in 11 cities of 7 countries of the EECA region: Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, and Uzbekistan. A total of 119 cases were collected. Most of the cases were collected through requests for legal assistance or advice made by community members to the reception offices of ECOM country teams, and/or through personal contacts.



The quality of the documented information is not always sufficient for a full analysis, which indicates the need to continue working on the improvement of the level of legal literacy among members of the LGBT community in the EECA region. The types of violations reported in the country reports vary, and some are not clearly linked to the right to health. However, the cumulative effect, as well as the recurrence and impunity of the violations described in these cases, affect the mental and physical health of both victims and other members of the community, especially in relation to the fear of seeking medical care or the help of law enforcement agencies due to the risk of disclosure of one's SOGI or HIV+ status.

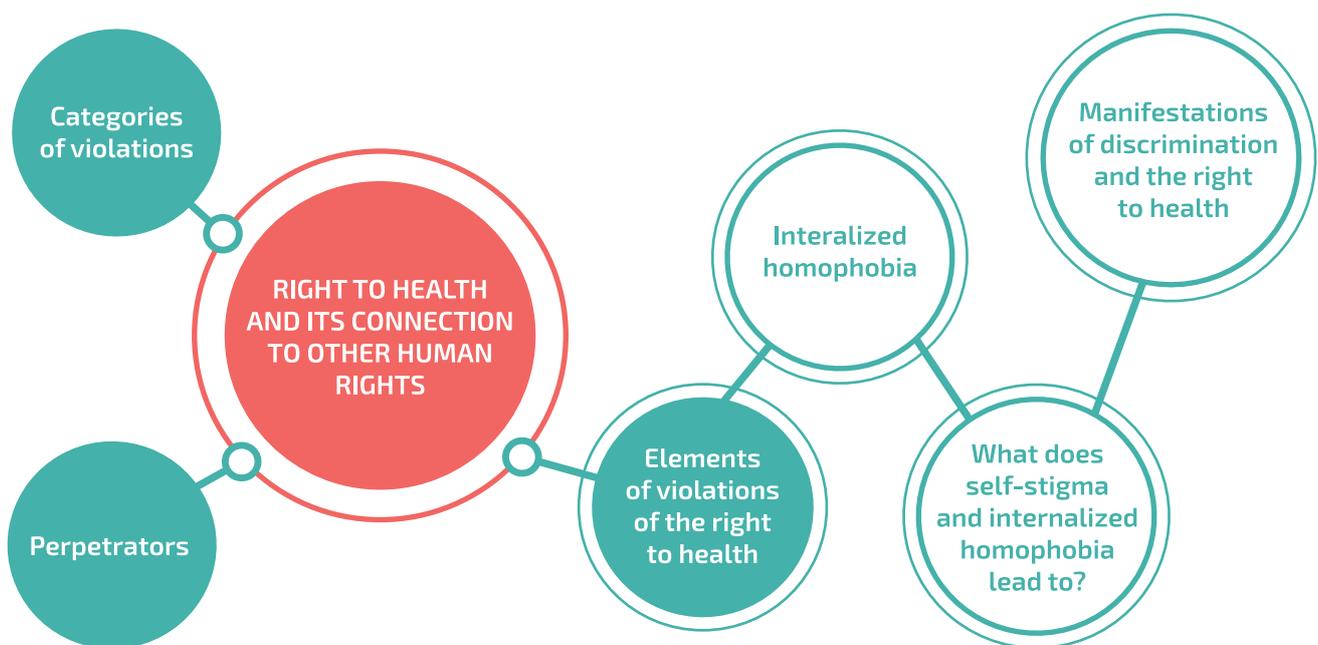
In order to analyze this array of information, ECOM developed a system for assessing cases of rights violations and a logical framework for analyzing the relationship between the right to health and other human rights. All cases are linked by the SOGI of the victims, while some cases also deal with HIV+ status.

Due to two factors, this report does not provide a detailed country analysis or assessment of the legal environment at the national level that would take into account the dynamics of investigations of allegations of discrimination and hate crimes, or the quality and results of such investigations. First, separate country analyses are regularly conducted by ECOM and its partners in each of the countries of the region; second, in 2020, there were no significant qualitative changes in the legal environments of the countries considered in the report.

GOAL AND OBJECTIVES OF THE REPORT

The regional report on 7 countries of the EECA region (Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, and Uzbekistan) for 2020 examines and analyzes the development of the situation in 11 cities, taking into account its impact on the situation of community members and the observance of their rights in the context of the COVID-19 pandemic. The assessment of changes in the legal environment in the respective countries was carried out as part of the desk research and advocacy work of ECOM partners in previous years. This report includes only key points from countries where there have been significant changes or factors that have contributed to the deterioration of the situation of the LGBT community (other than COVID-19).

The main hypothesis of the study is that the level of stigma and discrimination based on SOGI in EECA countries significantly affects the ability of gay men, other MSM and trans people to exercise their right to health⁵, and that restrictions linked to the COVID-19 pandemic have led to an even greater marginalization of members of the community, hitting two rights at once – the right to health and the right to work (and, accordingly, to a decent standard of living).



The summary report provides an analysis of the main findings of the country teams and city monitors, highlights the main problem areas, shows the dynamics of deterioration in the region and in specific countries, and notes the success of the country teams and the development of the community, both in the region as a whole, and in individual countries.

⁵ Back in 2004, Canadian health researcher Christopher Benck in "The Cost of Homophobia: Literature Review on the Human Impact of Homophobia On Canada" was the first to consider the cost/impact of worsening health on the quality of life of LGBT people in comparison to heterosexual people. According to his research, among members of the community, there is a higher level of suicide, depression, smoking, and drug use, which, in his opinion, is directly related to the stress of constant homophobia. The text of the study is available in English at <https://cuivr.usask.ca/documents/publications/2000-2004/The%20Cost%20of%20Homophobia%20Literature%20Review%20on%20the%20Economic%20Impact%20of%20Homophobia%20On%20Canada.pdf>

The main objective of the report is to demonstrate progress and/or regression in countries in the context of social, institutional, and/or legal barriers, and to identify the main perpetrators that prevent members of the LGBT community from fully realizing their right to health.

The data obtained as a result of the analysis and the developed recommendations can serve as the basis for the development of policies and necessary changes in relation to legislation and the quality of the provision of health services and related public services, both in the region as a whole and in individual countries.

The second objective of ECOM's systematic work in this area, ongoing for several years, has been to strengthen the capacity of local communities and activists to influence the development and improvement of policies at both the regional and national levels. The main goal of this work is to strengthen the advocacy initiatives of ECOM's partners, and their ability to accumulate and analyze data, and to use it to overcome social and legal barriers that prevent members of the LGBT community from fully realizing their human rights.



«SIDE-EFFECT» OF THE SYSTEMATIC WORK OF ECOM AND PARTNERS IN COUNTRIES OF THE REGION

A kind of «side-effect» of the work aimed at strengthening the advocacy capacity of national activists was their systematic training in monitoring methods and support for their monitoring projects over the last four years. In addition to developing skills for collecting and analyzing data, monitoring itself contributed to developing connections within the community, and building trust between civil society activists and members of the community, especially those who are in the shadows and who do not usually use the services of public and service organizations.

For the second year in a row analyzing city, rather than country, reports and individual cases from cities far from capitals, it is important to note the improvement in the quality of information collected, and the increase in the number of documented cases (which is especially important in 2020, when many members of key populations did not seek help due to the pandemic).

Constant monitoring of cases using the same developed methodology and legal counseling for victims also help to raise the level of legal awareness of community members⁶. In 2020, not only were more cases recorded, but the types of violations and the amount of detail on cases reported by victims also increased. Complaints about the disclosure of the victim's status and domestic violence related to this increased. These cases and their characteristics are analyzed in more detail in the corresponding sections.

⁶ More information on the monitoring methodology and community outreach work to raise legal awareness is available in ECOM's publication: «Универсальный мануал по мониторингу и документированию случаев нарушения прав человека из числа ЛГБТК» https://ecom.ngo/wp-content/uploads/2019/04/ECOM_manual_rus_a4-1.pdf

DATA COLLECTION METHODOLOGY

-  In each country, ECOM monitors document cases in one or several large cities according to an already approved form⁷, which ECOM developed and has used since 2017.
-  In each country, the data is checked and compared with the results of the previous analysis of legal barriers in relation to the right to health. For the purposes of this report, only information related to significant deterioration in individual cities and countries and to the COVID-19 pandemic was used.
-  Each country team developed its own recommendations to address both legal barriers and law enforcement practices in relation to gay men, other MSM, and trans people, including a focus on addressing issues related to COVID-19. For the purposes of this report, all recommendations have been systematized and unified.
-  In order to clarify the relationship between violations of the right to health and other human rights violations, in particular between the various and multiple manifestations of discrimination against gay men, other MSM, and trans people, ECOM previously developed a logical framework that was used in the preparation of this report.

ECOM PROCEEDS FROM THE FOLLOWING:

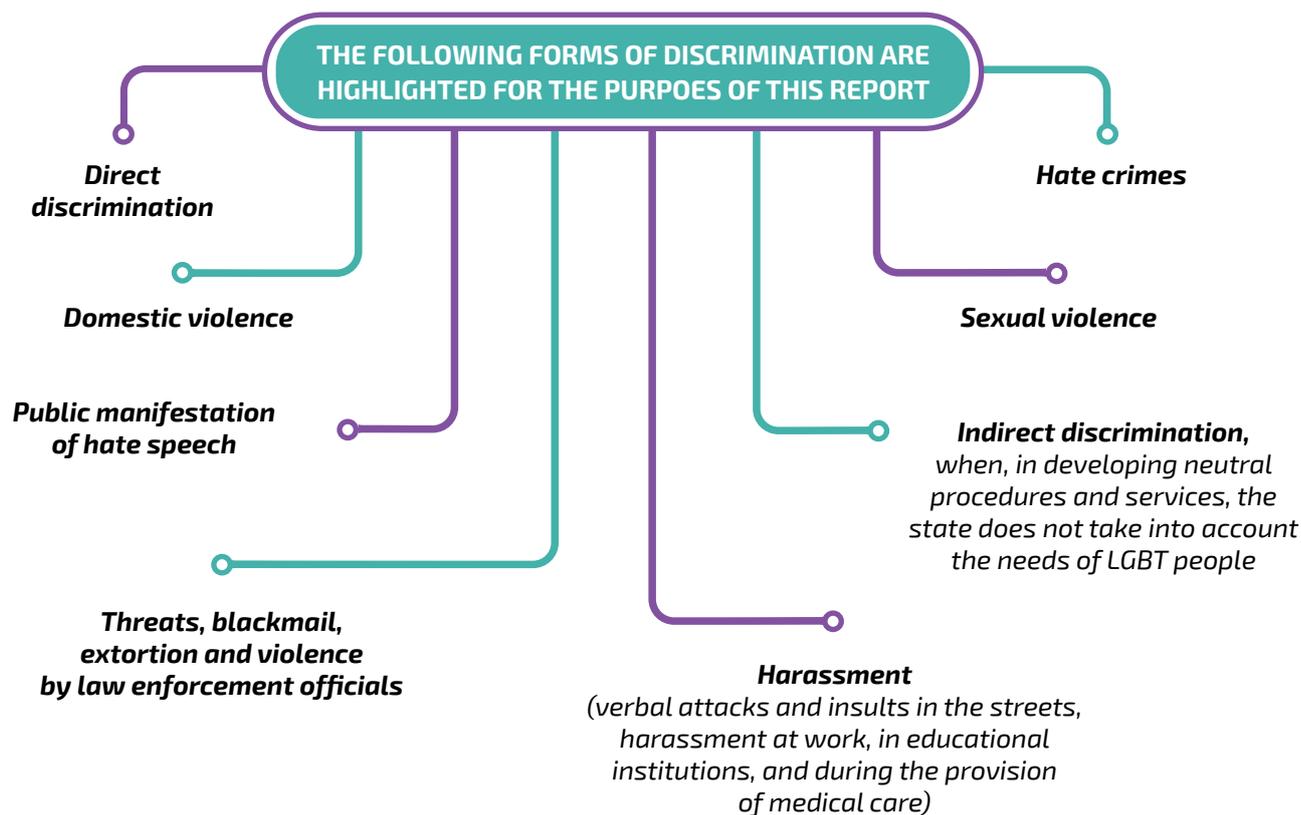
Violations of the right to health are possible due to negative attitudes towards LGBT people (cases of refusal to provide medical care, cases of incomplete or poor-quality medical care) — this is direct discrimination;



⁷ Manual on Monitoring and Documentation of LGBTQ Human Rights Violations. Tallinn, 2019 <https://ecom.ngo/library/manual-on-monitoring-and-documentation-of-lgbtq-human-rights-violations/>

- Violations of the right to health are possible in cases when, while developing neutral procedures and services, the state loses sight of the needs of the LGBT community (for example, there is no package of medical and legal services for trans people, ARV drugs are not purchased on time, the needs of key populations are not taken into account in anti-epidemic measures in the country) — these are manifestations of indirect discrimination;
- The state does not react to cases of abuse against LGBT people (harassment, verbal attacks and insults in the streets, and harassment at work, in educational institutions, and during the provision of medical care), there is no reaction in the form of condemnation and punishment for public incitement to hatred and violations of the rights of LGBT people (hate speech by public officials, politicians, and in the media) — this affects both the quality of life of LGBT people (including mental health), and the level of trust in government bodies, in particular healthcare institutions;
- A high level of homophobia in society may be a reason for delays in seeking medical care and/or for avoiding seeking medical all together due to fears of disclosing one's status (both SOGI and HIV+), as well as due to fears of harassment and insults (this hypothesis was once again confirmed in 2020 in most countries of the region, where, in many cases, victims expressed their unwillingness to seek medical care);
- A high level of homophobia in society, the lack of any response to hate speech (legitimization of hatred towards LGBT people), and the low quality of hate crimes investigations lead to an increase in the number of such crimes (legitimization of both verbal manifestations of hatred in the form of hate speech and harassment, as well as physical manifestations in the form of attacks on people), as well as a deterioration in the quality of life (fear and mental health problems) and harm to the health of LGBT people;
- The growing number of cases of blackmail, threats of disclosure of status, harassment and violence by law enforcement agencies in almost all countries reviewed in 2020 confirms the hypothesis that impunity for the actions of government officials, as well as the lack of effective remedies, have as much of an effect on the actual observance of human rights as existing legal barriers and the lack of specialized legislation. In most countries of the region, the adoption of antidiscrimination legislation promoted by NGOs and international agencies will not solve the problems of the LGBT community until the issue of impunity for police brutality against key populations is also resolved.

Therefore, monitoring data on all identified human rights violations against LGBT people in the countries under review, as well as on the means of protection against various manifestations of discrimination, were used to analyze violations of the right to health.



LIMITATIONS IN THE ANALYSIS OF QUALITATIVE DATA

The 2020 regional report is based on an analysis of data from country and city reports from seven EECA countries. The information collected reflects not only the specific realities of each country and cities, but also the level of development of civil society and the degree of legal literacy of community members who report violations of their rights.

The quality of country reports and the quality of descriptions of collected cases vary greatly. However, it is important to note certain trends, such as improvements in the work of monitors, increases in the level of trust of community members for country teams, the desire to share information, and an increase in the legal awareness of the community as a whole (which, in particular, is confirmed by the variety and detail of documented cases).

In 2020, city monitoring expanded beyond the capitals of countries, and now teams are collecting data in other large cities and, in some cases, small towns. The situation outside the capitals, as expected, is much worse. Community members live in isolation, and just being able to tell someone their story without fear of judgment is already a great support for them. It is also important to note the higher level of impunity and police violence in such regions.

OVERVIEW OF KEY LEGISLATIVE CHANGES IN THE EECA REGION IN RELATION TO THE RIGHT TO HEALTH AND OTHER RELATED RIGHTS IN 2020

The analysis of gaps in legislation and policies in the region related to the right to health and other related rights focuses on the changes that have taken place in 2020: on the challenges posed by the COVID-19 pandemic and on the main problems of each individual country. The assessments and a more detailed description of the legal barriers and challenges in each specific country can be found in ECOM's previous work for 2017-2020⁸.

To understand the dynamics of changes for 2017-2020, this report retains the system of analysis previously developed, with the main emphasis remaining on three main blocks of interrelated issues:

-  The right to health, policies, and laws related to HIV (only changes that have occurred, as well as the impact of COVID-19 restrictions on the implementation of policies and protection measures);
-  Laws on gender expression and their implementation (same as before);
-  Antidiscrimination legislation and SOGI (only the changes in 2020).

RIGHT TO HEALTH, POLICIES, AND LEGISLATION RELATED TO HIV IN THE REGION

In countries of the region, there is a legislative tradition by which HIV issues are addressed in a separate law, rather than being included in health legislation. The same approach applies to the formulation of policies aimed at improving the HIV epidemic situation, and of positive measures taken by states. These documents are not usually coordinated and are implemented separately from other government programs dealing with both human rights, and more narrow issues related to the right to health of citizens belonging to other social groups. The rationale for having separate laws on HIV is questionable. Moreover, the implementation of COVID-19 response measures in various countries (for example, Belarus, Kazakhstan, and the Russian Federation) has shown the weaknesses of this approach, when the general policies of the state do not take into account the specific needs of individual groups, which often leads to indirect discrimination. An example of this was the lack of HIV testing or delays in receiving ART experienced in many countries during the first lockdown.

⁸ For more details, see: «Legislative Analysis related to LGBTQ rights and HIV in 11 CEECA countries» at: <https://ecom.ngo/en/library/legislative-analysis-2018/>

The second important, unresolved issue characteristic of the EECA region as a whole is the criminalization of HIV transmission. The existence of criminal liability, even in the absence of any data on the actual application of this punishment, leaves room for the stigmatization of people living with HIV, as well as for abuse of power, blackmail, and intimidation of PLH who also belong to other vulnerable groups, such as LGBT people. Monitors continue to record such cases in most countries of the region, with gay men and other MSM being most vulnerable to blackmail and threats to disclose their status in countries such as Kazakhstan, Tajikistan, and Uzbekistan (according to data from 2020 cases).

In Uzbekistan, the threat of criminal prosecution on the basis of sexual orientation and for voluntary same-sex contacts between men is added to the general trend of intimidation and blackmail with threats of disclosing one's HIV+ status. Uzbekistan remains one of two countries⁹ of the region that have retained the Soviet-era article of the Criminal Code (art. 120 of the Criminal Code of the Republic of Uzbekistan) criminalizing voluntary same-sex contacts between adult men, which is punishable by up to three years of imprisonment¹⁰.

It is also important to develop effective mechanisms for registering and investigating complaints against the actions of both medical workers and law enforcement officials. Without these changes, such cases will remain in the shadows, and will only be recorded as part of human rights monitoring. The fact remains that, in addition to the fear of criminal liability, many gay men and other MSM in the region live in fear of having their status disclosed to their relatives and friends, which results in their unwillingness to seek medical care and/or undergo HIV testing.

Significant positive changes in relation to HIV policies were not recorded in any of the countries considered in this report, except for the Russian Federation, where the new Decree of the Government of the Russian Federation of 11.07.2020 N1023 «On amendments to the list of diseases, the presence of which precludes a person from adopting a child, taking him under guardianship, or taking him into a foster family» gave PLHIV who are on ART such a right. The wording of the corresponding provision was amended: «2. *Infectious diseases before discontinuation of outpatient treatment due to sustained remission. For persons with HIV infection – undergoing outpatient treatment with an infectious disease doctor for less than one year, determined viral load, CD4+ lymphocyte count of less than 350 cells/ml.*».

Another Decree of the Government of the Russian Federation issued during the reporting period amended the procedure for conducting preventive medical examinations, including HIV testing. In the past, mandatory examinations for certain categories of specialists, such as medical and scientific workers, could lead to the dismissal of people who were diagnosed with HIV¹¹.

⁹ Turkmenistan has a similar provision

¹⁰ ECOM does not have any open data on the application of this article for 2020, but there are recorded cases of its use for blackmail and extortion by law enforcement agencies. However, an ILGA Europe report contains one case regarding the arrest and conviction of two gay men, for more details see the annual report for 2020 available at: <https://www.ilga-europe.org/annualreview/2021?fbclid=IwAR21TgAf5w9nlgzziwlQ94-mj1lrbIV3ufJ7XRgb3586XH1lVe0tg08PqF4>

¹¹ Decree of the Government of the Russian Federation of 17 June 2020 N 868



LAWS ON LEGAL GENDER RECOGNITION AND RELATED ADMINISTRATIVE PROCEDURES

Most of the countries included in this overview do not have sufficient policies, procedures, and/or laws in place to ensure respect for the human rights of trans people, in particular Kazakhstan, Tajikistan, and Uzbekistan. The situation is better in Belarus, although there are also some problems and criticisms there, and in Kyrgyzstan, where, among other things, there is a detailed guide on providing medical care to trans people approved by order of the Ministry of Health in 2017.

In each of these countries, significant problems arise due to the inability of trans people to receive quality medical care, their inability to amend their gender marker in official documents, and to the constant harassment, blackmail, and extortion by law enforcement bodies (the largest number of such cases was recorded in Tajikistan, where there are no protocols for the provision of medical care or a legal procedure for amending one's documents).



ANTIDISCRIMINATION LEGISLATION AND POLICIES IN THE REGION

In this regard, Moldova is the leader among the countries included in this report. It has enacted an antidiscrimination law¹², which does not directly mention SOGI among the general list of characteristics protected from discrimination, but contains an open-ended list of such characteristics, and separately provides for the prohibition of discrimination based on SOGI in the field of labor.

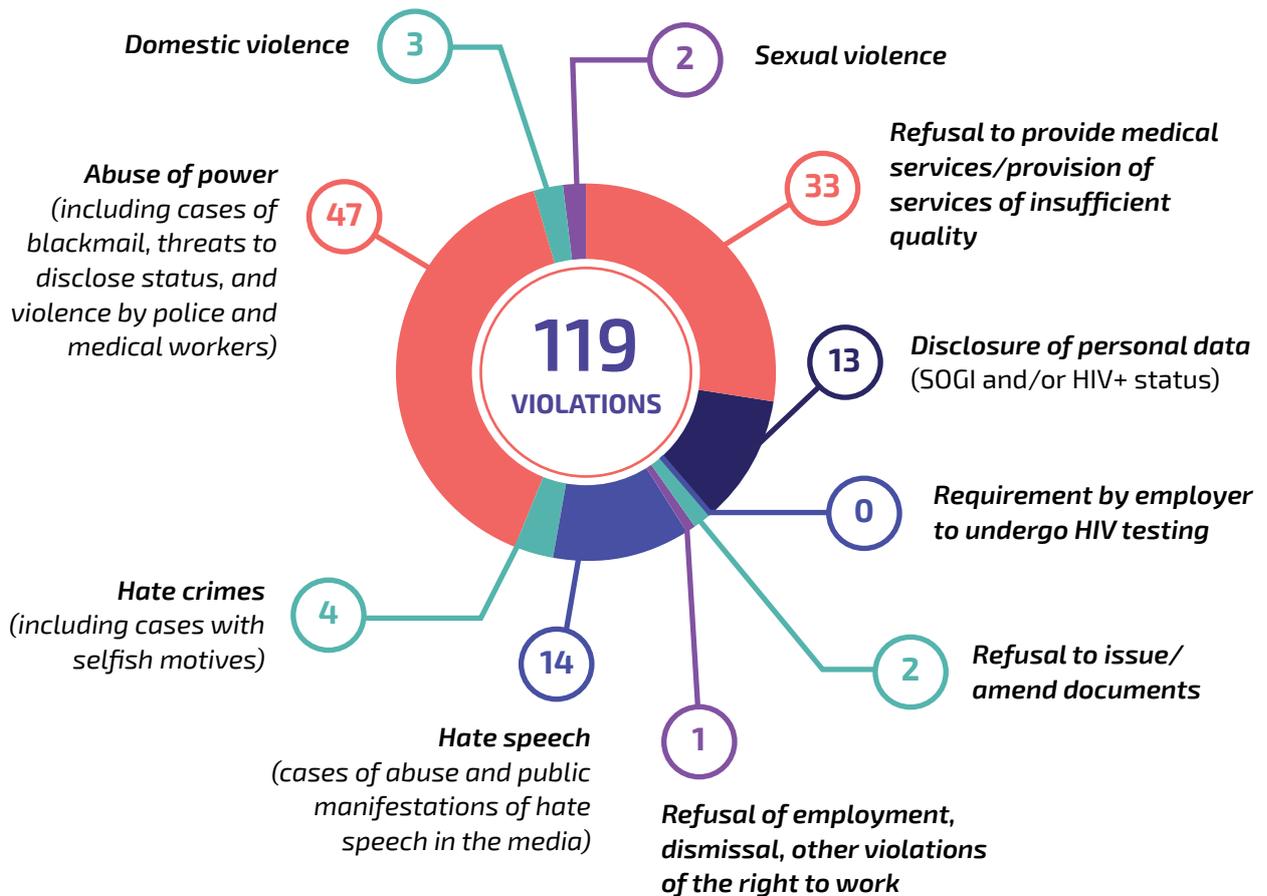
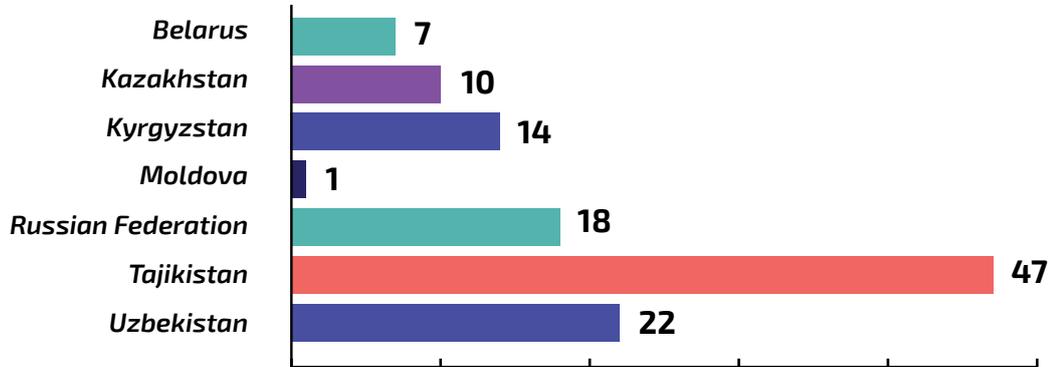
In the other countries of the EECA region considered in this report, the situation is the opposite. There is a complete lack of what can be called antidiscrimination legislation from the point of view of international human rights standards.

In Kyrgyzstan, there were attempts to advocate for the submission of an antidiscrimination bill for consideration of Parliament, however, at the end of 2020, they were unsuccessful. In Uzbekistan, the Order of the President of the Republic of Uzbekistan «On the approval of the national strategy of the Republic of Uzbekistan on human rights» of 22 June 2020 envisages the future step of the «Development of a draft law 'On equality and non-discrimination'». The draft law should be prepared by 1 April 2021 and provides for the introduction of concepts such as «discrimination», «direct, indirect, and multiple discrimination», and «signs of discrimination» into legislation. The draft does not include sexual orientation and gender identity as characteristics protected from discrimination, however, there is a clause «other status». It should be noted separately that civil society was not involved in the development and implementation of these measures. Despite the fact that the state posted documents in the public domain for comments and suggestions, at the moment, comments and suggestions from civil society have not been taken into account.

¹² Law of Moldova on ensuring equality, full text in Russian available at: <http://lex.justice.md/index.php?action=view&view=-doc&lang=2&id=343361>

ANALYSIS OF CASES COLLECTED IN 2020

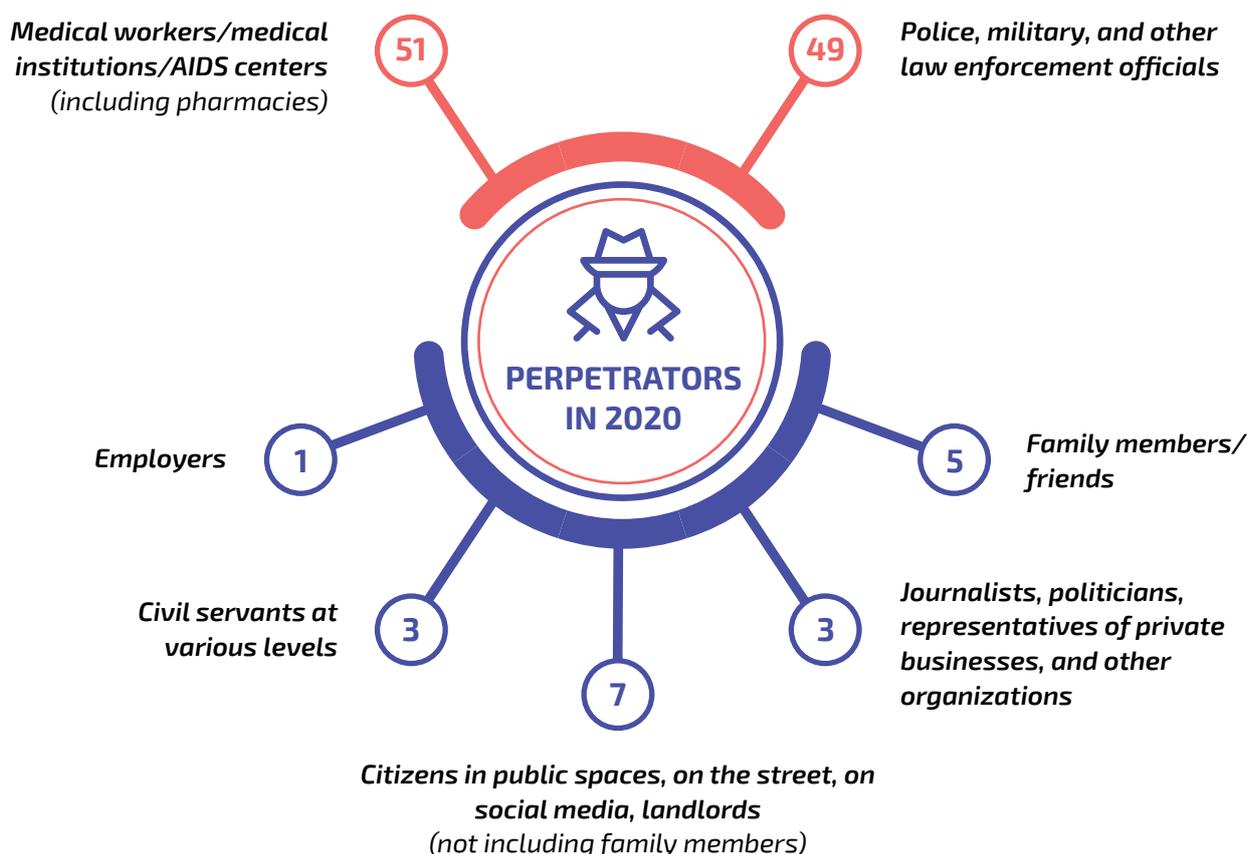
A total of 119 human rights violations¹³ against gay men, other MSM, and trans people (including those living with HIV) were documented in 2020.



¹³ In several cases, one case was recorded as two separate violations due to the different nature of the right violated and, accordingly, different perpetrators

In 2020, no cases were recorded where employers required their employees to undergo HIV testing, however, new categories of violations, including «sexual violence» (including by law enforcement officers) and «refusal to issue/amend documents» were added.

The nature of violations has changed. In 2020, the «leader» among violations are cases of abuse of power, mainly (but not only) on the part of law enforcement agencies, such as blackmail, extortion, and psychological and physical violence.



All analyzed cases are grouped into two tables — by type of violation (**Annex 1**) and by category of perpetrator (**Annex 2**).

In most documented cases, all perpetrators share one common characteristic: impunity. Of the 119 violations documented in 2020, there is only information about 12 complaints filed (mainly in response to the actions of medical workers, 1 complaint to the prosecutor’s office against the actions of the police, and 3 unsuccessful attempts to file a complaint)¹⁴.

¹⁴ All three unsuccessful attempts, when the victim’s complaint was not accepted, were in Uzbekistan

ECOM does not conduct a detailed qualitative analysis of the quantitative data collected for several reasons:

-  Cases collected by country teams differ in quality and in the level of detail and analysis of the situation;
-  The collected cases vary in their degree of complexity. Many of the cases documented in 2020, as in previous years, illustrate complex violations of two or three related rights and require detailed analysis not only to highlight violations, but also to identify all perpetrators, which was done in several cases;
-  On the contrary, some of the cases documented in 2020 are quite schematic and require a clarification of details, which is not always possible;
-  Despite the steady growth in the number of cases with each year of monitoring, there are still not enough cases to discuss the possibility of assessing the true scale of the problem;
-  However, systematic work over the past few years and development of the skills of monitors make it possible to collect more diverse cases, due to which the categories of perpetrators and violations are increasing and becoming more clear each year;
-  There is a noticeable increase in knowledge and ability to formulate and describe in detail the problems of both monitors and of case applicants;
-  In addition, the growth in the number of cases, as well as the complexity of the issues raised, confirm the need to strengthen work in this direction, since in both the early summary reports and in the country/city reports, it is constantly noted that systematic efforts to document individual cases lead to an increase in the number of people who file complaints about violations of their rights.



DENIAL OF MEDICAL SERVICES

In 2020, country teams recorded 33 violations relating to the denial of medical services and/or the provision of incomplete or poor-quality medical services, 2 — in Belarus, 2 — in Kyrgyzstan, 8 — in Kazakhstan, 9 — in Russia, 6 — in Tajikistan, and 8 — in Uzbekistan.

The cases relate to the refusal to provide urgent medical care, refusal to provide treatment when the doctor learns of the patient's status (SOGI and/or HIV), and to the refusal to provide and/or sell medication. Accordingly, perpetrators include both the staff of medical institutions and pharmacies.



Saint Petersburg, Russia: Citizen A., a gay man, made a phone call to a multidisciplinary innovative clinic in the city of St. Petersburg. Citizen A. called and asked to make an appointment with a dentist, but had decided in advance to ask whether they accepted patients with HIV. In response, the administrator refused and said that they «do not have special sterile equipment, so they cannot receive patients with HIV».



Samarkand, Uzbekistan: At the beginning of February, citizen B, a gay man, was taken to a branch of the Republican Center for Traumatology and Orthopedics, where he was prescribed tests, including an HIV test. The center, after receiving the results of the HIV test (it was reported that he had HIV that had progressed to AIDS), refused to carry out the operation and continue treatment. The center suggested that the victim look for another clinic where «they would agree to treat such patients». In addition, the patient was not provided any relevant documents, including tests results, the hospital discharge form, or X-ray images.

In 2020, due to COVID-19 restrictions, gay men, other MSM and trans people faced additional violations of their right to health. This is due to the fact that anti-epidemic measures do not take into account the needs of vulnerable groups of the population. **Such violations include:**



Lack of HIV testing opportunities due to the closure or re-profiling of laboratories;



Need to retake tests several times (which for many people is associated with additional costs for travel from regions and large cities);



Reallocation of budgets, drugs not being purchased on time, and accordingly, interrupted therapy for PLHIV.

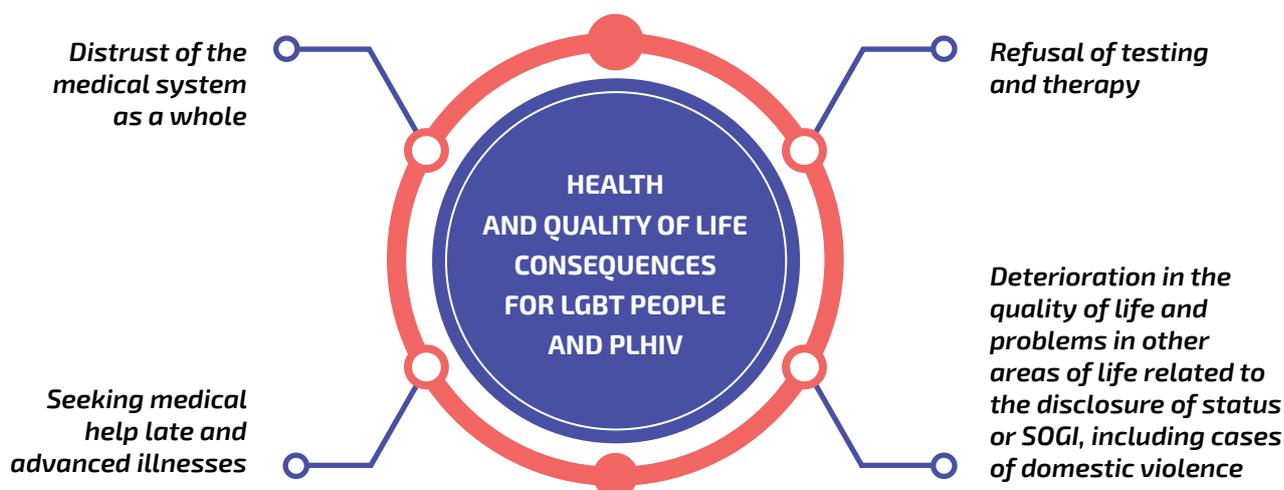


Minsk, Belarus: Citizen C., a gay man, went to the city clinical infectious diseases hospital for viral load and immune status tests, where he had registered in advance through the hospital's website. When he arrived at the appointed time, he was refused and told that there was quarantine now and that such tests could not be conducted. When he asked when such work will resume, or where it can be done now, he was not given an answer.



Almaty, Kazakhstan: Citizen D. (a man who has sex with men but does not identify as gay) underwent viral load and CD4 count tests at the city AIDS center in Almaty. At the end of the month, the test results were not ready. When the patient asked when they would be ready, he was told that the test results would be prepared in the order in which they were received. Previously, many analyses were not ready on time due to the closure of the laboratory. Before this, the laboratory analyzed COVID-19 tests, and since then it has been closed for processing the data.

THE CONSEQUENCES OF SUCH REFUSALS FOR GAY MEN, OTHER MSM, AND TRANS PEOPLE REMAIN UNCHANGED



DISCLOSURE OF PERSONAL DATA (medical data and/or SOGI)

In 2020, 13 such cases were recorded, with the most in Tajikistan — 8. Perpetrators include both medical workers (doctors and laboratory technicians), as well as other government representatives who have access to personal information, for instance, law enforcement officers.

The tendency to not seek medical help, due to fear of disclosure of one's HIV+ status, and/or to refuse further assistance after the disclosure of one's status and insults from medical workers, has not changed either. There have been no changes with regard to the desire of victims to file official complaints in such cases. Most people only report such facts to NGOs, but do not agree to file complaints about the actions of medical workers and/or officials. The reason for such refusals is not the lack of formal opportunities to file a complaint. In most countries of the region, there is liability for disclosing someone's diagnosis. The reason is rather the impunity of perpetrators, and the lack of any examples of punishment for such actions. In a number of documented cases, after victims wrote statements, local ECOM partners have contacted clinics and AIDS centers, held discussions, and asked for explanations.



Novosibirsk, Russia: In April 2020, citizen E., a gay man, was in line to see a physician. At that moment, a nurse from another office passed by who had no connection with the victim. As she walked further passed citizen E., she said the following: «They are such a bother these f*ggots (obscene language was used), they dress up, grow out their hair, and sit here, why should we treat them?» At that moment, there were about ten people in line for the physician who could hear what she said. After this, the people in line began to glare ambiguously at the victim.



Osh, Kyrgyzstan: At the request of his wife, citizen F., a MSM, went to the Osh Mental Health Center for counseling after the death of their child. Together with his wife, they received psychological counseling three times a week for a month, after which the doctor prescribed several individual counseling sessions for each of the spouses. During one of these sessions, the victim told the doctor about his sexual relations with men. The next day, the victim's wife saw the psychologist, and he told her about the victim's sexual preferences saying that «perhaps because of this they have a series of troubles». Because of this statement, the victim's wife left him, and told all of his relatives and neighbors that her husband was gay. The victim had to move to another area due to the constant threats of violence from neighbors.



Samarkand, Uzbekistan: Citizen G., gay man, went to a medical institution in connection with the need for certain surgical procedures. He underwent all the necessary tests, including for HIV, and was waiting in the hospital for an appointment for the operation. A few days later, a nurse came to his ward and told him that a «terrible infection» had been found in his blood (it later turned out that she was referring to HIV). In addition, the nurse had spoken with colleagues and mentioned the name of the victim and openly discussed that he had been diagnosed with HIV. The attending physician, instead of recommending and providing psychological assistance in connection with the HIV diagnosis, forced the victim under various pretexts to abandon his operation in their department, and, in addition, disclosed confidential data about the victim's status to his relatives.



HATE CRIMES

Hate crimes remain a common type of offense against gay men, other MSM, and trans people in the EECA region. On the one hand, it is worth noting the decrease in the recorded number of such crimes in the region in 2020, which may be related to global quarantine measures and a reduction in social contacts. On the other hand, none of the reported cases were properly investigated, nor were the attackers punished, which demonstrates the continued impunity for hate crimes.

The nature of the recorded hate crimes has not changed either: in 2020, they continued to occur in the street, in public spaces, and far from the regular meeting places of gay and trans people. All of the cases described entailed light to moderate bodily harm, as well as verbal threats and insults. Due to mistrust of law enforcement agencies, and to the fear of re-victimization and violence by law enforcement agencies, victims often choose not to contact the police.



DOMESTIC VIOLENCE

In 2020, 3 cases of domestic violence were recorded (one each in Kazakhstan, Tajikistan, and Uzbekistan). ECOM continues to consider it important to single out and document such cases, not only due to the prevalence of patriarchal and homophobic sentiments in these countries, but also due to the possible aggravation and hidden nature of the situation in connection with the lockdown resulting from the global pandemic and the large amount of time that people are spending at home.



Uzbekistan: In August 2020, victim H., a gay man, sought psychological assistance from a human rights organization. At the beginning of 2020, he came out to his mother, who caused a scene and called his father, sister, and brother who then persecuted the victim. They forced him to unlock his phone, threatened him with violence, locked him in a room, and took away his phone, money, and passport. After this incident, H.'s parents began to look for a doctor (sexopathologist) to cure their son. He was taken for an appointment at the city clinical psychiatric hospital, where the doctor stated in a conversation with H. that their communication would be confidential, that he «would not tell the family anything about this conversation, and that he knew that homosexuality was not a disease». However, after the appointment, when H.'s mother and brother came in, the doctor said that H. could and should be cured, and that he knew a specialist in France «who deals with such disorders». After this, H.'s parents forced him to read prayers, and subjected him to psychological attacks, scandals, and accusations every day. He was forbidden to speak Russian, only Uzbek, as they believe that «this is all from open information in Russian». One day, due to psychological pressure and harassment from his family, H. tried to commit suicide by slitting his wrists, but the attempt was unsuccessful. The parents are waiting for the end of quarantine to send H. to France for «treatment for homosexuality».



HATE SPEECH (public manifestations of homophobia related to the realization of the right to health) AND HARASSMENT

The number of such cases remained almost unchanged: in 2019, 13 such cases were recorded, and in 2020 — 14. Half of the described cases relate to individual cases of manifestations of verbal hatred, mainly in medical institutions (for example, 6 cases in Russia). Only some of them entail public speeches of hatred through the media by politicians and high-ranking officials.



Uzbekistan: On 27 August 2020, Uzbek state television called feminism and same-sex relations «foreign elements not inherent» in Uzbek society, and called for «an urgent fight against these threats» as «they are not characteristic of a Central Asian country with a predominantly Muslim population». In the 90-minute program «Munosabat», invited «experts» raised questions about how to recognize «homosexuality», and spoke about the «dangers» of same-sex marriage and «sex change» operations. They urged young Uzbeks not to fall under the influence of homosexuals and not to copy «gay fashion». According to the guests of the TV show, a certain type of appearance indicates one's sexual orientation. For example, «gays wear short socks or go without socks, shave off their hair at their temples. This is how gays in Europe recognize each other», said Mansur Musaev, an official in the Department of Spirituality and Enlightenment. Experts suggested taking certain measures to combat the threat of a cultural and spiritual «virus», which, according to them, is more dangerous for Uzbekistan than the COVID-19 pandemic.



Belarus: A number of national TV channels in Belarus — ONT, «Belarus 1», and STV — posted stories on September 6, 10, and 19, 2020: «Crowds of protesters continue to walk the streets of Belarusian cities»; «LGBT flags were observed at rallies in Minsk. How do Minsk residents feel about this movement?». State TV channels discredit the protests in Belarus and their participants, and focus on the participation of LGBT people in the protests.

These stories can be regarded as incitement to discrimination and hostility towards citizens of the country on a discriminatory basis (sexual orientation), which creates hostility, and a feeling of hatred and enmity towards representatives of this social group, the LGBT community.

«Belarus 1»: «Crowds of protesters continue to walk the streets of Belarusian cities. Representatives of the LGBT community joined these people this week. They did so in their typical provocative manner, incomprehensible to the overwhelming majority of Belarusians. Moreover, foreign chance-comers were immediately observed among the representatives of minorities. In particular, the daughter of Russian actor Mikhail Efremov, who is now on trial for a fatal traffic accident. Her name is Anna-Maria, and she is currently shocking the streets of Minsk».

ONT: «There are more Russian LGBT community activists in Minsk than ever before (they are easy to recognize by their rainbow flags). Some shock, others provoke the crowd. However, the majority of Belarusians still do not understand such behavior».

STV: «And this is Minsk. August of this year. Beautiful women in white. They sing, they clap, they don't want anything bad. So it seems to an inexperienced viewer. But it was like this in the beginning. And then, LGBT activists gradually appeared. They also danced, joked, and kissed. And then the feminist activists went out to their protests without any clothes, and with a white-red-white flag».



ABUSE OF POWER

This category includes cases of abuse of power by law enforcement agencies, military and other representatives of the state, which together make up the following list of violations: threats, blackmail to disclose status, extortion of money and other valuables, and psychological and physical violence. The number of such violations increased significantly in 2020 — 47 compared to 15 in 2019.

One of the reasons for the increase in the number of such cases was the addition of monitoring data from Uzbekistan, where, in addition to the criminalization of HIV transmission, which makes PLHIV vulnerable, there still remains criminal prosecution for voluntary same-sex relations, which puts the entire community at risk. The second possible reason for the increase in the number of such cases is that the vast majority of cases, if not all of them, go unpunished. According to monitors, the maximum «success» that public defenders or NGO lawyers have in such cases is when they are able to prevent a client from having to pay a bribe for silence or freedom from police violence. In the overwhelming majority of cases, however, the victims end up paying. There are no known cases from 2020, in which the victim filed a formal complaint against the actions of the police, and such a case was initiated and investigated.



Samarkand, Uzbekistan: Citizen I., a gay man, met a guy through social networks, and then went to visit him. At the apartment, the victim decided to have sexual intercourse with his new acquaintance. But after the victim undressed, his new acquaintance said that he had to go to the bathroom, after which he left the room and closed the door. A few minutes later, unknown persons entered the apartment, who began to show aggression towards the victim, exert psychological and physical pressure on him, and who filmed everything on camera. After forcing the victim to get dressed, they took him out of the house and put him in a car belonging to the Department of Internal Affairs. Subsequently, the victim was taken to the department for interrogation by the crime prevention inspector. During the interrogation, the inspector exerted psychological pressure on the victim, accused him of violating Article 120, and threatened to out the victim and take other measures against him. At the end of the interrogation, the inspector offered to solve the «problem» if the victim paid a certain amount of money.



Osh, Kyrgyzstan: Citizen J., a gay man, celebrated his birthday and invited some friends to his home. Because of the loud music, the neighbors called the police. Before the police arrived, all of J.'s friends left. When the district police officer arrived, several neighbors said that J. had set up a brothel for gay men in his apartment, and asked the police officer to evict him from the apartment. After this, the police officer took the victim to the station. The officer immediately told him that he had known for a long time that J. was gay, and that now he was suspected of organizing a brothel for sex workers and that he would be sent to a pre-trial detention center, then would be jailed after the trial. The police officer told J. that he would close the case if he paid 30,000 som. In the end, they agreed that the victim would pay 20,000 som.

CONCLUSIONS

- ① Cases collected in 2020 confirm ECOM's hypothesis on the link between violations of the right to health and other issues faced by members of the LGBT community. Two key issues across the region¹⁵ are the lack of effective protection measures (including antidiscrimination laws) and police impunity.
- ① In 2020, both the quantity and quality of collected cases increased, while more and more situations that were previously hushed up by members of the community themselves for being insignificant, are now recorded and documented.
- ① The collected cases indicate not only the diversity of actual violations of the right to health, from the refusal to provide medical care (urgent and planned), the refusal of ART or other drugs to disclosure of the diagnosis or SOGI of patients, but also the vulnerability of LGBT people in 2020 to more global health issues, such as the COVID-19 pandemic and its consequences.
- ① Violations related to the pandemic and quarantine measures primarily involve the lack of access to testing, delays in the provision of ART drugs, and the denial of medical care. This monitoring work did not attempt to collect other data, however, in some cases, deterioration in the economic situation of individual community members was observed, due to the impossibility of earning money because of the lockdown. These findings are supported by global studies on the impact of the COVID-19 pandemic on marginalized communities¹⁶.
- ① Despite the fact that the disclosure of medical information is prohibited in all countries covered in this report, such cases continue to be recorded. This often happens right in front of victims and is accompanied by hate speech and public humiliation. After such incidents, the victims decide not to seek medical care out of fear of re-victimization and/or another disclosure of their status. This leads to refusals of treatment and/or deterioration of health.
- ① It is important to note the significantly increased level of psychological and physical violence, along with cases of blackmail and extortion by law enforcement agencies. In particular, many such cases have been documented in Kyrgyzstan, Tajikistan, and Uzbekistan. This abuse of power is the main reason why members of the community refuse to file complaints with the police and other government agencies, which, among other things, allows human rights violations against members of the LGBT community to go unpunished.

¹⁵ Except for Moldova, Georgia, and Ukraine, where antidiscrimination legislation exists. However, questions remain about the effectiveness of protection measures

¹⁶ See e.g., <https://www.ama-assn.org/delivering-care/health-equity/impact-covid-19-minoritized-and-marginalized-communities> or https://www.unicef.org/ukraine/media/5396/file/covid_marginalized_eng.pdf

- ④ A separate unresolved problem remains the lack of specific and highly specialized medical services for trans people. In countries where there are no protocols for the provision of medical services to trans people, and, accordingly, there are no trained specialists, the trans community remains in a vacuum and is especially vulnerable. In 2020, such cases were also supplemented by cases of refusals to issue and/or amend documents.
- ④ Gay men and other MSM who hide their sexual orientation from relatives and friends in traditional and patriarchal countries, especially those living far from capitals, are the most vulnerable, since they are the first to become the target of extortion, as evidenced by the number of cases from Kyrgyzstan, Tajikistan, and Uzbekistan.
- ④ ECOM considers it important to continue the practice of identifying and documenting cases of violations of the right to health and related rights. The same is noted by country teams who speak of an increase in the level of trust on the part of the community towards organizations and monitors, which can also be noted by the increase in the number of cases.
- ④ In collecting cases, the activists noted that, in the process of their work, they unwittingly carry out work to improve legal literacy and support the community: they talk about rights and opportunities for their protection, and help victims to file complaints. Even when there are minimal opportunities to protect rights and punish perpetrators, such work is very important.

KEY RECOMMENDATIONS

The recommendations are based on the proposals that were put forward by country teams, taking into account the analysis of the collected cases and the changes that took place in countries of the region from 2017 to 2020. Many recommendations are repeated from year to year, which confirms their relevance and the fact that they have not been fully carried out and implemented at the national levels. New guidelines have also been added with a focus on COVID-19 and its consequences.

TO CIVIL SOCIETY

- Continue systematic efforts to identify and document cases of violations of the right to health and related rights; expand, as much as possible, the geographic coverage of data collection to small towns and other settlements;
- Strengthen monitoring in Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan; include activists from other cities in this work;
- Pay sufficient attention to raising the awareness and legal literacy of members of the community; help to draft complaints and support victims' efforts to ensure violations are not ignored;
- Develop psychological and legal support programs for victims of human rights violations;
- Develop partnerships with organizations providing support to victims of domestic violence, and refer community members for support to specialized organizations;
- Conduct systematic monitoring of the actions of authorities in relation to changes in policies, laws, or other procedures related to human rights, and respond to such actions in a timely manner;
- Continue to seek opportunities and build systematic and/or ad-hoc partnerships with government agencies; join working councils and groups, and provide advice to the government for the development of new policies, bills, and other human rights documents;
- Maintain an ongoing discussion on the need to revise rules, procedures, policies, and laws related to human rights in general, as well as accepted approaches to the right to health, HIV issues, and marginalized groups, both within the human rights movement and among government officials;
- Continue to coordinate national and international advocacy efforts;
- Track violations and changes caused by the COVID-19 pandemic and global quarantine measures; analyze their impact on members of the community.



TO DECISION-MAKERS



Adopt comprehensive antidiscrimination legislation in countries where it does not exist and involve civil society in the development of relevant provisions;



Strengthen mechanisms to respond to and investigate all cases of discrimination based on SOGI and/or HIV status in countries where there is antidiscrimination legislation;



Abolish criminal liability for the transmission of HIV and voluntary same-sex relations;



Create mechanisms for the submission of complaints and the effective investigation of human rights violations by law enforcement agencies;



Bring those responsible for human rights violations against LGBT people to justice;



Conduct ongoing training for government representatives on the ethics of providing services in order to reduce the level of homophobia among law enforcement officials, medical workers, and representatives of other government agencies providing services to citizens;



Develop procedures and protocols for the provision of medical care to trans people;



Develop and implement training programs for medical workers on the provision of services to trans people;



Refrain from inciting homophobia and xenophobia; conduct campaigns aimed at increasing the level of tolerance in society;



Do not hinder human rights work with key populations and the provision of services to such groups; abolish norms that tighten control over the work of activists;



Regularly admit international monitoring missions to countries and submit reports to UN treaty bodies on progress made in fulfilling national human rights obligations;



Take into account the situation and needs of key populations, including the LGBT community, when developing national and local strategies to respond to global challenges, such as the COVID-19 pandemic.

NUMBER OF DOCUMENTED CASES IN 2020 BY TYPE OF VIOLATION

TYPE OF VIOLATION	 Belarus	 Kazakhstan	 Kyrgyzstan	 Moldova	 Russian Federation	 Tajikistan	 Uzbekistan	Total
Refusal to provide medical services/provision of services of insufficient quality	2	8	2		9	6	6	33
Disclosure of personal data (SOGI and/or HIV+ status)			2	1	1	8	1	13
Requirement by employer to undergo HIV testing								0
Refusal to issue/amend documents						2		2
Refusal of employment, dismissal, other violations of the right to work					1			1
Hate speech (cases of abuse and public manifestations of hate speech in the media)	3				7	1	3	14
Hate crimes (including cases with selfish motives)						3	1	4
Abuse of power (including cases of blackmail, threats to disclose status, and violence by police and medical workers)	2	1	9			26	9	47
Domestic violence		1				1	1	3
Sexual violence			1				1	2
Total number of cases in 2020	7	10	14	1	18	47	22	119

NUMBER OF DOCUMENTED CASES IN 2020 BY CATEGORY OF PERPETRATORS

CATEGORY OF PERPETRATORS	 Belarus	 Kazakhstan	 Kyrgyzstan	 Moldova	 Russian Federation	 Tajikistan	 Uzbekistan	Total
Medical workers/medical institutions/AIDS centers (including pharmacies)	2	9	4	1	15	12	8	33
Police, military, and other law enforcement officials	2		10		2	27	8	49
Employers					1			1
Civil servants at various levels	1					2		3
Journalists, politicians, representatives of private businesses, and other organizations	2						1	3
Citizens in public spaces, on the street, on social media, landlords (not including family members)						3	4	7
Family members/friends		1				3	1	5
Total number of cases in 2020	7	10	14	1	18	47	22	119

