2022

SURROUNDED BY HATE:

Regional report on violations of the right to health of gay men, other MSM and trans people in the Eastern Europe and Central Asia region in 2021



Surrounded by hate: Regional report on violations of the right to health of gay men, other MSM and trans people in the EECA region in 2021 / ECOM — Eurasian Coalition on Health, Rights, Gender and Sexual Diversity. – Tallinn, 2022. – 22p.

Authors: [redacted] Yuri Yoursky

Translation and editing: Marcus Oda and Anna Oliynyuk

Design and layout: Natasha Tseliuba

This document developed within the regional project “Sustainable Health Advocacy for Gay men” implemented by ECOM in consortia with “MPact Global Action for Gay Men’s Health and Rights” with financial support of “Robert Carr Fund”.

The report also utilizes cases collected by ECOM as part of the regional project “Sustainability of services for key populations in the EECA region”, implemented by a consortium of organizations from countries of the EECA region under the leadership of ICF “Alliance for Public Health” in partnership with the NGO “All-Ukrainian Network of People Living with HIV” with financial support from the Global Fund to Fight AIDS, Tuberculosis and Malaria.

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”.

Распространяется бесплатно.
Distributed free of charge

When using this material, reference to ECOM — Eurasian Coalition on Health, Rights, Gender and Sexual Diversity is required.

© ЕКОМ, 2022

CONTENTS

Brief overview 3

Introduction 4

Goals and objectives of the report 5

Data collection methodology 5

Overview of the main legislative developments that took place in 2021 in the EECA region in relation the right to health and other related rights 6

Analysis of cases collected in 2021 8

REAct data 15

Main conclusions 17

Key recommendations 18

Appendix 1: Number of documented cases for 2021 by type of violation 20

Appendix 2: Number of documented cases for 2021 by category of offender 21

LIST OF ABBREVIATIONS

CC – Criminal code
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

BRIEF OVERVIEW

This "Regional report on violations of the right to health of gay men, other MSM and trans people in the EECA region in 2021" was prepared using the results of a consolidated analysis based on data collected by ECOM's consultants as part of monitoring of violations of the right to health in Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Uzbekistan and Ukraine. All the cases are linked by the SOGI or HIV status of the victims, on the basis of which there was a violation of human rights. In addition to the countries mentioned above, the report also examines the legislation of Georgia and Moldova.

NEW TRENDS:

- The intersection of identities affects the vulnerability of victims: in Uzbekistan, as a result of a fake date with a law enforcement officer, a homosexual man was charged under Article 120, after which information about his HIV status was obtained during the investigation with Article 113[1] later added to his charges.
- In 2021, cases were documented where social networks were used to disclose personal information, such as SOGI, to a wide range of people with calls for violence. Social network administrators do not respond promptly to requests to remove content that is dangerous to the life of LGBT people.
- Persecution of LGBT activists by the state and radical groups is being observed in the region.
- Unlike in previous years, in 2021, hate crimes were more likely to be planned: perpetrators prepared attacks and threatened victims in advance.
- ECOM covered a wider range of cities than in previous years, which led to a greater diversity of documented cases.

CONTINUING TRENDS:

- There is a link between violations of the right to health and other violations faced by LGBT people. Two key issues are the lack of effective remedies and police impunity.
- Disclosure of the personal information of LGBT people by medical professionals leads to refusals of treatment and/or deterioration in the health of such people.
- The level of psychological and physical violence, blackmail, outings and extortion committed by law enforcement agencies remains high. This is the main reason why community members refuse to file complaints with the police.
- The majority of the registered cases, in which the victims filed a complaint with law enforcement agencies, were not properly investigated.
- The lack of specific and highly specialized medical services for trans people remains a problem in the region.
- Uzbekistan imposes punitive measures for same-sex sexual contact.

INTRODUCTION

Since 2017, ECOM has been monitoring violations of the right to health in the EECA region by documenting cases using a unified, approved form.

The collection of cases of violations of the right to health reveals the barriers faced by gay men, other MSM and trans people in the EECA region. Analysis of this data allows us to identify trends and to find solutions to remove the barriers that communities face when exercising their rights.

In 2021, there were:



103 violations



in 23 cities

of 7 countries of the EECA region

Despite the fact that the main focus of the regional review is on violations of the right to health, the report includes not only cases related to the right to health, but also related violations of other human rights of gay men, other MSM and trans people. According to the Political Declaration on HIV and AIDS, all human rights and fundamental freedoms must be integrated into HIV programs and strategies[2] . This is due to the fact that the environment affects the ability to realize the right to health. Hate crimes and hate speech exacerbate internal and external homo- and transphobia, which negatively affects both access to HIV services and self-stigmatization of community members, resulting in their refusal to go to medical institutions.

The quality of documented information is not always sufficient to conduct a full-fledged comparative analysis for all countries of the EECA region, therefore, the regional review also uses cumulative case data from the REAct system[3] , which allows us to obtain quantitative data on perpetrators.

In order to monitor changes or the stability of trends in the region, this report used desk research on the legal environment in relation to SOGI and HIV in EECA countries, and previous regional reviews on violations of the rights of gay men, other MSM and trans people in EECA, prepared by ECOM using the same methodology.

GOALS AND OBJECTIVES OF THE REPORT

The main goal of the regional review is to identify the dynamics of changes in violations of the right to health of gay men, other MSM and trans people in the EECA region based on the cases collected by ECOM. The summary review examines similarities and/or differences both in the EECA region as a whole and in individual countries of the region.

Objectives of the report:

- Identify the nature of violations of the human rights of gay men, other MSM and trans people;
- Analyze the root causes of violations and the impact of legislation and law enforcement practices;
- Develop a package of recommendations on removing barriers to be used for further advocacy.

DATA COLLECTION METHODOLOGY

- Documenting of cases of rights violations in one or more large cities in EECA countries by local activists;
- Validation and comparison of data with previous analyses of legal barriers to the right to health in order to identify trends;
- Analysis and development of recommendations to eliminate legal barriers and issues related to law enforcement practices in relation to gay men, other MSM and trans people;
- Systematization and unification of the obtained data within the framework of a unified regional review.

Limitations to the analysis of qualitative data

The quantity and quality of documented cases is determined by the capabilities and experience of the monitoring teams, as well as by the political, social and economic situation in individual countries. ECOM has been working with some monitors for many years, and strengthening their capacity, while with others, it was the first experience of joint work. Therefore, the quality of documented cases may differ significantly.

The number of monitors in different countries depended on the financial capabilities of ECOM, and did not always cover existing needs. At the same time, local LGBT organizations and initiatives with which it was possible to establish partnerships for monitoring are generally based in large cities. Outside of large cities, human rights violations may be worse, but due to the lack of access to communities, monitoring is not always possible in such places. Thus, the amount of quantitative data may not reflect the prevalence of certain cases in individual countries.

Another limitation is the effect of the identity of the monitor on victim coverage. A trans person is more likely to reach out to trans people, while a gay person is more likely to be able to reach other gay men and MSM.

OVERVIEW OF THE MAIN LEGISLATIVE DEVELOPMENTS THAT TOOK PLACE IN 2021 IN THE EECA REGION IN RELATION TO THE RIGHT TO HEALTH AND OTHER RELATED RIGHTS

Right to health, policies and laws related to HIV and SOGI

In the countries of the region, a practice has developed where HIV issues are included in a separate law, and are not part of healthcare legislation. The feasibility of such an approach is questionable, since policies adopted under such a law are usually not coordinated with other government programs. In 2020, this resulted in some countries not taking into account the needs of PLHIV during the COVID-19 pandemic. However, individual laws often prohibit discrimination based on HIV status.

Criminalization of HIV transmission remains an unresolved issue in the region, although some improvements are already visible. Intentional transmission of HIV, i.e. transmission with intent, is criminalized in all EECA countries, while unintentional transmission, i.e. transmission without intent, has already been decriminalized in some countries.

The existence of criminal provisions stigmatizes PLHIV and enables blackmail and abuse of power. In Uzbekistan, health authorities are required to report cases of sexual transmission of HIV to law enforcement agencies in order to hold relevant individuals accountable[4] . Meanwhile, in the Republic of Kazakhstan, sanctions have been tightened regarding the transmission of HIV: the earlier paragraph 3 of Article 118 imposed a punishment of 4-8 years imprisonment, while the new version imposes 5 to 10 years[5] . Decriminalizing HIV transmission will improve voluntary testing and adherence to treatment.

In Russia, the issue of access to testing and treatment for migrants living with HIV is acute. According to current legislation, all foreign citizens who are diagnosed with HIV are subject to deportation. Positive developments include a change in legislation that occurred in 2021[6] , according to which foreign citizens and stateless persons with HIV are no longer subject to deportation if they have relatives permanently residing in the Russian Federation, and have not violated the law on the spread of HIV infection[7] .

Many countries in the region prohibit the adoption of children by people living with HIV. In 2021, the Constitutional Court of Kyrgyzstan ruled that this restriction is contrary to the Constitution[8] .

Laws on legal gender recognition

In most countries of the region, there are barriers to a human rights-based legal gender recognition, such as: the absence of a law regulating the procedure for changing the legal gender marker in documents, flawed procedures, medical protocols, or extremely onerous procedures for changing one's name and documents[9] .

All of the above leads to low access to quality medical care, harassment and blackmail by law enforcement agencies. For instance, in Russia, most cases related to legal gender recognition are considered by the courts, while in Kyrgyzstan in 2020, the Parliament excluded paragraph 3 of the article on making corrections or amendments to documents from the law on acts of civil status: "*if a document on sex change issued by a medical organization is submitted in accordance with the established form*". Changing one's gender marker is possible only upon receipt of a refusal from the state registration service, and after appealing the decision in court[10] . In addition,

in Kyrgyzstan, there is a problem with the taxpayer identification number (TIN), the first digit of which indicates the sex assigned at birth[11] . This, in turn, negatively affects the country's response to the HIV epidemic, as health institutions face difficulties in registering HIV-positive trans people: 6 out of the 7 trans people surveyed in ECOM's study[12] are registered with the code for MSM, which creates barriers in compiling a cascade[13] and tracking progress made among both trans people and MSM.

In addition, having a gender marker that does not correspond to one's identity creates difficulties in finding a job. Trans people are forced to become involved in the informal sector, including sex work[14] . Accordingly, laws and practices criminalizing sex workers also affect the trans community, in particular trans women. In addition, the pandemic has negatively affected the economic situation of vulnerable groups, which include LGBT people, many of whom have lost their regular income. This may be an additional reason for involvement in sex work.

In the region, sex work may result in criminal (Belarus) or administrative liability (Russia, Tajikistan), however, in some countries, this issue is not directly regulated in legislation (Kyrgyzstan, Kazakhstan, Moldova)[15] . A vague criminal article[16] on running brothels in Kyrgyzstan is used by police officers to extort trans sex workers. Punitive practices in relation to sex work force trans women sex workers to go underground, making it harder for them to access HIV testing and treatment.

Antidiscrimination legislation and SOGI

Antidiscrimination laws exist in some countries of the region, such as Ukraine, Moldova, and Georgia. In Moldova, the adoption of antidiscrimination legislation is an example of a compromise between international requirements and the homophobic/transphobic environment within the country. On the one hand, SOGI is not included in the list of grounds based on which discrimination is prohibited, on the other hand, the article on labor relations prohibits discrimination based on sexual orientation. In Georgia, SOGI is explicitly mentioned in the list of grounds based on which discrimination is prohibited.

A number of countries (Kyrgyzstan[17] , Uzbekistan[18]) plan to *"study the issue of developing and adopting a law on equality and nondiscrimination"*, in response to the concluding observations of UN treaty bodies. However, so far there are no draft laws or decisions on this issue in the public domain, despite the fact that the deadlines provided for the resolution of these issues have already passed in both states[19] . Tajikistan has developed draft antidiscrimination legislation.

Uzbekistan maintains a criminal article for voluntary same-sex contacts between men[20] . This results in fears of disclosing information about one's SOGI to medical workers and reluctance to get tested for HIV, which in turn negatively affects the spread of the epidemic[21] .

There are no clear and specific provisions in countries of the region that define what hate crime and hate speech are in the context of SOGI. However, it is important to note that Article 53.1 of the Criminal Code of Georgia mentions crimes motivated by SOGI as among possible aggravating circumstances[22] . Other criminal codes of EECA countries often contain an article on inciting racial, ethnic, religious, or national hatred/strife, without any mention of SOGI[23] .

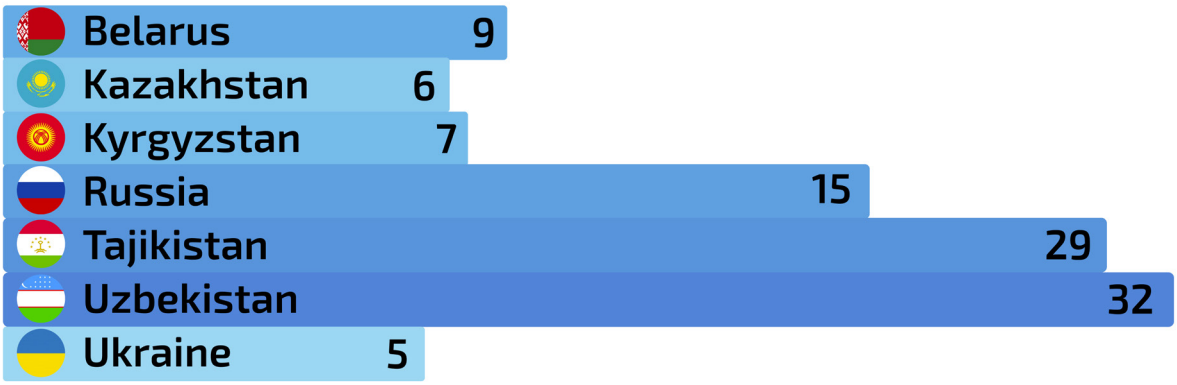
No country in the region directly prohibits freedom of peaceful assembly and association based on SOGI. In practice, however, LGBT people may face challenges. Repressive legislation in Uzbekistan (the existence of the criminal article) and in Russia (the law on foreign agents, the article on gay propaganda) makes it difficult to register an organization or hold a peaceful assembly with an LGBT agenda. In Kazakhstan, for many years LGBT initiatives have not been able to register, and in Kyrgyzstan in 2020, law enforcement officers justified the need to ban the women's march in court by stating that LGBT people would participate in it.

In Georgia, in 2021, the "March of Dignity" against homophobia was cancelled due to attacks by right-wing radicals and the lack of a sufficient response from the authorities[24] . In Ukraine, despite the counter-protestors, the March of Equality took place in 2021 without major provocations or disruptions.

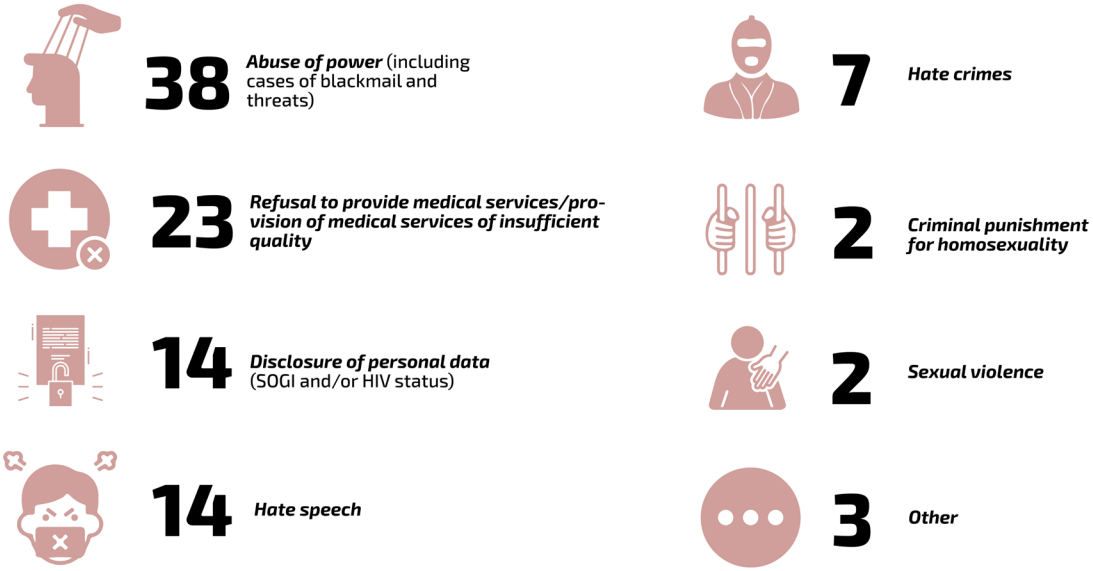
ANALYSIS OF CASES COLLECTED IN 2021

In total, 103 human rights violations were registered by ECOM monitors in 2021[25] in relation to gay men, other MSM and trans people.

Number of violations by country:



Types of violations:



The situation according to types of violations has not changed since 2020. Violations related to abuse of power, including cases of blackmail and threats, were the most common, followed by poor-quality medical services or denial of medical services, and then hate speech and disclosure of personal data.

Offenders:

43 *Law enforcement officers*

7 *Journalists, politicians, public figures*

33 *Medical workers*

3 *Civil servants at various levels*

14 *Citizens in public places, on the street and on social networks, landlords, (not including family members)*

2 *Family members, friends*

1 *Employers*

For several years in a row, law enforcement officers and medical workers have been the most likely to violate the rights of gay men, MSM, and trans people. However, unlike in 2020, there are more cases related to law enforcement agencies than cases where the perpetrators were medical workers.

Data on victims [26]:

69 *MSM*

24 *Trans people of which 18 were trans women*

10 *LGBT* [27]

Basis for the human rights violations:

23 *HIV*

72 *SOGI*

8 *Multiple bases together*

Violations of rights were committed most often on the basis of the victim's SOGI. In 8 recorded cases, there were multiple bases for the violation of the victim's rights:

- *in 5 cases, the violation was based on the HIV status and SOGI of the victim;*
- *in 3 cases, the violation was based on the SOGI of the victim and their involvement in sex work.*

The intersection of identities affects the vulnerability of victims: in Uzbekistan, as a result of a fake date with a law enforcement officer, a homosexual man was charged under Article 120, after which information about his HIV status was obtained during the investigation with Article 113[28] later added to his charges.

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

- Case studies collected by country teams differ in quality and the degree of detail and analysis of the situation.
- The collected cases vary in complexity. Many of the cases documented in 2021, just like in previous years, illustrate complex violations of two or three related rights and require a detailed analysis not only to highlight violations, but also to identify all offender, which was done in several cases.
- On the contrary, some of the cases documented in 2021 are quite sketchy and require clarification of details, which is not always possible.
- The number of cases is not sufficient to assess the true extent of the problem.

ABUSE OF POWER (INCLUDING CASES OF BLACKMAIL AND THREATS)

In 2021, there were 38 cases of abuse of power. Most of these cases related to extortion, blackmail, or the refusal to initiate cases by law enforcement agencies. Most of these cases were registered in Tajikistan - 14 and in Uzbekistan - 14. Generally, police extort money from victims by blackmailing them with the threat of disclosure of their SOGI and/or the HIV status. A trend was observed in Tajikistan where local law enforcement officers force gay and trans people to leave rented apartments without any proper court decision.

In Uzbekistan, the issue is more acute due to the criminalization of same-sex relationships. This enables police to extort large amounts of money (one of the victims was forced to pay 5,000 USD) and to commit physical violence (in two cases, law enforcement officers used torture).

Tashkent, Uzbekistan: *A gay man was in a club that was raided by law enforcement officers. They insulted the victim and other visitors of the establishment, and took them to the police station. An officer tried to force the victim to confess that he was gay. After the victim denied it, the officer knocked on the door and two other officers entered the room, who grabbed the victim, handcuffed him and dragged him to a cell, where they beat his body and head until*

he lost consciousness. The victim was released on the condition that he tell law enforcement officers where gay men gather in Tashkent.

REFUSAL TO PROVIDE MEDICAL SERVICES/PROVISION OF MEDICAL SERVICES OF INSUFFICIENT QUALITY

Monitors recorded 23 such cases in 2021, 10 fewer than in 2020. This can be explained by the long-term and consistent work of non-governmental and international organizations to sensitize medical professionals on the issues of SOGI and HIV. At the same time, the reason may be related to the limitations of the study, since monitors can only register cases to which they have access. A decreased registration of cases of violations of the right to health does not necessarily mean a reduction in the number of such cases

At the same time, it should be noted that this is the only type of violation that was registered in all the countries examined in the regional review. Cases relate to denial of medical care due to SOGI and/or HIV status or discrimination.

For the second year in a row, ECOM monitors recorded cases in Kazakhstan where HIV-positive people cannot take or receive test results for CD4 cell levels on time. Five out of six registered cases related to problems with access to ARV therapy and testing. This speaks to a systemic problem requiring coordinated advocacy efforts.

A similar situation with recurring cases is observed in Belarus. Six of the nine violations registered in the country were recorded in the Republican Center for Medical Rehabilitation and Balneotherapy. 5 cases directly related to access to hormone therapy for trans people.

Almaty, Kazakhstan: *A gay man went to the AIDS Center in Almaty to receive "Truvada". The doctor refused to issue the drug, saying that it was out of stock. This has been an issue since the beginning of the year. Patients are suggested to change regimens, but not everyone agrees because of the side effects. Some refuse to take therapy, while some borrow medicines from other PLHIV. This is not the first time that problems with access to therapy have been observed in Kazakhstan.*

Minsk, Belarus: *The victim was a trans woman who, based on a previous referral, sought advice on HRT from the Republican Center for Rehabilitation and Balneotherapy. The doctor told her: "Now there are a lot of you, and we don't know how to work with you." She was advised to go to another doctor, the schedule for whom is filled 4-5 months in advance. She never received an appointment.*

DISCLOSURE OF PERSONAL DATA (SOGI AND/OR HIV STATUS)

In 2021, 14 such cases were recorded. Like last year, the leader in the region is Tajikistan - 6 cases. Law enforcement officers are the most frequent offenders, followed by medical workers.

Such cases lead to fears among the community of disclosure of HIV status or SOGI when dealing with government agencies. This negatively impacts access to services and country responses to HIV. Despite the existence of a legal prohibition on the disclosure of personal information in most countries of the region, victims do not file complaints about the actions of

offenders, fearing re-victimization or additional risks associated with disclosing their HIV status or SOGI to even more people. Moreover, such laws are not upheld in practice, as law enforcement agencies do not initiate cases under them.

In 2021, cases were recorded where social networks were used to disclose victims' SOGI and personal information to a wide range of people with calls for violence.

Dnipro, Ukraine: *A trans woman went to a clinic, took a ticket with a number and waited for an appointment. However, the doctor came out of the office and began to shout her name and surname (passport data that does not correspond to her gender identity) in the corridor. Approximately 30 people were sitting in the corridor. When asked not to shout out her last name, the doctor began to explain right in the corridor which room she needed to go to for the tests. The victim experienced discomfort and gender dysphoria*

Bukhara, Uzbekistan: *A photo of the victim, a gay man, was posted on a Telegram channel on which he was outed*[29] *. The victim tried to write to the administrators of Telegram requesting to have the group deleted. Later he was asked to talk with a district police officer, during which it became clear that the district police officer found out about his SOGI, and said that he would personally monitor him in order to imprison him under Article 120.*

HATE SPEECH

The percentage of hate speech cases compared to other violations has barely changed over the past three years. In 2021, 14 cases were registered with the most in Uzbekistan – 7, and in the Russian Federation - 6. In Russia, individual manifestations of non-verbal hatred most often take place in medical institutions. In Uzbekistan, public speeches of hatred by politicians are the most common.

The documented cases do not reflect the actual situation of hate speech in the countries of the regional review due to limitations in the methodology. In most cases, monitors document hate speech cases when they are approached by victims or when they find relevant public statements in the media. In order to have a more complete picture, it is necessary to conduct separate monitoring of hate speech in the region, because hate speech includes the risk of inciting hatred against the group or reinforcing stereotypes regarding HIV and/or SOGI.

Samarkand, Uzbekistan: *On August 20, 2021, the khokim of the city of Samarkand stated in his speech: "There is no place for representatives of LGBT culture in Uzbekistan, we need to cleanse the country of Western values and fight destructive forces that are trying to influence young people in order to degenerate the nation, and leading to the moral decay of the citizens of the country by their actions".*

Kharkiv, Ukraine: *At the Faculty of Psychology, a teacher at a lecture used hate speech against LGBT+ people using the following language: "They try to make homosexualism* [30] *the norm, but psychotherapists believe that this is not the norm. Acquired homosexualism is the result of trauma. Transsexualism* [31] *cannot be cured".*

HATE CRIMES

The majority of crimes occur on the street, in public places, and near friendly gay clubs and bars. In 2021, 7 cases of hate crimes were registered. There is a change in the nature of such crimes. In previous years, attacks were committed most often by random passers-by. In 2021, in half of the cases, attackers purposefully found gay men, MSM and trans people and committed crimes against them. Cases of *"fake dates"*[32] , attacks on an openly HIV-positive blogger, and damage to property by neighbors were also recorded.

Due to distrust of law enforcement and fears of re-victimization and violence, many victims decide not to contact the police. When law enforcement agencies do receive reports of crimes, in most documented cases, the police do not properly investigate the cases and the perpetrators go unpunished

Saint Petersburg, Russia: *A PLHIV maintains a blog about his status. In 2021, he gave an interview to Tjournal, after which he began to receive threats. He did not take them seriously until he received a message with his home address indicated in it. The victim wrote a statement to the Ministry of Internal Affairs and attached screenshots. He never received an answer. The status of the application is still "accepted for consideration". In addition, an unknown man attacked him on the street, hit him, and screamed the words "AIDS-infected f*g" at him. In the emergency room, the victim was told that his nose was broken, and he was recommended to contact an ORL specialist. The victim filed a statement about the attack with the police, but the police never contacted him to find out the details of the case.*

Samarkand, Uzbekistan: *A gay man was beaten up by people on a "fake date". The victim called the police. The law enforcement officers who responded to the call accepted his statement, and sent the district police officer to the scene. During the confrontation, the perpetrators revealed the sexual orientation of the victim. After the district police officer was left alone with the violators, laughter was heard from the office. An hour later, the perpetrators came out of the office, walked past the victim, loudly shouted "f*ggot*" and left the station laughing. The police officer did not accept the victim's statement and began to threaten him: "It is forbidden to be gay in Uzbekistan and this is a criminal offense."*

SEXUAL VIOLENCE

Two reported cases of sexual violence against gay men were committed in Tajikistan by law enforcement officials. In both cases, the perpetrators used their official position to commit crimes.

Dushanbe, Tajikistan: *A gay man was brought to the military registration and enlistment office. When he was taken to the doctor's office for a formal examination, he said that he could not serve in the army because of his sexual orientation, and asked to be examined by a proctologist. But the doctor laughed and said that everyone is a "f*ggot" when they are called up to serve in the army. The doctor then called someone, and said that there was a "f*g" here. A man in a uniform entered the office, led the victim into another office and locked the door. Then he began to ask questions: "Who are your parents?", "What do you do?", "Where are you from?". Then, the officer from the office said that he wanted to make sure himself, and in a rude manner ordered him to take off his pants. He threatened to send him to serve in a distant region, and then raped the victim (oral sex).*

CRIMINAL PUNISHMENT

In Uzbekistan, two cases where gay men were sentenced under Article 120 were recorded. Both victims were sentenced to 2 years of restriction of freedom (they do not have the right to leave the city, use the Internet, or to leave the house after 22:00). In both cases, medical procedures were used during investigations to prove the homosexuality and HIV status of the victims. Both victims were HIV-positive and were additionally charged under Article 113. However, as a result of the work of a lawyer, this article was removed from the guilty verdicts.

The Global Commission on HIV and the Law notes that laws criminalizing key populations make them more vulnerable to HIV[33] . In all countries where reliable epidemiological data is collected, empowered communities are in a much better position to lobby for changes to national HIV responses in line with community needs[34] .

OTHER

The "other" category includes:

- *1 case of domestic violence;*
- *1 case of forced HIV testing;*
- *1 case of persecution of an activist.*

Forced HIV testing

In Uzbekistan, a case was recorded where law enforcement officers, after finding out about the homosexuality of the victim, called the employees of the AIDS Center and forcibly performed an express test for HIV on the victim (the result was negative).

This case demonstrates the danger of having an article criminalizing HIV transmission in a region where vague phrases like *"putting another person at risk of contracting HIV"* can be used to prosecute PLHIV simply for having an HIV diagnosis.

Persecution of activists

The persecution of activists in the region is becoming a new barrier in the HIV response. The publication of personal data, the closure of organizations, and physical attacks lead to the burnout of activists and the suspension of prevention programs. Gay men, MSM and trans people may be afraid to use the services of an NGO that has been attacked or that has had their office address publicly disclosed.

A city report from the city of Osh, Kyrgyzstan describes illegal detentions and harassment of activists working in LGBT organizations. This has led to some of them being forced to leave the country for an indefinite period. In addition, the personal data of LGBT activists from Kyrgyzstan has been disseminated on the Internet.

A city report from the city of Almaty, Kazakhstan mentions an attack on representatives of the initiative group "Feminita" while trying to hold an event in the city of Shymkent.

Minsk, Belarus: *Representatives of the Ministry of Internal Affairs came to the office of the Association of Non-Profit Organizations to Combat the HIV/AIDS Epidemic "BelSet AntiAIDS". They broke down the doors, and took away data storage equipment (without having a warrant). The search took place without the presence of the Association's employees. Soon, photos from the search appeared on the Telegram channel of STV employee, Grigory Azarenok, (with the words "AIDS-infected office"). The decision to liquidate the Association was published in the Unified*

State Register on July 22. Representatives of the Association reported that no one notified or warned them about this decision. The official reason for the liquidation was the inconsistency of the Association's activities with its charter.

REAct DATA

In Georgia, Kyrgyzstan, Moldova, Russia, Tajikistan and Uzbekistan, cases of human rights violations are documented in the REAct system. In 2021, 459 violations of the rights of LGBT people were cumulatively registered.

Number of documented cases of violations of the rights of LGBT people by country:

Tajikistan	*147*
Georgia	*123*
Moldova	*72*
Uzbekistan	*66*[35]
Kyrgyzstan	*34*
Russian Federation	*17*

The quantitative data on victims in the REAct system reflects a similar trend to ECOM's data presented in the regional overview, where cases involving MSM are several times more common than cases involving trans people. Within the trans community, trans women are the most vulnerable to human rights violations. Accordingly, in these countries, out of the human rights violations documented in the REAct system, 315 were committed against MSM and 56 against trans people, of which 53 involved trans women

The large amount of data allows for a quantitative overview of perpetrators.

In Central Asia, instances where law enforcement officers are the perpetrators make up a high percentage of cases: Kyrgyzstan (47%), Uzbekistan (46%), and Tajikistan (20%). This suggests that in these countries there are no effective mechanisms to counter abuse of power by the police. Meanwhile, the situation is different in Georgia and Moldova: law enforcement officers are the perpetrators of violations of the rights of gay men, MSM and trans people in 6% and 4% of cases, respectively

In Moldova, rights are most often violated by medical workers - 44%, while in Central Asia this happens less often: Kyrgyzstan (8%), Uzbekistan (8%), Tajikistan (7%).

In all countries examined, private individuals are the main violators of human rights: Georgia (69%), Tajikistan (52%), Kyrgyzstan (37%), Moldova (26%), and Uzbekistan (25%). The high percentage of violations by private individuals in Georgia, on the one hand, may indicate a high level of homo- and transphobia among the general population, and on the other hand, more effective measures to protect against violations of rights by state representatives. Private individuals include strangers, relatives of LGBT people, employers, and even LGBT people themselves.

Tajikistan: *The son of a stepmother found out about a gay man's orientation from his friends. He arrived home with the same friends, and they beat the victim. They broke his nose, leg and arm. He was taken to the hospital in serious condition.*

Moldova: *An MSM living with HIV works as a hairdresser. The owner of the salon found out about his HIV status. She threw a fit, saying that he "would infect all the clients, and the salon would be closed in a scandal".*

Russia: *A migrant sex worker from Tajikistan was threatened by a local transgender sex worker, who demanded that she leave or pay her money "for a roof". The victim was told that she could be beaten, doused with green dye, have her head shaved, and that "the cops would come and not let her work." When she called the police, she was told that these were personal matters, so that they needed to sort them out themselves, or that she herself would be punished for prostitution.*

MAIN CONCLUSIONS

The cases collected in 2021 show the connection between violations of the right to health and other problems faced by LGBT people. Two key issues specific to the region are the lack of effective remedies (including antidiscrimination laws) and police impunity.

There is a noticeable decrease in the number of cases of violations of the right to health compared to previous years, which may indicate the effectiveness of the activities of local and international organizations in sensitizing medical personnel.

The cases collected indicate systemic problems in healthcare, where similar violations are repeated in the same places from year to year. Various types of actual violations of the right to health have been documented, from the denial of medical care, to the denial of ART or other drugs, to the disclosure of the diagnosis or SOGI of patients

Despite the fact that all countries reviewed in this report prohibit the disclosure of medical information, such cases continue to be recorded. Often this happens in front of the victims and is accompanied by hate speech and public humiliation. After such incidents, victims decide not to seek medical care for fear of re-victimization and/or further disclosure of their status, which leads to refusal of therapy and/or deterioration in health status.

The level of psychological and physical violence, blackmail, outings, and extortion by law enforcement agencies remains high. This abuse of power is the main reason why members of the community refuse to file complaints with the police, which, among other things, ensures that those committing human rights violations against LGBT people can do so with impunity. Punitive measures for HIV transmission or same-sex sexual intercourse exacerbate the situation.

The majority of registered cases where victims filed statements with law enforcement agencies were not properly investigated. This is the reason why LGBT people do not go to the police, not only because they fear repeated violence, but also because they have no faith in a fair investigation being carried out.

A separate unresolved problem is the lack of specific and highly specialized medical services for trans people. In countries where there is no possibility to change one's gender marker, there are no protocols for the provision of medical services to trans people and, accordingly, there are no trained specialists, the trans community is especially vulnerable.

Social networks can become a platform for spreading hatred against LGBT or HIV-positive people. Special hate groups disseminate the personal information of LGBT people, and become weapons in the hands of homophobic groups.

The most vulnerable groups are members of the community with intersectional identities. Trans sex workers, HIV-positive gay men, other MSM and trans people are often subjected to multiple forms of discrimination and human rights violations due to their intersectional identities.

Human rights defenders working on LGBT and HIV issues are becoming targets of persecution from both radical groups and state bodies. This leads to employee burnout, forces activists to relocate, and reduces the level of trust among the community in relation to the safety of receiving services through an NGO.

KEY RECOMMENDATIONS

The recommendations are based on proposals put forward by the country teams based on the cases collected. Many recommendations are repeated from year to year, which confirms their relevance.

TO CIVIL SOCIETY

- Continue systematic efforts to identify and document cases of violations of the right to health and related rights, expand the geography of data collection to small towns and other settlements;
- Conduct large-scale monitoring of hate speech against LGBT people and PLHIV in the region, as well as an analysis of violations of the right to housing in the region and a study on the schemes used by law enforcement officials to identify LGBT people for the purpose of blackmail and extortion;
- Strengthen partnerships with the administrators of social networks to quickly respond to the spread of hate speech, and the disclosure of personal information of LGBT people on online platforms;
- Pay sufficient attention to raising awareness and legal literacy among members of the community, help draft complaints and support the willingness of victims to speak up about violations;
- Develop psychological and legal support programs for victims of human rights violations;
- Conduct systematic monitoring of the actions of authorities in relation to developments in policies, laws and procedures relating to human rights, and respond to such actions in a timely manner;
- Continue to look for opportunities and build systemic and/or ad hoc partnerships with government agencies, join working councils and groups, and provide advice to the government in the development of new policies, laws and other human rights documents;
- Maintain an ongoing discussion among the human rights movement and civil society on the need to review rules, procedures, policies and laws relating to both human rights in general and accepted approaches related to the right to health, HIV issues and marginalized groups, and raise these issues with representatives of government agencies;
- Prepare data on HIV and SOGI in national languages for both the community and the general public;
- Continue to coordinate national and international advocacy efforts.

TO DECISION-MAKERS

- Adopt comprehensive antidiscrimination legislation that includes SOGI as a protected ground in countries where such legislation does not exist, and involve civil society in the development of such legislation;
- Strengthen mechanisms for responding to and investigating all cases of discrimination based on SOGI and/or HIV status in countries with antidiscrimination legislation;
- Adopt hate crime legislation that includes SOGI and health status as protected grounds;

- Repeal repressive legislation: criminalization of HIV transmission and consensual same-sex relationships; criminal and/or administrative liability for involvement in sex work; laws on foreign agents and gay propaganda;
- Establish complaint mechanisms and carry out effective investigations of human rights violations by law enforcement agencies;
- Hold perpetrators of violations of the human rights of LGBT people accountable;
- Conduct ongoing training for government officials on the ethics of the provision of services in order to reduce homophobia and transphobia among law enforcement officials, healthcare professionals and representatives of other government agencies providing services to relevant populations;
- Develop procedures and protocols for providing medical care to trans people and implement training programs for medical professionals;
- Refrain from inciting homophobia and xenophobia, conduct campaigns aimed at increasing the level of tolerance in society;
- Do not interfere with human rights work with key populations and the provision of services to such groups, repeal regulations that tighten control over the work of activists, investigate cases of persecution of activists;
- Regularly allow international monitoring missions into countries and submit reports on progress in the implementation of national human rights obligations to UN treaty bodies;
- Develop government programs to monitor medical institutions and the police for discriminatory practices against LGBT and PLHIV.

APPENDIX 1: NUMBER OF DOCUMENTED CASES FOR 2021 BY TYPE OF VIOLATION

Type of violation	Belarus	Kazakhstan	Kyrgyzstan	Russia	Tajikistan	Uzbekistan	Ukraine	*Total*
Hate speech				6		7	1	14
Hate crime	1			3	1	2		7
Abuse of power (including cases of blackmail and threats, extortion, refusals to open cases/inaction, torture)	1		6	2	14	14	1	38
Refusal to provide medical services/provision of medical services of insufficient quality	5	6	1	3	6	1	1	23
Disclosure of personal data (SOGI and/or HIV status)	1			1	6	4	2	14
Other (forced HIV testing, domestic violence, persecution of activists)	1					2		3
Criminal punishment for homosexuality						2		2
Sexual violence					2			2
	9	6	7	15	29	32	5	103

APPENDIX 2: NUMBER OF DOCUMENTED CASES FOR 2021 BY CATEGORY OF OFFENDER

Category of offender	Belarus	Kazakhstan	Kyrgyzstan	Russia	Tajikistan	Uzbekistan	Ukraine	*Total*
Law enforcement officers, including the military	2		5	3	17	16		43
Medical workers	6	6	1	7	9	2	2	33
Civil servants at various levels			1			2		3
Employers							1	1
Citizens in public places, on the street and on social networks, landlords, (not including family members)	1			5	3	3	2	14
Journalists, politicians, public figures						7		7
Family members, friends						2		2
	9	6	7	15	29	32	5	103

LINKS

1 Spread of venereal disease or HIV/AIDS", Criminal Code of Uzbekistan https://lex.uz/docs/111457
2 Political Declaration on HIV and AIDS: Ending Inequalities and Getting on Track to End AIDS by 2030, United Nations, General Assembly, 2021, p. 4, para 7, https://www.unaids.org/en/resources/documents/2021/2021_political-declaration-on-hiv-and-aids
3 The REAct system ("Rights-Evidence-Action") is being implemented in EECA countries, which allows for violations of the rights of key populations vulnerable to HIV and tuberculosis to be recorded, and responded to.
4 Order of the Ministry of Health of the Republic of Uzbekistan 54-n of 5 April 2019.
5 Criminal Code of the Republic of Kazakhstan, https://online.zakon.kz/document/?doc_id=31575252&pos=1873;-52#pos=1873;-52
6 Federal Law 357 of 2 July 2021 "On Amending Certain Legislative Acts of the Russian Federation" amends Article 11, Clause 3 of the Federal Law "On Preventing the Spread of Disease Caused by HIV", http://ivo.garant.ru/#/document/401422546/paragraph/1:0
7 However, these rules only apply if a foreign citizen living with HIV and planning to legally remain in the Russian Federation first collects all the necessary documents and, when applying for temporary residence, indicates that he has a close relative who is a citizen of Russia. If a migrant who has been diagnosed with HIV does not have time to provide such data before a decision on their residency is made, then it becomes almost impossible to challenge it.
8 Decision of the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic of 27 January 2021. http://cbd.minjust.gov.kg/act/view/ru-ru/9790
9 Regional overview of trans communities and contexts of 12 EECA countries, ECOM, 2020 https://ecom.ngo/library/regional-context-and-trans-people-of-eeca
10 After amendments to the law "On acts of civil status", a trans activist with the support of the NGO "Kyrgyz Indigo" successfully appealed the refusal in court in 2021.
11 Even trans people who have changed their gender marker cannot change their TIN, which leads to outings and difficulties in accessing services.
12 "HIV cascade among trans people in Kyrgyzstan", ECOM, 2021
13 The Cascade of Continuous HIV Care is a situational assessment, planning, advocacy and monitoring tool that shows the balance between those who need services and those who receive them.
14 Assessment of the needs of transgender people in Central Asia, NGO "Kyrgyz Indigo", NGO "Labrys", 2016 https://indigo.kg/uploads/File/2021/01/14/Needs-Assessment-T.pdf
15 Sex work legislation in CEECA, SWAN, 2019, p. 16 https://www.swannet.org/files/swannet/SWLegalFrameRUS_web_0.pdf
16 Article 160: Promoting prostitution and debauchery, Criminal Code of Kyrgyzstan, paragraph 1, as amended in 2021 http://cbd.minjust.gov.kg/act/view/ru-ru/112309
17 Order of the Government of Kyrgyzstan: Interdepartmental Action Plan for 2019-2022 on the implementation of the CERD recommendation, paragraph 4 http://cbd.minjust.gov.kg/act/view/ru-ru/216688
18 Decree of Uzbekistan on the National Action Plan for the Implementation of the Concluding Observations and Recommendations of CERD for 2020-2022, section 2, paragraph 2-7 https://lex.uz/docs/5091688
19 In Uzbekistan, the issue was to be examined before January 2021, in Kyrgyzstan, 2020 is indicated. In response to a written request about the results of the consideration of this issue, the Government of Kyrgyzstan replied that due to the inventory of pending legislation, consideration of the need to adopt antidiscrimination legislation was postponed indefinitely.
20 Article 120 of the Criminal Code (Sodomy) establishes punishment in the form of restriction of liberty for a period of 1 to 3 years or imprisonment for a period of 1 to 3 years for adult men who have had sexual contact with mutual consent.
21 Report "As if on another planet: gay, bisexual men and trans people face violence, imprisonment and discrimination in Uzbekistan", ECOM, 2022 https://ecom.ngo/library/otchet-budto-na-drugoy-planete-gei-biseksualjnie-mujchini-i-transludi-podvergautsya-nasiliu-turemnomu-zakljucheniu-i-diskriminatsii-v-uzbekistane
22 Criminal Code of Georgia, https://matsne.gov.ge/ru/document/view/16426?publication=240
23 More details in the report "Analysis of national legislation related to LGBTQ rights and HIV in 11 countries of the CEECA region", ECOM, 2018 https://matsne.gov.ge/ru/document/view/16426?publication=240
24 Statement of "Tbilisi Pride": https://civil.ge/ru/archives/430620
25 In some cases, one case was recorded as several individual violations due to the different nature of the violated rights, and, accordingly, different offenders.
26 A victim is someone against whom a human rights violation has been committed. The same person can be a victim several times if several violations were committed against them.
27 Hate speech against the entire LGBT community was documented in 9 cases, discrimination against an HIV-positive bisexual woman in 1 case.
28 "Spread of venereal disease or HIV/AIDS", Criminal Code of Uzbekistan https://lex.uz/docs/111457
29 Forcible disclosure of SOGI and/or HIV status"Spread of venereal disease or HIV/AIDS", Criminal Code of Uzbekistan https://lex.uz/docs/111457
30 The term is discriminatory; the preferred term is homosexuality.
31 The term is discriminatory; the preferred term is transgenderness.
32 A fake date is a form of persecution of LGBT people when a date is set, most often on online dating applications, for the purpose of extortion, blackmail, or assault.
33 Global Commission on HIV and the Law, 2012 https://www.unaids.org/ru/resources/presscentre/featurestories/2012/july/20120711lawcommission
34 Implementing Comprehensive HIV and STI Programmes with Men Who Have Sex with Men. Practical Guidance, page 5 https://ecom.ngo/resource/files/2021/05/realizatsiya-kompleksnih-programm-po-voprosam-ippp-s-mujchinami-imeuschimi-seks-s-mujchinami.pdf
35 Cases in Uzbekistan are not registered as directed against LGBT people, but are registered as committed against MSM and trans people.