ECOM

NATIONAL REPORT

ON VIOLATIONS OF THE RIGHTS OF LGBT PEOPLE AND MSM IN KYRGYZSTAN

2023

National report on violations of the rights of LGBT people and MSM in Kyrgyzstan, 2023/ECOM — Eurasian Coalition on Health, Rights, Gender and Sexual Diversity. - Tallinn, 2024. – 18 p.

Report prepared by: [redacted]

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

The views expressed in this publication are solely those of the authors and do not necessarily reflect the views of the consortium organizations or the Global Fund to Fight AIDS, Tuberculosis and Malaria.

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

DISTRIBUTED FREE OF CHARGE

CONTENTS

METHODOLOGY FOR COLLECTING CASES OF RIGHTS VIOLATIONS 3

NATIONAL LEGISLATION 4

DESCRIPTIVE REPORT ON CASES 7

CONCLUSIONS AND RECOMMENDATIONS 17

ACRONYMS AND ABBREVIATIONS

ARV therapy	Antiretroviral therapy
CC KR	Criminal Code of the KR
CCM	Country coordinating mechanism
EECA	Eastern Europe and Central Asia
FMC	Family medicine center
Global Fund	Global Fund to Fight AIDS, Tuberculosis and Malaria
HIV	Human immunodeficiency virus
KP	Key population
KR	Kyrgyz Republic
LGBT	Lesbian, gay, bisexual and trans people
MSM	Men who have sex with men
NGO	Non-governmental organization
PLH	People living with HIV
REAct	Rights – Evidence – Actions
SOGI	Sexual orientation and gender identity
SRHR	Sexual and reproductive health and rights
STI	Sexually transmitted infection

METHODOLOGY FOR COLLECTING CASES OF RIGHTS VIOLATIONS

This report was compiled based on the Protocol of the national report on violations of the rights of gay men, other MSM and trans people, in particular the right to health. The national report is based on systematized information about cases of violations of the right to health (cases documented during the year) in Kyrgyzstan, collected using tools provided by ECOM and partner organizations, as well as a brief analysis of the legal environment.

During the monitoring, various research methods were used, such as:

- analysis of documented cases from the REAct database;
- analysis of thematic materials from open sources.

The goal of collecting information was to identify cases of human rights violations, in particular the right to health among LGBT people and other MSM.

As a result of the analysis, the main causes of rights violations and discrimination were identified, and quantitative data was obtained. Based on this data, conclusions and recommendations were developed.

NATIONAL LEGISLATION

For Kyrgyzstan, 2023 was a year dedicated to intensifying anti-LGBT propaganda, and promoting and adopting discriminatory laws that restrict human rights and freedoms.

In March 2023, during the approval of grant funds provided by the Global Fund to combat HIV and AIDS, members of the country's parliament expressed criticism and hate speech due to the fact that part of the grant is targeted at key populations, including for spending on the LGBT community, which is part of a KP. As a result, negative perceptions and stigmatization towards LGBT people and people living with HIV were further reinforced through statements by parliamentarians, which were supported by the majority of social media users[1]. The Country Coordinating Mechanism (CCM) was disbanded. As a result of discussions, on May 24, 2023, the Coordinating Council on Health decided to revise the Regulations on the CCM, including its structure and composition[2].

On August 14, 2023, the President signed a law amending the Law «on measures to prevent harm to the health of children, and their physical, intellectual, mental, spiritual and moral development in the Kyrgyz Republic»[3]. Article 2-1 of the draft law expands the definition of information harmful to the health and development of children. It includes information about «non-traditional sexual relationships» in the following formulation: «4) denying family values, promoting non-traditional sexual relationships and creating disrespect for parents or other family members».

The dissemination of such information will result in a fine ranging from USD 25 to USD 250. The bill would make it mandatory to label any video material that is believed to be harmful to children's development, and require that printed materials distributed in places accessible to all people under 18 years of age must be fully in sealed packaging and not sold to minors[4].

On October 25, 2023, the Jogorku Kenesh approved amendments to the Law «on non-profit organizations», the so-called bill on «foreign representatives» in the first reading[5].

[1] The Jogorku Kenesh raised the issue of allocating funds to «men who have sex with men». – URL: https://kaktus.media/doc/476935_v_jk_podniali_vopros_o_vydelenii_sredstv_dlia_myjchin_praktikyushih_seks_s_myjchinami.html

[2] ECOM and partners protest against the exclusion of civil society from the CCM in Kyrgyzstan. – URL: https://ecom.ngo/news-ecom/ekom-protestuut-protiv-iskljucheniya-grajdanskogo-obschestva-skk-v-kirgizstane

[3] Kyrgyzstan adopted a law banning information «harmful» to children. A similar law «on the protection of children» was previously adopted in Kazakhstan. – URL: https://rus.azattyq.org/a/32548658.html

[4] Kyrgyzstan: An attack on the media and freedom of expression. Reject bills that lead to censorship and infringement of LGBT rights. – URL: https://www.hrw.org/ru/news/2023/07/28/kyrgyzstan-attacks-media-free-expression

[5] Article «The Parliament of Kyrgyzstan adopted a bill 'on foreign representatives'. It is still in its first reading». URL: https://rus.azattyk.org/a/32653377.html

The draft law proposes to introduce into the Criminal Code of the KR Article 200-1 «Establishment of a non-profit organization that encroaches on the personality and rights of citizens». It would also impose criminal punishment in the form of a fine of 50 to 100 thousand soms (USD 560 to USD 1,200) or imprisonment for a term up to five years for «establishing an association or other NGO, a structural unit of a foreign NGO, or an NGO whose activities involve violence against citizens, other harm to their health, or inducement of citizens to refuse to fulfill civic duties or to commit other illegal acts, as well as the management of such an association, organization or structural unit». A broad interpretation of the law will allow the country's authorities to use this provision in relation to any non-profit organization and to prosecute its management.

ANTI-DISCRIMINATION LEGISLATION

In August 2023, the draft Law «on ensuring the right to equality and protection from discrimination» was published for public discussion. On December 25, the draft law was considered by a committee of the Jogorku Kenesh[6]. During the discussion, parliamentarians demanded that the draft law define the specific set of persons who may suffer from discrimination in order to exclude the possibility of the law applying to LGBT people. It is worth noting that the draft law did not contain SOGI as characteristics protected from discrimination, however, the list of protected characteristics was open-ended. Nevertheless, deputies of the Jogorku Kenesh considered it necessary to specify who in particular could suffer from discrimination and sent the draft law for revision. The lack of recognition of SOGI as a basis for discrimination and a clear definition of hate crimes in the legislation of Kyrgyzstan, represents a significant shortcoming in relation to the protection of human rights. Certain articles of the Criminal Code of the KR provide that commission of a crime based on social, national, racial, or religious hatred or enmity is considered an aggravating circumstance. However, the lack of a specific definition and differentiation of hate crimes creates gaps in the protection of citizens' rights, especially for LGBT people who experience violence and discrimination due to their SOGI. The lack of a clear status for hate crimes based on SOGI means that many cases of discrimination and violence go undetected.

CRIMINALIZATION OF HIV TRANSMISSION

The Criminal Code of the KR contains Article 143[7], according to which the transmission of HIV is criminalized. Criminal liability is removed if the other person «was promptly warned that the first person had this disease and voluntarily agreed to commit actions that created a risk of infection». However, this article puts PLH who engage in sexual intercourse at risk, due to the fact that it can be applied against HIV-positive people at any time, even if they warned their partners about their status.

[6] Article «Protection from discrimination. Deputy believes that LGBT people can take advantage of the law». URL: https://24.kg/vlast/283008_zaschita_otdiskriminatsii_deputat_schitaet_chto_zakonom_mogut_vospolzovatsya_lgbt/

[7] Criminal Code of the KR. – URL: https://cbd.minjust.gov.kg/3-38

LEGAL RECOGNITION OF GENDER

Due to the adoption of the Law «on civil status acts» in 2020, the legislation of Kyrgyzstan currently does not provide for the possibility of making changes to the birth certificate for transgender people who wish to change their gender marker. Now, this issue is resolved exclusively in court, which entails an unreasonable amount of time and financial cost, and also delays trans peoples' socialization and enjoyment of a full-fledged life. At the same time, courts in Kyrgyzstan do not have a uniform practice in relation to decisions about gender markers, which creates situations in which different decisions are made on similar applications.

DESCRIPTIVE REPORT ON CASES

In 2023, 35 cases of violations of the rights of LGBT people and MSM were registered by ECOM's partners. Cases were recorded when a violation occurred based on both the victim's health condition and their SOGI, as well as in connection with sex work.

As in previous years, the representatives of law enforcement agencies of Kyrgyzstan continue to be some of the main offenders.

Cases are divided into four groups:

1. Systematic threats and blackmail based on SOGI;
2. Discrimination against PLH;
3. Discrimination based on SOGI.
4. Creation of materials defaming LGBT people.

SYSTEMATIC THREATS AND BLACKMAIL BASED ON SOGI

CASE 1

1.1. CASE DESCRIPTION

On the evening of January 1, 2023 a police officer noticed the victim kissing a guy in a public place and stopped him. The police officer then threatened to arrest him and took 7,000 som ($78) from the victim as blackmail. After some time had passed, the policeman saw the victim at his place of work and began to extort more money from him, and also took goods without paying. He continued to threaten the victim with outing and arrest throughout the year.

1.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

Sexual orientation of the victim.

1.3. RIGHTS VIOLATED/RESTRICTED

Right to private life, right to protection from discrimination. The police officer committed violations: abuse of power in accordance with Article 338 of the CC KR and extortion in accordance with Article 208 of the CC KR.

1.4. CONSEQUENCES FOR THE VICTIM

Moral and material harm.

1.5. MEASURES TAKEN

After the intervention of a paralegal, the threats and blackmail from the police officer stopped. The victim refused to file a statement against the police officer.

CASE 2

2.1. CASE DESCRIPTION

The victim met a man on social media. They met in an apartment rented for one day. The man turned out to be an employee of the local police department. He showed his law enforcement ID, and brought the victim to the police station. There, two police officers searched, insulted, and beat the victim, and said that if the victim did not find money to give them, he would be raped in the basement with a baton. They also reset the passwords to his accounts in order to read his correspondence. The police officers intimidated the victim, and threatened to hand him over to an investigator, including for propaganda on social media. They extorted 100,000 soms (1,200 US dollars) from him. After getting information from the victim's phone, the police officers contacted a second victim, got him to meet them, and then took him to the police station, where they began to threaten to out him and demanded money from him.

2.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

Sexual orientation of the victim.

2.3. RIGHTS VIOLATED/RESTRICTED

Right to privacy of correspondence, telephone and other conversations, and of postal, telegraphic, electronic and other messages, right to protection from discrimination. The police officers committed violations: abuse of power in accordance with Article 338 of the CC KR; extortion in accordance with Article 208 of the CC KR.

2.4. CONSEQUENCES FOR THE VICTIM

Moral and material harm.

2.5. MEASURES TAKEN

The victims refused to file a statement against the police officers.

CASE 3

3.1. CASE DESCRIPTION

The victim met a young man from Uzbekistan through social media. After a long correspondence, the young men decided to meet on the territory of Uzbekistan in Fergana. The guy went to Uzbekistan, where they met and went to a bathhouse. When the victim was about to return home, a Chevrolet car drove up to them (He could not remember the license plate number, but the number of the region was 40). Two guys, about 35-38 years old, got out of the car. They said they were members of a task force, and that the victim was being detained under Article 120 of the CC of Uzbekistan. After this, the victim was taken to the police department. On the way there, the guy was able to come to an agreement with them: he withdrew 300 USD from an ATM, and gave it to the police, after which they released him.

3.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

Sexual orientation of the victim.

3.3. RIGHTS VIOLATED/RESTRICTED

Right to private life, right to protection from discrimination. The police officers committed violations: extortion in accordance with Article 208 of the CC KR.

3.4. CONSEQUENCES FOR THE VICTIM

Moral and material harm.

3.5. MEASURES TAKEN

The victim refused to file a statement against the police officers of Uzbekistan, due to the risk of persecution.

DISCRIMINATION AGAINST PLH

CASE 4

4.1. CASE DESCRIPTION

The victim is a MSM registered with the AIDS Center, and regularly receives ARV drugs at the FMC at his place of registration. During his next visit to the FMC to receive ARV drugs, he went to the doctor for an appointment and several other doctors were sitting there. The doctor greeted him and asked him to wait a bit. When dispensing his medication, the doctor disclosed the victim's HIV-positive status, which led to subsequent stigmatization by other medical workers.

4.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

HIV status of the victim.

4.3. RIGHTS VIOLATED/RESTRICTED

The right to respectful and humane treatment, prohibiting the humiliation of human dignity in connection with HIV status in accordance with Article 6 of the Law of the KR «on HIV/AIDS in the Kyrgyz Republic», the prohibition on restricting the rights and stigmatization of PLH in educational and medical institutions in accordance with Article 13 of the Law of the KR «on HIV/AIDS in the Kyrgyz Republic».

The doctor's actions are classified as improper performance of professional duties of a medical worker in accordance with Article 146 of the CC KR, and disclosure of medical secrets in accordance with Article 153 of the CC KR.

4.4. CONSEQUENCES FOR THE VICTIM

Moral harm.

4.5. MEASURES TAKEN

The victim refused to file a statement, because he does not believe that doing so will bring any results.

CASE 5

5.1. CASE DESCRIPTION

The victim arrived from Russia in 2022; at the end of January 2023, he went to get tested for HIV in a private laboratory. The young man took tests there and left his phone number. Three days later, the laboratory staff called him on the phone, and the victim's mother answered. A laboratory employee told the victim's mother that he had been diagnosed with HIV.

5.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

HIV status of the victim.

5.3. RIGHTS VIOLATED/RESTRICTED

Right to private life.

The actions of the laboratory employee are classified as improper performance of professional duties of a medical worker in accordance with Article 146 of the CC KR, and disclosure of medical secrets in accordance with Article 153 of the CC KR.

5.4. CONSEQUENCES FOR THE VICTIM

Moral harm.

5.5. MEASURES TAKEN

The victim refused to file a statement, because he does not believe that doing so will bring any results.

DISCRIMINATION BASED ON SOGI

CASE 6

6.1. CASE DESCRIPTION

The victim received treatment for inflammation of the hemorrhoidal veins of the distal rectum in a private clinic. On the fifth day of his treatment, the young man noticed that he was not making progress in his treatment, and told the doctor that he was bisexual and practiced anal sex quite often, which may be why he was not making progress in his treatment. The doctor, after hearing this from the young man, began to swear and insult the victim, and kicked him out of the office. He also warned him that if the victim came anywhere near his office again, he would call the police. The doctor refused to return part of the money the victim paid for treatment and refused to treat the patient further.

6.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

Sexual orientation of the victim.

6.3. RIGHTS VIOLATED/RESTRICTED

Right to protection from discrimination in accordance with Article 24 of the Constitution of the KR, and the right to respectful and humane treatment on the part of medical and service personnel in accordance with Article 72 of the Law «on the protection of the health of citizens in the Kyrgyz Republic».

6.4. CONSEQUENCES FOR THE VICTIM

Moral and material harm.

6.5. MEASURES TAKEN

The victim refused to file a statement, because he does not believe that doing so will bring any results.

CASE 7

7.1. CASE DESCRIPTION

The victim was a transgender woman who was bruised after falling off a scooter. She went to the city traumatology department due to her injuries. However, after the doctors saw the difference between the victim's passport details and her appearance, they began to use obscene language and insult the woman. They refused to call the victim by her name, and only used the name in her passport. Nevertheless, the doctors did not refuse to provide medical assistance, but at the same time, they humiliated and insulted the patient because of her gender identity, ultimately forcing her to refuse medical care.

7.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

Gender identity of the victim.

7.3. RIGHTS VIOLATED/RESTRICTED

Right to protection from discrimination in accordance with Article 24 of the Constitution of the KR, and the right to respectful and humane treatment on the part of medical and service personnel in accordance with Article 72 of the Law «on the protection of the health of citizens in the Kyrgyz Republic».

7.4. CONSEQUENCES FOR THE VICTIM

Moral and physical harm.

7.5. MEASURES TAKEN

The victim refused to file a statement.

CASE 8

8.1. CASE DESCRIPTION

When leaving Kyrgyzstan for Kazakhstan, the victim was forced to strip naked at the Kordai border post by officers of the Kazakhstan Border Service to verify that the gender indicated in her passport was correct. The victim is a trans woman. The entire procedure was accompanied by bullying and jokes about the victim's gender identity.

8.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

Gender identity of the victim.

8.3. RIGHTS VIOLATED/RESTRICTED

Discrimination in accordance with Article 24 and infringement on privacy, protection of honor and dignity in accordance with Article 29 of the Constitution of the KR. Abuse of power by an official in accordance with Article 338 of the CC KR.

8.4. CONSEQUENCES FOR THE VICTIM

Moral and material harm.

8.5. MEASURES TAKEN

The victim refused to file a statement, because she does not believe that doing so will result in anything aside from additional stress.

CREATION OF MATERIALS DEFAMING LGBT PEOPLE

CASE 9

9.1. CASE DESCRIPTION

In order to manipulate information, an article was published about a project that raises awareness about SRHR issues. The article states that the project is engaged in the promotion of perverted homosexual views in exchange for money from the United Nations Educational, Scientific and Cultural Agency (UNESCO). The article says: «The project works closely on social media to make it easier to recruit young people as adherents of homosexual relationships. On their social media pages, incognito administrators constantly write posts, shoot humiliating videos with normal teenagers, talk about ‘successful’ trans people, what ‘queer’ means, who are asexuals, biphobia, pansexuality, and about bisexuals, and discuss and teach teenagers in Kyrgyzstan about modern Western education». The article also published the names and photos of project participants.

9.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

SOGI.

9.3. RIGHTS VIOLATED/RESTRICTED

Right to freedom of expression in accordance with Article 32 of the Constitution.

9.4. CONSEQUENCES FOR THE VICTIMS

Moral harm.

9.5. MEASURES TAKEN

The case was not resolved by the project.

CASE 10

10.1. CASE DESCRIPTION

A local TV channel published a video about LGBT people and LGBT organizations. The video says that 11 closed parties have been held by the LGBT community in Bishkek since the beginning of the year. The video also says that at one of these events called «tai», there were 450 representatives of «non-traditional orientation» and participants were offered free alcoholic drinks.

10.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

SOGI.

10.3. RIGHTS VIOLATED/RESTRICTED

Prohibition of propaganda of national, racial, religious hatred, gender and other social superiority that calls for discrimination, hostility or violence in accordance with Part 4 of Article 32 of the Constitution of the KR.

10.4. CONSEQUENCES FOR THE VICTIMS

Moral harm.

10.5. MEASURES TAKEN

The case was documented; work is underway to prepare reports for submission to the relevant UN bodies for the protection of human rights.

CAUSING HARM TO HEALTH DUE TO SOGI

CASE 11

11.1. CASE DESCRIPTION

The victim is a trans woman and sex worker. On August 31, 2023, she met a client. The victim asked how she would find him if he was calling from a hidden number; the client replied that he would call back from time to time. While the woman was riding in a taxi, the client called every 10 minutes. When she arrived at the address, the victim noticed several cars and heard male voices. Frightened, the victim tried to run away, but felt a strong blow to her back, which caused her to fall. She immediately covered her face. The victim was kicked, beaten with blunt objects (possibly with a baton), her teeth were knocked out, and she was hit in the head. There were about 7-8 attackers. After some time, the attackers left, and the woman was able to call an ambulance. The next day, police officers took a statement from the victim, but there are still no results in the case. During the investigation of the attack, the police were openly hostile towards the victim: «...and they did not consider my case because of my gender identity». She believes that the police are not interested in catching the perpetrators due to her gender identity and sexual orientation.

11.2. CHARACTERISTIC BASED ON WHICH DISCRIMINATION OCCURRED

Gender identity of the victim.

11.3. RIGHTS VIOLATED/RESTRICTED

Right to non-discrimination in accordance with Article 24 of the Constitution of the KR, the human right to freedom from violence and the right to privacy.

11.4. CONSEQUENCES FOR THE VICTIM

Moral and physical harm.

11.5. MEASURES TAKEN

The victim wrote a statement to the police about the attack.

CONCLUSIONS AND RECOMMENDATIONS

In 2023, 35 cases of rights violations were registered in the Kyrgyz Republic. According to the analysis of cases for the specified period, an increase in stigma and discrimination based on SOGI and HIV status on the part of law enforcement agencies, medical workers, and society as a whole was documented.

The most frequent violations registered in 2023 were cases where representatives of law enforcement agencies systematically abused their official position. In total, 16 cases were registered where police officers violated the human rights of LGBT people. In all cases, it was determined that law enforcement officials threatened LGBT people with the disclosure of their SOGI and extorted financial resources in exchange for their silence. There were also cases of illegal detention by the police. Victims feel that it is futile to seek justice and file complaints with higher authorities, and are afraid of the negative consequences that may occur if they take steps to protect their rights.

7 cases were registered, including cases of stigma and discrimination based on SOGI and HIV-positive status, among medical workers. In two out of the seven cases, the health worker disclosed the victim's HIV status to third parties. Other cases include examples where medical workers refused to provide further treatment, sent patients to other hospitals, or unreasonably demanded additional payment for services after learning about the sexual orientation or HIV-positive status of the victim.

3 cases of violations of the rights of trans women in connection with their gender identity were documented. In one case, a trans woman sex worker was invited on a date, and upon arrival was attacked by a group of strangers. A criminal case was opened in connection with the attack and robbery, but there have been no results months after the incident.

In almost all cases, the victims were either afraid of being outed or did not trust law enforcement agencies, and, therefore, refused to file statements.

RECOMMENDATIONS FOR THE GOVERNMENT

In this context, it can be stated that the impact of state institutions leads to the systematic persecution of citizens on the basis of sexual orientation, gender identity and HIV status. At the same time, it should be emphasized that Kyrgyzstan bears international obligations in accordance with the international legal treaties it has ratified.

In this regard, Kyrgyzstan is recommended to:

- include issues regarding health status (HIV status), sexual orientation, and gender identity as protected characteristics in the draft Law «on ensuring the right to equality and protection from discrimination»;
- pass legislative amendments to include sexual orientation and gender identity as protected characteristics in relation to hate crimes;
- amend the Law «on civil status acts» to ensure the possibility of changing one's gender marker in documents at civil registry offices;
- amend the procedures for assigning a personal identification number to include a change of gender marker as the basis for changing one's primary personal identification number;
- carry out systematic outreach work with government, law enforcement agencies, and medical workers on the provision of services to LGBT people and PLH in order to increase their competence and improve services to these population groups.

FOR CIVIL SOCIETY

In the context of the growing threat of persecution based on SOGI and HIV status, civil society is recommended to take a number of measures to support the rights and safety of the LGBT community and people living with HIV. ***Civil society in Kyrgyzstan is recommended to:***

- firstly, show openness and tolerance, and create safe spaces for interaction and dialogue;
- provide legal assistance and defense in criminal cases: this is a key element for supporting victims;
- document cases of violations of the human rights of LGBT people and PLH, and publish such data in open sources.

These steps will enable civil society to actively influence legislation, education, and public opinion, in order to strength protection and support for LGBT people and PLH.

