

Trans rights in Eastern Europe and the Caucasus: Armenia, Montenegro, Ukraine

Report submitted for the implementation review of the Council of Europe Recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity (CM/Rec (2010) 5)

Joint report by TGEU (Trans Europe and Central Asia), Insight (Ukraine), National Trans Coalition (Armenia), and Association Spectra (Montenegro)



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INTRODUCTION

Adopted in 2010, the Recommendation CM/Rec (2010) 5 of the Committee of Ministers to Council of Europe member states became the first instrument in the world to specifically address discrimination against LGBTI people. While not legally binding, it relies on international and European human rights obligations, which makes its implementation the duty of the member states. Since its adoption, it has been widely used by states and civil society to improve the lives of LGBTI people across Europe.

TGEU and national organisations that have worked on this report welcome the Council of Europe's 2024 review of the Recommendation's implementation. In times of increasing global polarisation and rollback on human rights for trans and LGBTI people, this review is vital to assess progress achieved, identify areas of challenge, and reinforce efforts to overcome them.

The present report seeks to contribute to the implementation review of the Recommendation CM/Rec (2010) 5 by providing a focused assessment of trans rights in Eastern Europe and the Caucasus. Among the Council of Europe's member states, Eastern Europe and the Caucasus have faced particular challenges with regard to human rights for LGBTI people. The region is affected by a major war, a range of local military conflicts, and increasing militarism, as well as antigender and anti-rights rollbacks. Among all LGBTI populations, trans people are disproportionately suffering from these developments. As one of the most severely marginalised groups, they bear the brunt of any political or social upheavals. What is more, they are explicitly targeted by antigender narratives, which are used in this

region to further destabilise it and prevent the strengthening of democracy.

In February 2024, TGEU invited our members, trans and LGBTI organisations from Eastern Europe and the Caucasus, to submit country reports based on the questionnaire on the implementation of the CM Rec 2010 (5) provided by the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI). Three organisations responded to the invitation and became collaborators: Insight (Ukraine), National Trans Coalition (Armenia), and Association Spectra (Montenegro). Their respective countries became the focus countries of the report.

This report consolidates and contextualises the data provided in the three focus country reports. It follows the structure of the questionnaire yet focuses primarily on key questions pertaining to trans people. Each section of the report contains a reference to the relevant article and/or paragraph(s) of the Recommendation. A comparative table consolidating all answers from the focus country reports is additionally provided as an annex.

KEY FINDINGS

The overall status of implementation of the Recommendation CM/Rec (2010) 5 in Armenia is absent. In Montenegro and Ukraine, some progress has been made, yet overall, implementation in both countries is far from being in line with the Recommendation.

With regard to trans people's human rights, none of the three focus countries provides legal gender recognition based on self-determination. Meanwhile, the Council of Europe's 2022 Thematic Report on Legal Gender Recognition in Europe finds the self-determination model to be the best practice to meet the Council of Europe's standard of quick, transparent, and accessible procedures.¹ The Council of Europe's Commissioner for Human Rights also recommends the self-determination model in her Human Rights and Gender Identity and Expression issue paper.² None of the focus countries removed legal or administrative classifications of trans identities as mental illness: this brings them in contradiction to the standards of the World Health Organisation. No country provides efficient protection from hate crimes, with cases rarely processed, sentences mild or absolving for perpetrators, and processes so long that they discourage victims from pursuing justice.

This lack of action has major impact on trans people's lives. In all three countries, trans people face obstacles to obtaining identification documents that correctly reflect their identity, which exposes them to higher levels of discrimination and violence.

Trans people's access to healthcare in all three countries is restricted by continued pathologisation of trans identities, paired with unreasonable requirements for accessing trans-specific healthcare. Trans people in all three countries face discrimination in employment, education, housing, and violence in the streets, families, and other settings without significant measures taken by authorities acknowledging let alone addressing the root causes. Trans people lack access to adequate mechanisms to report and protect themselves from hate crimes and discrimination.

1 <https://rm.coe.int/thematic-report-on-legal-gender-recognition-in-europe-2022/1680a729b3>

2 <https://www.coe.int/en/web/commissioner/-/human-rights-of-trans-people-increased-visibility-and-legal-recognition-contrast-with-lived-experience-of-discrimination-violence>

RECOMMENDATIONS

ALL FOCUS COUNTRIES

1. Adopt laws on legal gender recognition based on self-determination as a simple administrative process and ensure consistent measures for legal gender recognition in all areas of life.
2. Ensure full depathologisation of trans identities in legal and administrative classifications in fulfilment of the World Health Organisation's standards in the International Classification of Diseases version 11 (ICD-11).
3. Create conditions and change policies that are deemed necessary to protect the rights and social inclusion of trans people; create educational campaigns on gender identity and sexuality as a means of addressing the root causes of violence and discrimination; raise awareness among health workers about gender identity and ensure that trans people and gender non-conforming people have access to health services and information to improve their health and well-being.

COUNCIL OF EUROPE

1. Show strong political leadership and commitment to human rights of trans people and pay greater attention to trans people in CDADI and ADI-SOGIESC's work.
2. Provide technical support and expert guidance via SOGI Unit to Armenia, Montenegro and Ukraine to efficiently implement their recommendations.

INDIVIDUAL COUNTRY RECOMMENDATIONS

Armenia

1. Adopt an anti-discrimination law that explicitly prohibits discrimination on the grounds of sexual orientation, gender identity, gender expression, and sex characteristics, and consistent measures for its implementation.
2. Incorporate specific targets to address rights protection based on gender identity and gender expression and implement the 2023-2025 Action Plan emerging from the National Strategy for the Protection of Human Rights.

Montenegro

1. Adopt the draft Law on Legal Gender Recognition Based on Self-Determination developed by the Working Group formed by the Ministry of Human and Minority Rights and ensure its implementation.
2. Ensure adequate implementation of the Strategy for improvement of quality of life of LGBTI people for the period 2024-2028, adopted by the Government.

Ukraine

1. Adopt the Draft Law No. 5488 on anti-discrimination to ensure protection from discrimination and hate crimes on the grounds of sexual orientation and gender identity and ensure its implementation.
2. Provide administrative and financial support to local trans and LGBTI initiatives in their volunteer and humanitarian work. Conduct sensitisation campaigns on human rights for trans and LGBTI people aimed at parliamentarians, politicians, religious leaders and the general public.

LIST OF ACRONYMS

ADI-SOGIESC	Committee of Experts on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (ADI-SOGIESC)
CDADI	Steering Committee on Anti-discrimination, Diversity and Inclusion
CM Rec 2010 (5)	
ICD-10	International Classification of Diseases version 10
ICD-11	International Classification of Diseases version 11
LGBTI	lesbian, gay, bisexual, trans, and intersex people
LGR	legal gender recognition
NGO	non-governmental organisation
SOGI	sexual orientation and gender identity
SOGIESC	sexual orientation, gender identity and expression, and sex characteristics
UNHCR	United Nations High Commissioner for Refugees

Two overlapping pink circles, one slightly larger and more opaque than the other, positioned behind the title text.

GENERAL CONTEXT:

THE STATE OF LGBTI RIGHTS IN EASTERN EUROPE AND THE CAUCASUS

SUMMARY:

Governments in Russia, Belarus, the Western Balkans and the Caucasus adopt anti-trans and anti-LGBTI laws and promote a discourse of 'traditional family values.' These country policies further stigmatise trans people, while simultaneously distracting from political failures and weakening democracies in the interest of the elites, and undermine human rights as an institution. Russia continues to portray itself as a defender against 'Western ideologies' of gender equality and human rights, spread anti-LGBTI messages to support its colonial agenda. Meanwhile, Russia's war against Ukraine and anti-trans policies have worsened the situation of trans people, especially marginalised groups such as trans women sex workers, increased their vulnerability to homelessness and harassment, and forced trans activists to migrate within and outside the region.

The governments of Russia, Belarus,³ Western Balkan and the Caucasus countries, which are responsible for protecting the rights and freedoms of all their citizens, including preventing discrimination and violence, are initiating anti-LGBTI laws and practices, using messages alleging that LGBTI people are dangerous for children and women and violate "traditional family values." Ideas of morality and traditional values are used to divide society, stigmatise those who think differently, manipulate the majority, distract from political failures of the government and undermine democracies for the political and economic gain of the elites. The ideas of traditional family values, coupled with misogynist, anti-trans, anti-LGBTI laws, are actively spread by Russia, portraying itself as guardian against "corrupt" Western ideologies, with the goal of spreading its imperial agenda. This affects public discourse of gender equality, sex education, and rights of LGBTI people, as well as human rights in general. Russian oligarchs actively support⁴ this policy as they form part of a global antigender movement, in which they cooperate with anti-democratic actors from Europe and the US trying to gain more sway globally.

As all people in Ukraine suffer drastically from Russia's war, trans people are subject to disproportionate impact. Stigma and limited access to legal gender recognition (LGR) during war has resulted for them in higher exposure to homelessness, lack of access to humanitarian aid and basic necessities, and discrimination and violence at borders and military recruitment centres. In Russia-occupied territories of Ukraine, trans people are exposed to extreme violence and have no protection. Throughout Eastern Europe, the Caucasus, as well as Central Asia, Russia's war against Ukraine has markedly increased

economic inequality and impacted all areas of the lives of trans people, especially those further marginalised. Trans women sex workers, drug users, and those who are living with or at risk of contracting HIV, find themselves in the most vulnerable economic position. They risk losing their home and being subjected to even more persecution and harassment.

Russia's war against Ukraine and domestic anti-trans and anti-LGBTI policies have caused mass forced migration from Ukraine and Russia, including migration of trans people. Whereas the Caucasus and Eastern Europe, including the Balkans, have been key destinations due to geographic proximity and ease of entry, this has put additional demands on Caucasian and Balkan activists to mobilise resources to support migrants with social, legal, medical and mental health services, further straining limited resources desperately needed for proactive advocacy.

The war and anti-trans legislation have also affected access to LGR and trans-specific healthcare for trans people. Some trans people from the Caucasus used to travel to Russia for medical interventions, after which they could access LGR in their home country, which became impossible after the introduction of anti-trans legislation by the Russian government. Hormonal drug shortages also began to appear throughout the region. Trans migrants from Russia and Ukraine to the Caucasus may not have access to trans-specific healthcare due to their migrant status or because it is unavailable for local trans people as well.

In Azerbaijan and Armenia, as well as Russia and Belarus, the agency of trans people has remained low or decreased radically. Trans activists are not able to express dissatisfaction with government policy or to advocate for change. Trans people leave the country for

³ In 2022, Russia was excluded from the Council of Europe, and Belarus' membership was suspended.

⁴ <https://tgeu.org/tgeu-launches-antigender-landscape-analysis/>

safer alternatives. In the future this can lead to a tangible decrease in the potential and number of trans activists.

Russia manipulated and interfered in the information field throughout Eastern Europe, Central Asia, and the Caucasus, displaying a wide range of tactics and techniques to justify its full-scale invasion of Ukraine, to support its neocolonial, imperialist policies, and to undermine democratic processes and institutions across the region. An EU analysis on foreign information manipulation and interference (FIMI) targeting LGBTIQ+ people⁵ found that meta-narratives on the so-called "Gayropa" (Gay + Europa), constructs of natural family and traditional order, "LGBT ideology" or "gender ideology" and LGBTI people as a social disease were most commonly used, in particular by Russian actors.

Anti-gender and anti-trans actors actively use the digital environment to attack trans people specifically, to promote anti-trans and anti-LGBTI hatred, instrumentalisation and hateful politicisation. These actors can be extremely effective in changing legislation and policies, for example, the 'All-Ukrainian Council of Churches and Religious Organisations' argued that 'gender' and 'sexual orientation' were a threat to Christianity and Ukrainian 'identity' at some point to successfully block the ratification of the Istanbul Convention in Ukraine. The Istanbul Convention was finally ratified by Ukraine in 2022.

Despite the war, however, Ukraine has used opportunities to strengthen democracy and human rights for all. In 2023, a member of the Holos party introduced the law draft no. 9103 on registering civil partnerships to same-gender couples. In 2024, several parliament members supported the law draft no. 5488 on combating discrimination, hate speech

and hate crimes. Consideration of the bill on registration of civil partnerships is currently blocked by ultra-conservative deputies of the Verkhovna Rada. At the same time, polls show that Ukrainian society's attitude⁶ towards LGBTI people is slowly but surely continuing to improve. Advocating for the adoption of these bills, helping LGBTI people, and supporting the Ukrainian military remain the main focuses of the Ukrainian LGBTI movement⁷. Trans and LGBTI organisations continue to provide support to communities including humanitarian aid, shelters, and psychological assistance.

We applaud another Eastern European country, Moldova, for having made significant progress in improving legal standards related to LGBTI people in recent years with a law passed in 2022 making anti-LGBTI hate speech and hate crimes a criminal offence and with protection in goods and services, in health care, in education and in housing based on sexual orientation and gender identity and with protection in employment based on gender identity came in 2023. However, societal attitudes toward LGBTI people remain unfavourable, and the state has not done efficient awareness-raising to change this.

Restrictive laws are increasing in Eastern Europe and the Caucasus. Along with laws curtailing sharing information on sexual orientation and gender identity and persecuting NGOs for accessing foreign funding, anti-trans laws banning LGR and trans-specific healthcare for trans people are being adopted.

In 2020, Hungary was the first Eastern European country to ban LGR. In 2023, Russia⁸ prohibited both LGR and trans-

6 Pages 17-18: <https://gay.org.ua/publications/Situation-of-LGBT-in-Ukraine-2023-ENG.pdf>

7 <https://gay.org.ua/en/blog/category/situation-of-lgbt-in-ukraine/>

8 <https://www.currenttime.tv/a/putin-transgender/32517054.html>

5 https://www.eeas.europa.eu/eeas/fimi-targeting-lgbtiq-people_en

specific healthcare. Bulgaria's⁹ Supreme Court also blocked LGR through courts, sealing a de-facto ban. In November 2023, the Slovak Ministry of Health revoked the first national guidelines including specifications on requirements for LGR. In April 2024, the Slovak Ministry of Health cancelled the "Standard procedure for diagnosis and comprehensive management of health care for an adult person with transsexualism," effectively stopping the provision of trans-specific healthcare in the country. Since Spring 2023, members of the Slovak parliament have tried three times to ban legal gender recognition, following the Hungarian model. While they have been unsuccessful so far, Slovak activists fear another attempt later in 2024.¹⁰

These laws and policies stigmatise trans people, instigate divisions, mutual fear and distrust in society, encourage policing in communities, discrimination and violence. Not only do anti-trans laws violate the fundamental human rights of trans people, but they also have far-reaching consequences for societies by punishing individual self-expression and diversity and undermining democracy and human rights.

The situation for trans people varies across the Caucasus, but remains in general extremely difficult, characterised by a lack of comprehensive legal protection in all countries. In Azerbaijan and Armenia, there are still neither LGR procedures nor trans-specific healthcare protocols in place. In Armenia, underresourced trans and LGBTI organisations are even more strained to support migrants from Artsakh / Nagorno-Karabakh, Ukraine, and Russia. Meanwhile, discrimination and violence against trans people are rampant, including brutal murder of a trans woman in 2023. In Azerbaijan, there is little opportunity for civil society, including trans activists, to

operate. Communities face discrimination, arbitrary detention and ill-treatment by state and non-state actors. In Georgia, despite mass protests, the so-called Russian law on 'foreign agents' was adopted, which has jeopardised Georgia's candidacy for European Union membership. In June 2024, the nation's ruling Georgian Dream party has initiated a bill 'on family values and the protection of minors,'¹¹ that aims to ban LGR and trans-specific healthcare, adoption by same-gender couples, and organising public events on LGBTI issues.



⁹ <https://balkaninsight.com/2023/02/21/bulgarian-supreme-court-rules-against-transgender-peoples-rights/>

¹⁰ Slovak NGO Sapliq, newsletter, July 2024

¹¹ <https://www.rferl.org/a/georgia-ruling-party-bill-lgbt-rights-crackdown/32978909.html>

GENERAL CONTEXT IN THE FOCUS COUNTRIES

This section presents the contexts of the three focus countries with particular focus on the situation of trans people.

ARMENIA

According to TGEU's Trans Rights Index and Map, which consolidates data on legal protections for trans people across Europe and Central Asia, Armenia meets only 2 of 32 indicators¹²: "No legal framework making LGR impossible" and "Name change possibility."

The Artsakh / Nagorno-Karabakh conflict, intensified since 2022, led to an influx of ethnic Armenians fleeing the enclave into Armenia. Local LGBTI organisations continued to help LGBTI people as refugees. Soon LGBTI people from Ukraine and then Russia began to arrive in Armenia. After Russia criminalised the LGBTI movement as extremist in 2023, Russian LGBTI migrants moved to Armenia.¹³ Local organisations began to actively fundraise to support activists with services, including shelter and information. This led to increased

work and competition for limited resources from international sources, as the state does not financially support local trans and LGBTI organisations.

Transphobia is widespread in Armenian society, contributing to violence, hate speech, and the justification of aggressors. In 2022, a man insulted and punched a trans woman, for which he was awarded a certificate from a local homo-transphobic group for 'committing patriotic acts.'¹⁴ In 2023, a man brutally assaulted and injured a trans woman. Additionally, in 2023, a trans woman was brutally murdered, and her flat was set on fire. Meanwhile, commentators on social media justified the murder¹⁵ and even called for further violence and discrimination against the community, which did not lead to an investigation. During a candlelight service in memory of the victim, participants were

¹² While Montenegro met 16/32, and Ukraine 8 of 32.

¹³ <https://www.transcoalition.net/publication-about-lgbtq-migrants-in-armenia-2024/>

¹⁴ <https://www.hrw.org/world-report/2023/country-chapters/armenia#e81181>

¹⁵ <https://pinkarmenia.org/wp-content/uploads/2024/05/lgbtreport2023en.pdf>



Photo by: Lilit Martirosyan (Right Side NGO)

attacked by a group despite the nearby presence of police who did not respond to requests for protection. Investigations into reported crimes are often inconclusive or ineffective, ultimately leading to a sense of impunity and increasing incidents of violence and discrimination.

Trans people can apply for exemption from military service,¹⁶ where they may face transphobic harassment and violence. However, to do so, trans people need to receive a diagnosis of 'transsexualism,' which will be recorded on a single electronic health information system. According to community members, this may lead to future discrimination when accessing health services.

Access to healthcare for trans people is limited due to the lack of a legal framework and clear guidelines, resulting in stigma related to mental health and hormone therapy. LGBTI people may be considered as having "mental disorders" and "sexual deviations" in Armenian medical schools.¹⁷

In 2023, a local trans organisation documented and addressed 42 cases of human rights violations, discrimination, and violence against

trans, nonbinary, and gender-diverse people.¹⁸ These violations were perpetrated by unknown individuals (15), police (11), partners (10), and family members (6).

MONTENEGRO

An EU accession candidate since 2008, Montenegro is situated at a crossroads of colliding geopolitical interests: USA, EU, and Russia. Neighbouring Serbia has significant influence on Montenegrin politics and public discourse. Acting as a Russian proxy, it spreads nationalist, militarist, war mongering and antigender narratives in Montenegro. In the recent years, the diverse and active civil society, including LGBTI groups, has faced increasing opposition from antigender actors, including from the Orthodox and Catholic churches, and political obstacles to improving rights for LGBTI people, but gender equality and democracy in general. In 2021-2022, Montenegro suffered a prolonged blockage of the political system where the caretaker government did not have the confidence of the Parliament, the Parliament did not have the majority to carry out reforms, and the Constitutional Court was not functional until 2023.¹⁹

Although not (yet) at its peak, antigender movement strategies in Montenegro have risen in past years, regressing democracy, and bringing right-wing, anti-democratic, pro-Russian clerical currents to positions of power, which instrumentalise the violation of the human rights of women and LGBTI persons for political, but also material profit. This has led to a complete halt in advancing human rights for LGBTI people, an increase in antigender narratives in public (most notably on the Public Broadcaster), and a rise in attacks and threats against LGBTI human

16 <https://www.hrw.org/world-report/2024/country-chapters/armenia#e81181>

17 <https://rm.coe.int/sixth-report-on-armenia/1680ab9e33>

18 https://www.ilga-europe.org/files/uploads/2024/02/2024_armenia.pdf

19 https://www.eeas.europa.eu/delegations/montenegro/key-findings-2023-report-montenegro_en

rights defenders. Considering that the majority of antigender narratives and strategies are being imported from Serbia and Russia, due to the strong influence of Serbian-owned media and the role of the Serbian Orthodox Church in Montenegro, antigender efforts have been used to destabilize the country and the broader Balkan region, as well as to hinder its peacebuilding, democratisation, and EU integration processes.

Research done by Association Spectra (which is the only research completed on antigender rollback in Montenegro to date) has revealed a dangerous trend. Antigender actors are using democratic mechanisms to instrumentalise gender issues and undermine democracy and gender equality in Montenegro. This trend threatens all progress made in gender equality and is supported by similar actors in the region.

Understanding the current context in Montenegro is crucial for grasping the anti-gender efforts in the country. These efforts did not emerge recently but were significant both before and after the initiation of the European Union accession process. Montenegro leveraged the human rights of women and LGBTI persons to gain political points in the European integration process. Consequently, the anti-gender movement, fuelled by the foreign influence of the global right, has exploited these topics to destabilize the region. This trend is often overlooked, leading to an underestimation of its threat to the democracy, stability, and peacebuilding of the country and the Balkan region. Currently, the biggest opportunity for meaningful change and community organising, as well as countering the growing anti-democratic and antigender movement, lies in the ongoing process of creating and adopting the Law on Legal Gender Recognition. However, this process also presents a threat, as it may mobilise the antigender movement.

UKRAINE

The ongoing human rights impact of Russia's war against Ukraine continues to overshadow all other human rights issues in the country, affecting all areas of people's lives, including those of trans people. This section focuses specifically on the situation of trans people during wartime.

Two law drafts have been initiated in Ukraine: law draft no. 9103 on the registration of civil partnerships and law draft no. 5488 aimed at combating discrimination, hatred, and hate crimes, particularly on the basis of sexual orientation and gender identity. The trans community supports the adoption of law draft no. 5488, which proposes amendments to anti-discrimination and criminal legislation. This bill is expected to have a profoundly positive impact on their lives and serve as a significant milestone in Ukraine's EU integration process. In 2024, a pride march was held in Kyiv under the name of Equality March.

Ultra-conservative and far-right groups have also strengthened, and human rights activists have documented an increasing number of homophobic and transphobic threats and attacks.²⁰

Trans people who wish to cross the border cannot do so if they have a male gender marker in their passport and are between 18 and 60 years of age (with some exceptions). This applies to both trans men who have accessed LGR and trans women who have not. In some cases, trans people were able to deregister from the military register under certificate F64.0 'Transsexualism' and cross the border, but the decision in each case depends on the medical commission at the military enlistment office. Given the

20 <https://gay.org.ua/en/blog/2024/07/21/lgbtq-situation-in-ukraine-in-january-june-2024/>



Photo by: Resistance

restriction of freedom of movement, several trans people have also sought safety within the country. However, even these options are limited for trans people due to safety risks and discrimination, including in access to shelters. Trans people living on territories occupied by Russia find themselves in a human rights vacuum; many do not even go outside into streets for months for safety reasons.²¹ Given the information available about violence by the Russian military against residents in the territories under occupation, trans people in such territories are in mortal danger.²²

There are reports of some Ukrainian doctors who stopped providing a mental health diagnosis,²³ which is a requirement for accessing both trans-specific healthcare and LGR. Although there is no official ban, they might fear that law enforcement agencies may suspect them of helping conscripts evade military service. Doctors in larger psychiatric institutions mostly continue to issue diagnoses under the outdated clinical protocol on "Gender Dysphoria."

Since the beginning of the full-scale war, Ukrainian NGOs have opened shelters for trans and LGBT people and provided food, basic necessities, and psychological support. Hormonal treatment²⁴ was purchased and distributed free of charge to trans people, as it was often unavailable in pharmacies due to disrupted logistical channels.

Trans sex workers who have not accessed LGR avoid working on the streets and fear encounters with the military, worried about possible mobilisation into the army. As a consequence, they avoid crowded places and do not work on the street where they may be detained.²⁵

There are cases of trans people joining the ranks of the territorial defence and the Armed Forces of Ukraine, but the country has no regulations that take into account the special needs of trans people doing military service. This may also put them in a situation of fear of encountering transphobia when using shared spaces.

Advocacy for the adoption of the law drafts no. 9103 and 5488, direct assistance to communities and support for the Ukrainian military remain the main issues on the agenda of the Ukrainian LGBTI movement.

24 https://www.insight-ukraine.org/wp-content/uploads/2024/02/Insight2023_ENG.pdf

25 https://swannet.org/wp-content/uploads/2024/01/regional-assessment_war_swann_eng_final-plus-compressed.pdf

21 <https://socportal.info/ua/news/neormativno-viglyadati-prosto-nemozhna-yak-vizhivae-lgbt-spilnota-v-okupovanomu-khersoni/>

22 <https://www.insight-ukraine.org/en/blog/the-situation-of-ukrainian-trans-people-during-the-war/>

23 <https://gay.org.ua/publications/Situation-of-LGBT-in-Ukraine-Summer-2024-ENG.pdf>

TRANS RIGHTS

IN ARMENIA, MONTENEGRO, AND UKRAINE

This section presents the findings on the implementation of the Recommendation CM/Rec (2010) 5 based on the three focus country reports.

OVERALL IMPLEMENTATION

In Armenia, the state generally does not protect LGBTI rights. The few measures realised in implementation of the Recommendation CM/Rec (2010) 5, such as training for police officers on LGBTI rights, are carried out by NGOs. At the same time, the state in Armenia does not actively interfere with the work of LGBTI organisations.

In Montenegro, the national LGBTI Strategy was aimed at implementing the Recommendations. The evaluation of the Strategy found that out of fifteen operational goals, only one was achieved in full and four in part. Thus, the Strategy has largely failed to achieve its goal. Major progress was made by adopting the Law on civic partnership in 2020, yet implementation and harmonisation with other laws is still lacking without any political will to progress on this issue. Overall, the implementation of the Strategy demonstrates lack of political will and commitment to improve

LGBTI people's human rights on the part of all decision-makers in Montenegro. This resulted in Montenegro's regression in terms of LGBTI people's human rights, as reflected in ILGA Europe's Rainbow Map²⁶ which shows Montenegro's regression from 8th to 21st place, and TGEU's Trans Rights Index and Map.²⁷ This includes numerous setbacks in LGBTI rights, unfulfilled obligations, increased discrimination and violence, and stagnation on several key issues. Most notably, the improved Draft Law on Legal Recognition of Gender Identity Based on Self-determination, developed by the Working Group formed by the Ministry of Human and Minority Rights, has still not been submitted to the Parliament as of the writing of the present report (which was the obligation by the Strategy by the end of 2023). What is more, the Ministry of Interior law draft has been blocking the law draft for 2 months now, promoting instead a model which

²⁶ Montenegro fell from 8th to 12th place: <https://rainbowmap.ilga-europe.org/countries/montenegro/>

²⁷ <https://transrightsmap.tgeu.org/>

is not based on self-determination, despite having previously actively cooperated in the Working Group for many years.

Ukraine has made some progress with regard to hate crimes, hate speech, private and family life. It is, however, still far from being in line with the Recommendation. Progress achieved often amounts to legislative initiatives that have been developed yet not adopted. Just as Montenegro, Ukraine demonstrates lack of political will to advance LGBTI rights by the Parliament and state institutions, unless there is foreign or international pressure, such as in relation to EU accession. A major obstacle to implementing the Recommendation is strong opposition to LGBTI equality by churches and religious actors, whose influence on public opinion and politics is significant even if indirect. Generally, recent and ongoing crises—the Covid-19 pandemic and Russia’s full-scale invasion—have led to deprioritisation of issues related to LGBTI rights and stagnation of relevant processes (such as ICD-11 implementation). However, new challenges for LGBTI people have emerged precisely because of these crises, starting from basic humanitarian needs and housing. These challenges are particularly severe on Ukrainian territories occupied by Russia, where Ukraine has no control and human rights organisations or international institutions have no access; the situation of LGBTI people there is catastrophic.

As regards trans rights specifically, all of the countries under consideration generally treat gender identity and gender expression in exactly the same way as sexual orientation; in most matters, provisions or lack thereof apply to all characteristics equally. Some exceptions concern Ukraine’s laws and policies (National Human Rights Strategy and Action Plan, the Law on media as pertains to hate speech, and the Code of Labour Laws as pertains to antidiscrimination in employment), which

does not use language on gender expression and thus does not explicitly protect gender non-conforming people.

RIGHT TO LIFE, SECURITY AND PROTECTION FROM VIOLENCE

Hate crimes and other hate-motivated incidents

Of the three countries reviewed, only Montenegro explicitly has legislation addressing hate crimes on the grounds of sexual orientation and gender identity. However, it is rarely used by prosecutors, and there are clear signs of subjective treatment by the courts. In Armenia and Ukraine, plans were made to adopt anti-discrimination laws or specifically hate crime laws that would cover SOGI, yet they have not been implemented. The reason for this is understood to be lack of political will. In Ukraine, there have been cases in the past where courts recognised the hate motive; however, they were prosecuted under minor articles such as “hooliganism,” which downplays the seriousness of the crime. A draft law no. 5488 on protection against hate crimes and hate speech with explicit reference to SOGI was introduced to the Parliament in 2021 and included in the Parliament’s agenda for 2024.



Photo by: Lilit Martirosyan (Right Side NGO)

Neither Armenia nor Ukraine take any measures to encourage victims and witnesses of hate crimes to report them, nor do they provide relevant training to law enforcement, judiciaries, or other relevant professionals. Neither country has designated units in law enforcement or prosecution services working on anti-LGBTI hate crimes or liaison officers for LGBTI communities. In Ukraine, NGOs provide legal assistance to LGBTI people to report incidents and training to police officers and lawyers. In Montenegro, these measures are included in the National LGBTI strategy, yet primarily implemented by NGOs and only partly funded by the relevant ministries. Where they are, no records are kept to monitor which officials have undergone training, and the quality of the training is not monitored. A Team of Trust between the Police Department and LGBTI organisations was established but is not operating; LGBTI contact police officers were designated but not received training; political instability has led to management turnover and institutional memory loss. As a result, the system does not function.

Systems to register complaints and collect data on hate crimes do not exist in Armenia and Ukraine. However, NGOs strive to fill this gap with their own monitoring. In Montenegro, hate crimes can be reported to the police or to the Ombudsperson. The Ombudsperson compiles the complaints received and data provided by public institutions and reports to the Parliament. However, data provided by institutions is not segregated to reflect on intersectional vulnerabilities; all relevant research is done by NGOs.

Trans prisoners

In none of the focus countries are trans prisoners are given the option to be placed in a male or female facility based on their self-determined gender identity. None of the countries provides for protective measures that avoid placing LGBTI detainees in solitary

confinement; none of the three countries has procedures to explore the use of alternatives in situations of vulnerability and/or violence. None of the countries provides training to prison staff on SOGIESC. In Armenia, independent reports have raised concerns regarding the situation of LGBTI prisoners, including discrimination and placement in solitary confinement.

Lack of provisions to protect the rights of trans and LGBTI detainees goes not only against the CM Rec 2010 (5) standards but also against the recommendations by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).²⁸

In Montenegro, trans prisoners have some options to express their gender identity through clothing, physical appearance, etc., and some options to address their healthcare needs. However, there are no policies to guarantee them safety while doing so, which are specific to trans people, only general safety measures. While there are no prison policies on this, in practice the Centre for Criminal Sanctions consults with LGBTI NGOs and relies on their support. None of this is available for trans prisoners in Armenia or Ukraine.

Ukraine and Armenia have no measures to ensure that LGBTI detainees can report on attacks or rights violations. In Montenegro, there are measures both regarding infringements by other detainees and by prison staff.

Hate speech

Hate speech against LGBTI people is addressed in Montenegro by the Law on prohibition of discrimination and the Law on public order and peace, yet not by the Criminal

28 <https://www.coe.int/en/web/cpt/-/the-council-of-europe-anti-torture-committee-cpt-2023-general-report-focuses-on-the-protection-of-transgender-persons-in-prison>

Code. However, the Law on prohibition of discrimination is not applied to address hate speech. There are media that are able to operate without legally required registration, including prominent online portals. These unregistered media often spread hate speech, and the State does not sanction them. Some of them are Serbian-owned media receiving Montenegrin public funds. Measures taken to raise awareness of public authorities and institutions of their responsibility to refrain from hate speech are largely declarative and hence ineffective. In practice, hate speech in public discourse has been on the rise in recent years.

In Ukraine, the Law on Media adopted in 2022 prohibits “dissemination of statements that incite hatred, enmity or cruelty, or that incite discrimination or oppression,” including on the grounds of SOGI. A recent hate speech case initiated by NGO Insight against Patriarch Filaret of the Ukrainian Orthodox Church (Kyiv Patriarchate) was rejected in cassation appeal by the Supreme Court of Ukraine in 2023; the Court upheld the previous courts’ reasoning that the Patriarch’s statements were his subjectiv opinion. No awareness-raising measures regarding hate speech are carried out; hate speech provokes much public and media attention, and there are indications that public opinion is becoming more critical toward hate speech.

In Armenia, neither laws nor awareness-raising measures against hate speech exist.

FREEDOM OF ASSOCIATION

In all three countries, LGBTI human rights organisations are able to register without additional procedures or requirements. Public funding is available to them, and there are no restrictions related to receiving foreign funds. In Ukraine, attempts to introduce “foreign agents” laws following the Russian example



Photo by: Asocijacija Spektra

failed at the Parliament. In Montenegro, there are strong indications of corruption in public calls for funding, with NGOs with no experience on LGBTI human rights or gender equality receiving the funds.

In all three countries, LGBTI organisations are able to work with national and other human rights institutions, undertake research and science communication, and take part in trainings and conferences. Work with public authorities, the media, and access to LGBTI persons deprived of liberty is somewhat restricted in Armenia but not in the other two countries. However, a major restriction on the registration and operation of LGBTI organisations in Ukraine concerns the territories currently occupied by Russia, since Russia persecutes and criminalises the LGBTI movement.

Despite creating no barriers to LGBTI organisations, none of the three countries recognises or protects LGBTI human rights defenders from hostility and aggression. While Montenegro consults LGBTI organisations on LGBTI human rights through working groups established by the Ministry of human and minority rights, there were bad practices in addressing cases where LGBTI defenders suffered attacks or threats. In Ukraine, some LGBTI organisations have resorted to private

security companies for protection, for which they have received no public funding.

Ukraine has not been consulting or working with LGBTI organisations consistently. Good practices, however, include work on the National Human Rights Strategy by the Cabinet of Ministers of Ukraine and Ministry of Health work on regulations for trans-specific healthcare and ICD-11 implementation, where LGBTI activists and experts contributed significantly. Armenia does not consult LGBTI organisations on LGBTI human rights.

FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

None of the three countries restricts freedom to receive or impart information on SOGI, including in the media, by publishing materials, organising events, or raising awareness through educational institutions. In Ukraine, however, the state is also hardly supportive: it does not provide funding for awareness-raising campaigns; the judiciary is usually reluctant to prosecute incidents where awareness-raising posters are vandalised. In Montenegro, many schools have closed their doors for NGOs providing education on LGBTI human rights after 2020, when a change of power occurred, and all directors of schools were replaced with new ones who are close to the new political elites.

No measures to ensure freedom of assembly for LGBTI people exist in Armenia. In Montenegro, such measures are in place on the national and partly on the local level. Up to 2022, authorities in Ukraine made increasing efforts to protect peaceful LGBTI assemblies, especially in Kyiv. Thus, some progress has been made compared to 2012 when an LGBTI demonstration was effectively obstructed by the police, which resulted in the case *Shevchenko and Others versus*

Ukraine (48646/13), currently pending before the European Court of Human Rights. Still, this case has not been settled in a friendly agreement despite being more than 10 years old. Since Russia's full-scale invasion, peaceful assembly is generally restricted by martial law. It is de facto impossible in Russia-occupied territories of Ukraine, where any peaceful protesters are subject to arrest and persecution.

In all three countries, training for police officers is provided by NGOs that also covers protection of LGBTI events. The State is usually supportive of these initiatives, however, the quality of the education provided is not monitored. In Montenegro, the yearly Pride March in Podgorica is safe with standard protocols for public gatherings followed by the police; public LGBTI events have been held in several more cities, yet not in others for safety reasons. Similarly, the annual KyivPride Equality March in Kyiv, Ukraine, has been held safely, whereas the Trans March in 2018 (also in Kyiv) was attacked by far-right radical groups and then dissolved, rather than protected, by the police. Improvement was observed in 2019 and 2021 when the police effectively protected Trans Marches in Kyiv.

None of the three countries has review mechanisms to ensure that legal or administrative provisions are not misused to infringe upon LGBTI rights. In Ukraine, local authorities have at several times referred to public order or public morality to restrict LGBTI events or asked organisers to move the events indoors or change its location. In Montenegro, Pride organisers were equally asked to change the date of their event for safety reasons. Montenegrin authorities have publicly condemned interferences with LGBTI events. In Ukraine, authorities have mostly made ambiguous statements, condemning all violence and disorder without clearly referencing LGBTI human rights.



Photo by: Asocijacija Spektra

RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

Legal gender recognition

In all three countries under review, legal gender recognition (LGR) procedures do not fulfil the requirements of being quick, transparent, accessible and based on self-determination. Armenia requires sterilisation to access LGR, and even though it does not explicitly require hormone treatment or a psychological diagnosis, both are routinely required to access surgery, which makes them implicit requirements. All three requirements are consistently applied in practice in Montenegro, even though they are not explicit in the current law. Ukraine explicitly requires both a psychiatric assessment and hormone therapy but does not require sterilisation. On a more positive note, none of the focus countries makes LGR conditional on the capacity to demonstrate a period of "life experience" in the self-determined gender.

In all focus countries, one's citizenship status, residency status, and refugee or other protected status can bar one's access to LGR. Other factors (medical status, disability status, financial situation, police record, marital

status, and detention status) bar access to LGR in Armenia and Montenegro, yet in Ukraine these barriers are partially or fully eliminated. Physical appearance is definitely considered a barrier to LGR in Armenia and partially in Montenegro. In Ukraine, LGR is only available from 18 years of age; in Montenegro, it is available after 16 years of age, requiring sterilisation, for minors with the consent of their parents/guardians.

Ukraine's LGR procedure is currently unavailable on Ukrainian territories occupied by Russia, as both medical and legal transition are forbidden under Russian law. In Montenegro, the procedure may soon be updated: a new LGR law based on self-determination has been prepared to go into the Parliamentary procedure and is expected to be reviewed by the Parliament by the end of the year.

Measures to guarantee full LGR in all areas of life

In none of the focus countries consistent measures exist to ensure full legal gender recognition of a person in all areas of life, including adapting official documents. Updating one's education certificates, driver's license, etc. is dependent on the established practice in the competent institution or on



Photo by: Resistance

the official's good will. Non-binary options for official documents are not available in either country. None of the countries has measures in place for public institutions to allow the use of the preferred pronoun, form of address and/or given name of persons who have not yet obtained full LGR (in particular minors). However, in Montenegro, guidance to respect one's preferred name and pronouns can be derived from the general prohibition of discrimination based on gender identity.

Marital rights

Since Armenia does not have legal provisions allowing for legal gender recognition, it also has no regulation restricting or protecting trans people's rights to marry according to their acquired legal gender. In Montenegro, trans people can marry or enter a civic partnership according to their legal gender. There are

currently no divorce requirements; however, the new LGR law under consideration will require, if adopted, single civil status. In Ukraine, there are no restrictions for trans people to marry and no requirements to divorce, even though same-gender marriage is not allowed at the moment. However, marriage certificates contain the terms "husband" and "wife", so using one's marriage certificate after undergoing LGR results in disclosing one's trans status. Plans for updating the Civil Code were presented in 2021 that proposed to annul marriage in the case of LGR. However, the update was put off due to the full-scale war. Meanwhile, the government is working on drafting a law on civic partnerships. If adopted, it can potentially have a positive impact on trans people's marital rights.

Parental rights

Montenegro is the only one of the three countries that protects the rights of trans parents. The Family Code article 5a explicitly prohibits discrimination on the grounds of gender and gender identity, among others.

None of the countries changes how a parents' gender is designated on the birth certificates and identity documents of their children following legal gender recognition; terms like "father" and "mother" are used regardless of the parents' gender markers.

Assisted reproductive treatment for single persons is allowed in Montenegro (only for those legally recognised as women) and not allowed in Armenia. In Ukraine, trans people are banned from using assisted reproductive treatment covered by the State on the basis of "Gender Identity Disorders" diagnoses (F64 according to the International Classification of Diseases version 10 (ICD-10) and some diagnoses covering intersex status; such treatment is available to them in private clinics only. Assisted reproductive treatment

for couples in all three countries is provided without specific or additional requirements to couples that include trans persons.

In Ukraine, trans people diagnosed with one of the “gender identity disorders” according to ICD-10 can only apply for adoption if approved by a commission of mental health professionals. In practice, trans persons’ applications are likely to be rejected.

EMPLOYMENT

No explicit protection against discrimination on grounds of gender identity or gender expression in employment is provided in Armenia. In Ukraine, SOGI is included in the anti-discrimination article of the Labour Code. However, application remains poor, since proving discrimination in employment is often difficult. Montenegro stands out with an extensive anti-discrimination clause in the Labour Law covering SOGI and gender expression and a range of intersecting vulnerabilities. Implementation is unclear, however, because most cases of discrimination are not reported.

However, none of the countries protects trans persons’ privacy so as to prevent the disclosure of their gender history and former name in the context of employment. This can lead to discrimination and violence in employment. For instance, independent research by Association Spectra (2023-2024) found that, despite the existence of the extensive anti-discrimination law, 70% of trans people experienced mobbing at work.

EDUCATION

Armenia and Ukraine do not currently address discrimination on grounds of

SOGI in education. Montenegro ensures protection from discrimination both in the Education Law (on general grounds) and in the Anti-Discrimination Law (on grounds of SOGI). However, these protections are not consistently implemented: practice varies depending on teachers’ good will, and school staff is not protected in cases where parents support discrimination. While NGOs were previously able to offer education on human rights of LGBTI people in schools, schools have recently changed their practice and stopped inviting civil society.

In particular, none of the countries ensures that students’ self-determined names and gender markers are respected or makes gendered facilities/classes available based on self-determined gender identity.

HEALTH

None of the three countries has depathologised trans identities in legal or administrative classifications in fulfilment of the World Health Organization’s standards in the International Classification of Diseases version 11 (ICD-11). Armenia and Ukraine neither ensure access to trans-specific healthcare without unreasonable requirements for adults or minors, nor do they provide insurance coverage for gender-affirmative treatment or reimburse treatment abroad when unavailable domestically.

Montenegro, on the other hand, provides relatively simple access to trans-specific healthcare both for adults and minors. Trans-specific healthcare procedures are covered by the State Health Insurance Fund. Trans-specific surgeries unavailable in Montenegro and performed abroad (usually in neighbouring Serbia) are also covered by the State Insurance fund.

HOUSING

In Armenia and Ukraine, no measures have been taken to ensure equal access to housing for LGBTI people or prevent discrimination when renting or buying a property. In Ukraine, equal rights to acquiring and retaining ownership of land and other properties are generally not protected; however, notarial mechanisms can be used to protect some of these rights. In Montenegro, the Law on prohibition of discrimination prohibits discrimination in relation to access to housing; however, discrimination occurs in practice. Moreover, there are no policies to ensure access to gender-segregated spaces for trans people based on their self-determined gender. Practice varies in different facilities: for instance, clinics are more likely to respect trans people's genders than support centres for psychoactive substance users or detention centres. In Ukraine and Armenia, non-discrimination in institutional settings is generally not guaranteed.

Social services to LGBTI people at risk of homelessness have recently become less available in Montenegro due to decrease of public funding and are generally not provided by Armenia or Ukraine. In Montenegro, centres for social care cooperate less with LGBTI organisations, and the Ministry of work and social care is unresponsive. In all three countries, LGBTI-specific social services are provided by non-governmental LGBTI organisations through project funding, which makes them unsustainable and under-resourced.

SPORTS

Neither Armenia nor Ukraine have initiated any measures to ensure equal participation in sports for LGBTI people. In practice, LGBTI people are to some extent able to participate in

various types of sports without discrimination in Ukraine, but not in Armenia. In Montenegro, discrimination in sports is prohibited by the Law on prohibition of discrimination, yet implementation is unclear. As a good practice, a rugby club and a grassroots football club by LGBTQ women have included trans people.

RIGHT TO SEEK ASYLUM

In the context of full-scale war, Ukraine is not a destination country for people seeking asylum but is rather experiencing a massive outflow of people seeking safety abroad. For this reason, data on the right to asylum in Ukraine are not provided in this report.

Armenia does not provide asylum based on claims of a well-founded fear of prosecution on grounds of gender identity or expression



Photo by: Asocijacija Spektra

of a person. Also, it does not provide for other policy measures for LGBTI asylum seekers.

In Montenegro, the Law on international protection of foreigners recognises SOGI as grounds for seeking asylum, and there are measures to protect LGBTI asylum seekers from having to prove their identity, being subjected to abusive tests, and sent to a country where their life or freedom is threatened due to their identity. With some restrictions, late disclosure of one's LGBTI identity during an asylum procedure is possible, once other asylum grounds have been denied. LGBTI organisations have worked with the Directorate for Asylum and United Nations High Commissioner for Refugees to create an information package for LGBTI asylum seekers. State institutions reach out to LGBTI organizations when they need support with providing services to trans or LGBT people. Trans asylum seekers have some access to trans-specific healthcare while their application is in review, yet access is not guaranteed.

NATIONAL HUMAN RIGHTS STRUCTURES

Only in Montenegro are national human rights structures explicitly mandated to address discrimination on grounds of SOGI. In all three countries, however, they can and do address these issues. In Ukraine, the ombudspersons supported the Equality March in Kyiv in 2021 and the draft law on civic partnerships in 2023. In Armenia, the 2023 annual report of the national Human Rights Defender Office for the first time addressed human rights for LGBTI people. A separate chapter was dedicated to the state of human rights for LGBTI people in Armenia, legislative issues, and response by the state and civil society.

DISCRIMINATION ON MULTIPLE GROUNDS

Only Montenegro addresses discrimination on multiple grounds through the Law on prohibition of discrimination and the Gender Equality Strategy, with the latter being the strongest policy addressing intersectional discrimination. There is effort to provide more intersectional measures in crosscutting issues, however, this usually lacks in measures concerning national/religious minorities, as well as people with disabilities. The Family Law also includes prohibition of discrimination of parents and children based on SOGI.

ANNEX.

COMPARATIVE TABLE WITH COUNTRY DATA

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
SECTION I – IMPLEMENTATION OF THE RECOMMENDATION			
QUESTION 1			
a) Has a procedure been established at national level to review and address existing legislative and other measures which could result directly or indirectly in discrimination on grounds of:			
- sexual orientation?	NO	YES	PARTIALLY
- gender identity?	NO	YES	PARTIALLY
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	YES	PARTIALLY
QUESTION 2			
a) Have legislative and other measures been adopted and/or implemented to allow the collection and analysis of disaggregated relevant data on discrimination on grounds of:			
- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	YES	NO
b) Does the data collection system in place allow for an analysis of discrimination on the grounds mentioned above and on intersectional discrimination?	NO	YES	NO

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
c) In national surveys and censuses, does the collected data encompass:			
- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	YES	NO
QUESTION 3			
a) Have effective legal remedies, including sanctions for violations, been adopted and/or implemented, for victims of discrimination based on:			
- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	YES	NO
b) More specifically:			
- do the remedies include adequate reparation for victims?	NO	NO	NO
- are the remedies effective, proportionate, and dissuasive?	NO	NO	NO
- are there measures in place to raise awareness and facilitate access of victims to such remedies, even when the violation is committed by a person acting in an official capacity?	NO	YES	NO
- are victims entitled to/provided with legal aid throughout these procedures?	NO	YES	NO

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
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SECTION II – IMPLEMENTATION OF THE SPECIFIC PROVISIONS IN THE APPENDIX

I. RIGHT TO LIFE, SECURITY AND PROTECTION FROM VIOLENCE

A. "HATE CRIMES" AND OTHER HATE-MOTIVATED INCIDENTS

QUESTION 4

a) Have legislative and other policy measures been adopted and/or implemented to ensure an effective, prompt and impartial investigation into alleged cases of crimes and/or other incidents (including against property), where there is reasonable ground to suspect that the victim was targeted due to their:

- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	YES	NO

b) Have the abovementioned measures been adopted through:

- legislative measures?"	NO	YES	NO
- law enforcement or prosecutorial policy?	PARTIALLY	NO	NO

QUESTION 5

Is there an independent and effective procedure to receive and investigate reports of hate crimes and/or hate motivated incidents allegedly committed by law enforcement staff or others acting in an official capacity, where sexual orientation and gender identity constitutes one of the motives?

NO PARTIALLY NO

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
QUESTION 6			
Depending on the existing legal framework, have legislative and other measures been adopted and implemented to ensure that:			
a) when the law or case-law recognises the bias motive in existing criminal acts through the use of aggravating circumstances, sentencing guidelines explicitly include the ground of:			
- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	NO DATA	NO
b) when the law or case-law recognises "hate crimes" as specific offenses, those offences cover:			
- sexual orientation?	NO	YES	PARTIALLY
- gender identity?	NO	YES	PARTIALLY
- gender expression?	NO	YES	PARTIALLY
- sex characteristics? (optional)	NO	NO DATA	PARTIALLY
QUESTION 7			
Have appropriate measures been taken or implemented to:			
a) ensure that victims and witnesses of hate crimes and incidents against LGBTI persons are encouraged to report them?	NO	PARTIALLY	NO
b) identify specific LGBTI groups with heightened vulnerability and adopt targeted measures to protect, in particular:			
- lesbian, bisexual and trans women?	NO	PARTIALLY	NO

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
- LGBTI persons of colour?	NO	PARTIALLY	NO
- LGBTI persons of ethnic minority backgrounds, including Roma persons	NO	PARTIALLY	NO
- LGBTI persons from religious minorities?	NO	PARTIALLY	NO
- LGBTI sex workers?	NO	PARTIALLY	NO
- LGBTI persons with disabilities?	NO	PARTIALLY	NO
- LGBTI children and youth?	NO	PARTIALLY	NO
- LGBTI persons with a migration background	NO	PARTIALLY	NO
- LGBTI asylum seekers, refugees and migrants in an irregular situation?	NO	PARTIALLY	NO
- older LGBTI persons?	NO	PARTIALLY	NO

c) ensure that the following professionals possess the knowledge and skills (and can apply them) to:

identify hate crimes and other hate-motivated incidents against LGBTI persons?

Law-enforcement	NO	YES	NO
Prosecutors	NO	YES	NO
Judiciary	NO	YES	NO
Prison/detention facilities' officials	NO	PARTIALLY	NO
Immigration officials	NO	YES	NO
Legal aid lawyers	NO	PARTIALLY	NO

provide adequate support to victim and witnesses of hate crimes and hate-motivated incidents against LGBTI persons?

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
Law-enforcement	NO	YES	NO
Prosecutors	NO	YES	NO
Judiciary	NO	YES	NO
Prison/detention facilities' officials	NO	PARTIALLY	NO
Immigration officials	NO	YES	NO
Legal aid lawyers	NO	PARTIALLY	NO

QUESTION 8

When a hate crime or other hate-motivated incident against LGBTI persons has occurred, are there, within the law enforcement and prosecution services:

- Units tasked specifically with investigating these incidents?	NO	PARTIALLY	NO
- Liaison officers tasked with maintaining contact with LGBT communities in order to establish a relationship of trust?	NO	PARTIALLY	NO
- Systems of anonymous, online and/or third-party reporting of the occurrence of such incidents?	NO	PARTIALLY	NO

QUESTION 9

Have specific measures been adopted or implemented to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons deprived of their liberty?

	NO	PARTIALLY	NO
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In particular:

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
a) Are there effective measures to minimise the dangers of physical assault, rape and other forms of sexual abuse?	NO	NO	NO
b) Are trans prisoners given the possibility to be allocated to either a male or female facility based on their self-determined gender identity?	NO	NO	NO
c) Are trans prisoners given the possibility to express their gender identity, such as through preferred clothing, physical appearance, cosmetics etc.?	NO	PARTIALLY	NO
d) Do protective measures avoid placing LGBTI detainees in solitary confinement?	NO	NO	NO
e) Are there measures in place to ensure that LGBTI detainees with specific healthcare needs (including gender-affirming care) have an effective and timely access to the relevant specialists and treatments?	NO	PARTIALLY	NO
f) Are there procedures to explore the use of alternatives in situations of vulnerability and/or violence?	NO	NO	NO
g) Are there training programmes and/or codes of conduct for prison staff to ensure that prisoners are treated with respect and without discrimination with regard to their:			
- sexual orientation?	NO	NO	NO
- gender identity?	NO	NO	NO
- gender expression?	NO	NO	NO
- sex characteristics? (optional)	NO	NO	NO

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
h) Are there measures in place to ensure that LGBTI detainees can securely and effectively report any attack and violation of their rights by:			
- other detainees?	NO	YES	NO
- detention staff?	NO	YES	NO
QUESTION 10			
Is there an effective system to register complaints and collect data on hate crime and hate-motivated incidents?	NO	PARTIALLY	NO
In particular:			
a) Does the data collection system allow for disaggregation by:			
- sexual orientation?	NO	PARTIALLY	NO
- gender identity?	NO	PARTIALLY	NO
- gender expression?	NO	PARTIALLY	NO
- sex characteristics? (optional)	NO	PARTIALLY	NO
b) Are there official statistics publicly available with regard to hate crime and hate-motivated incidents related to:			
- sexual orientation?	NO	PARTIALLY	NO
- gender identity?	NO	PARTIALLY	NO
- gender expression?	NO	PARTIALLY	NO
- sex characteristics? (optional)	NO	PARTIALLY	NO
c) Does the system allow for the follow-up of the complaints by law enforcement, the justice system, and/or other relevant authorities?	NO	PARTIALLY	NO

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
d) Are there official, publicly available statistics regarding hate crime and hate-motivated incidents that are detected, prosecuted, and sentenced related to:			
- sexual orientation?	NO	PARTIALLY	NO
- gender identity?	NO	PARTIALLY	NO
- gender expression?	NO	PARTIALLY	NO
- sex characteristics? (optional)	NO	PARTIALLY	NO
e) Are regular studies conducted to assess to what extent victims of anti-LGBTI hate crimes or incidents do or do not file official complaints (i.e. to assess the complaint rate)?	NO	YES	NO
QUESTION 11			
a) Have measures been adopted or implemented to regularly gather data on the levels of social acceptance towards:			
- lesbians, gay, and bisexual persons?	NO	PARTIALLY	NO
- transgender persons?	NO	PARTIALLY	NO
- intersex persons? (optional)	NO	NO	NO
b) Are there state-sponsored surveys analysing "hate crimes" and hate-motivated incidents related to:			
- sexual orientation?	NO	NO	NO
- gender identity?	NO	NO	NO
- gender expression?	NO	NO	NO
- sex characteristics? (optional)	NO	NO	NO

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
B. "HATE SPEECH"			
QUESTION 12			
a) Have appropriate measures been taken to combat all forms of "hate speech" against lesbian, gay, bisexual or transgender persons, as defined in this Recommendation?	NO	PARTIALLY	PARTIALLY
b) Are legislative measures adopted or implemented to prohibit incitement to hatred, discrimination, and violence related to:			
- sexual orientation?	NO	YES	PARTIALLY
- gender identity?	NO	YES	PARTIALLY
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	YES	NO
c) Are legislative measures adopted or implemented to prohibit other forms of "hate speech" in the media and on the internet, where the bias motive is related to:			
- sexual orientation?	NO	YES	PARTIALLY
- gender identity?	NO	YES	PARTIALLY
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	YES	NO
d) Please indicate whether the following entities may initiate legal proceedings in cases of hate speech against LGBTI persons:			
- Private persons (when they are victims of targeted anti-LGBTI hate speech)	NO	YES	YES
- NGOs (for cases of hate speech against all LGBTI persons)	NO	YES	YES
- Public prosecutors (ex-officio legal proceedings)	NO	YES	YES

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
- Public independent bodies such as Equality Bodies, Ombudspersons or National Human Rights Institutions (please specify below)	NO	YES	YES
QUESTION 13			
Have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual, transgender or intersex persons?	NO	PARTIALLY	NO
QUESTION 14			
Are trainings, awareness raising activities or any other form of guidance provided to public officials and state representatives to promote respect for the human rights and inclusion of LGBTI persons whenever they engage with civil society, media and sports organisations, political organisations and religious communities?	NO	YES	PARTIALLY

II. FREEDOM OF ASSOCIATION

QUESTION 15			
Are LGBTI human rights organisations:			
- able to obtain official registration?	YES	YES	YES
- required to undergo additional administrative procedures and/or subject to restrictions based on public health, morality and public order?	no	no	no

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
QUESTION 16			
a) Is public funding available for non-governmental organisations the purpose of which is, or includes, the protection of the rights of LGBTI persons?	YES	YES	YES
b) Are there any legal or administrative restrictions placed on these non-governmental organisations in receiving funding from foreign sources?	NO	NO	NO
QUESTION 17			
Are there specific provisions in laws or policies in place that recognise and protect LGBTI human rights defenders from hostility and aggression?	NO	NO	NO
a) If yes, do such provisions include acts allegedly committed by state agents?	NO	NO	NO DATA
b) Are emergency helplines or other protection mechanisms made available to LGBTI human rights defenders facing immediate threats?	NO	NO	NO
c) Does a state-sponsored mechanism exist for regular consultations with LGBTI human rights defenders to evaluate their security needs?	NO	NO	NO
d) Are public awareness campaigns conducted to diminish hostility and aggression directed towards LGBTI human rights defenders?	NO	PARTIALLY	NO
e) Are financial grants or other forms of support provided to LGBTI human rights defenders, aimed at security enhancements such as secure communication tools or improved office security measures?	NO	NO	NO

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
QUESTION 18			
Are LGBTI human rights organisations able to:			
- work with public authorities?	PARTIALLY	YES	YES
- work with national human rights institutions?	YES	YES	YES
- work with the media?	PARTIALLY	YES	YES
- work with other human rights organisations?	YES	YES	YES
- undertake research and science communication?	YES	YES	YES
- take part in training sessions or conferences?	YES	YES	YES
- access LGBTI persons deprived of their liberty?	PARTIALLY	YES	YES
QUESTION 19			
Have measures been taken to ensure that non-governmental organisations defending the human rights of LGBTI persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?	NO	YES	PARTIALLY
a) Are there formal mechanisms or platforms established through which NGOs defending LGBTI human rights are regularly consulted or participate in during policy drafting?	NO	YES	NO
b) Is there a requirement for impact assessments to be conducted with respect to the rights of LGBTI persons, which includes consultation with relevant NGOs?	NO	YES	NO

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III. FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY			
QUESTION 20			
Are there any legal or policy restrictions in place concerning measures taken to ensure the freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, including:			
- organising activities that support the human rights of LGBTI persons?	NO	NO	NO
- publishing, distributing, or selling materials that advocate for or raise awareness about the human rights of LGBTI persons?	NO	NO	NO
- gaining visibility via media outlets and online resources covering LGBTI rights, events, or news?	NO	NO	NO
- disseminating or accessing information on safer sexual practices?	NO	NO	NO
- raising awareness through educational institutions on LGBTI rights and issues?	NO	YES	NO
QUESTION 21			
Are there measures in place (specific guidelines, legal provisions or other) to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity:			
- at national level?	NO	YES	PARTIALLY
- at regional level?	NO	NO DATA	PARTIALLY
- at local level?	NO	PARTIALLY	PARTIALLY

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QUESTION 22			
a) Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of LGBTI persons?	NO	YES	PARTIALLY
b) Are training modules available and rolled out to sensitise and educate law enforcement to protect specific groups, including LGBTI persons, during public demonstrations and events?	PARTIALLY	YES	PARTIALLY
c) Are there specific protocols to protect LGBTI peaceful demonstrators from counter-protesters or any forms of hostility?	NO	PARTIALLY	NO
QUESTION 23			
a) Are there any review mechanisms or other measures taken to ensure that legal or administrative provisions are not misused to infringe upon the rights of LGBTI persons or their supporting organisations?	NO	NO	NO
b) Are there any instances where provisions related to public health, public morality or public order have been invoked against events related to LGBTI persons?	PARTIALLY	NO	YES
c) Are there cases where LGBTI event organisers have been asked to move their event indoors, relocate to a more remote location, or cancel the event altogether due to alleged security risks and the purported inability to guarantee safety?	NO	PARTIALLY	YES

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QUESTION 24			
Have public authorities publicly condemned any unlawful interferences with the exercise of freedom of expression and peaceful assembly by LGBTI persons or human rights organisations supporting the rights of LGBTI persons?	NO DATA	YES	PARTIALLY

IV. RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

QUESTION 25			
Have measures been taken to repeal, amend or apply in a manner which is compatible with the principle of non-discrimination, any criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to:			
- sexual orientation?	NO	NO	YES
- gender identity?	NO	NO	N/A
- gender expression?	NO	NO	N/A
- sex characteristics? (optional)	NO	NO	N/A
QUESTION 26			

a) Are there measures in place to ensure that public authorities do not collect, store or use personal data unless it is necessary for specific, lawful and legitimate purposes when referring to:

- sexual orientation?	NO	YES	NO
- gender identity?	NO	NO	NO
- sex characteristics? (optional)	NO	NO	NO
b) Are existing records that do not comply with this principle destroyed?	NO	NO DATA	NO

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c) Do legal safeguards exist for processing this data when its collection is necessary for specific, lawful and legitimate purposes?	NO	YES	NO
d) Are similar safeguards in place for data collected by private operators?	NO	PARTIALLY	NO
e) Are persons whose data is collected and stored given transparent information on how to exercise their right to access, correct, or deletion it?	NO	PARTIALLY	PARTIALLY
QUESTION 27			
a) Are legal gender recognition procedures available that are quick, transparent, accessible and based on self-determination?	NO DATA	NO	NO
Is LGR of transgender persons:			
- conditional on undergoing an operation or treatment entailing irreversible sterilisation against their wishes?	yes	YES	NO
- conditional on undergoing hormonal treatment or any other form of medical treatment or surgical procedure?	NO	YES	YES
- conditional on a psychological diagnosis or expert statement?	NO	YES	YES
- conditional on the capacity to demonstrate a period of "life experience" in the self-determined gender?	NO	NO	NO
- accessible irrespective of:			
- medical status?"	NO	NO	PARTIALLY
- disability status?	NO	NO	YES
- financial situation?	NO	NO	PARTIALLY
- police record?	NO	NO	YES

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- citizenship status?	NO	NO	NO
- residency status?	NO	NO	NO
- refugee or other protected status?	NO	NO	NO
- marital status?	NO	NO	YES
- detention status?	NO	NO	YES
- physical appearance?	NO	PARTIALLY	YES
Are there procedures in place to ensure the access to LGR to non-nationals who cannot obtain it from their country of origin?	NO DATA	NO	NO
QUESTION 28			
a) Have appropriate measures been adopted and/or implemented to guarantee full legal gender recognition of a person in all areas of life, including adapting official documents?	NO	NO	PARTIALLY
b) Do these measures also apply to the issuance of documents such as educational or work certificates issued by non-state actors?	NO	NO	NO
c) Is a non-binary gender option available on birth certificates, identity documents and other official documents?	NO	NO	NO
d) Are there measures in place for public institutions to allow the use of the preferred pronoun, form of address and/or given name of persons who have not yet obtained full LGR (in particular minors)?	NO	PARTIALLY	NO

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QUESTION 29			
a) Are there legal and other measures in place to protect the right of transgender persons to marry?	NO	YES	YES
b) Are transgender persons allowed to marry a person of the sex opposite to their reassigned sex?	NO	YES	YES
c) Where married trans persons are required to divorce prior to obtaining the legal recognition of their self-determined gender, are measures in place compensating for any loss of rights and obligations resulting from their marriage?	N/A	NO	N/A
QUESTION 30			
Does national legislation confer rights and obligation on unmarried couples?	NO	YES	NO
If so, have measures been adopted and/or implemented so that the same rights and obligations apply to same-sex couples and different-sex couples?	N/A	NO	N/A
QUESTION 31			
Do same-sex couples have access to registered partnerships under national law?	NO DATA	YES	NO
a) If so, are the legal status, rights and obligations of same-sex couples equivalent to those of different-sex couples in a comparable situation?	NO	NO	N/A
b) Have legal measures and procedures been adopted and/or implemented to ensure that the same-sex partner of a national may obtain a residence permit for family reasons? In the affirmative, please specify below if the same conditions apply as for different-sex partners in similar situations	NO	YES	NO

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c) If same-sex couples do not have access to registered partnerships, are there measures in place to provide them with the possibility to address the practical problems related to the social reality in which they live?	NO	N/A	PARTIALLY
QUESTION 32			
Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child's best interest, as well as without discrimination based on:			
- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO
- sex characteristics?	NO	NO DATA	NO
QUESTION 33			
When national legislation allows single-person adoption, is the application of the law non-discriminatory towards LGBTI individuals?	NO	NO	PARTIALLY
Please specify the available possibilities:			
Recognition of Same-Sex Parenthood			
Second-Parent Adoption (child has one recognised parent)	NO	NO	NO
Step-Parent Adoption (child has already two recognised parents)	NO	NO	NO
Step-Parent Status (not adoption but some degree of parental responsibility, child has already two recognised parents)	NO, but this also applies to different-sex partners	YES, if they are in a registered partnership	NO

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Recognition of Same-Sex Parenthood in in vitro fertilisation (Pre-Birth or At Birth)	NO , but this also applies to different-sex partners	NO	NO
Second-parent adoption (Surrogacy). Recognition of same-sex partner of the parent of a child born through surrogacy	NO	NO	NO
Recognition of same-sex partners who enter a surrogacy agreement as intended parents on the birth certificate and identity documents	NO	NO	NO
b) Are gender designations for same-sex parents on birth certificates and identity documents changed according to the parents' gender?	NO , terms like "father" and "mother" are used regardless of the parents' genders	<i>NO DATA</i>	NO , terms like "father" and "mother" are used regardless of the parents' genders
QUESTION 34			
a) Does national law permit assisted reproductive treatment for single persons?	NO	YES	YES
b) Are there specific requirements in place regarding the access by single persons to assisted reproductive treatment based on:			
- sexual orientation?	NO	NO	NO
- gender identity?	NO	NO	YES
- sex characteristics? (optional)	<i>NO DATA</i>	NO	YES
QUESTION 35			
a) Where national law permits assisted reproductive treatment for unmarried different sex couples, does it also permit such treatment for unmarried same-sex couples?	NO	NO	NO

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b) Are there different/additional requirements for accessing assisted reproductive treatment for couples that include one or more trans person(s)?	NO	NO	NO

V. EMPLOYMENT

QUESTION 36			
Does legislation prohibit discrimination in employment:			
a) in the public sector on grounds of:			
- sexual orientation?	NO	YES	YES
- gender identity?	NO	YES	YES
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	NO DATA	NO
b) in the private sector on grounds of:			
- sexual orientation?	NO	YES	YES
- gender identity?	NO	YES	YES
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	NO DATA	NO
c) in self-employment on the grounds of:			
- sexual orientation?	NO	YES	YES
- gender identity?	NO	YES	YES

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- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	NO	NO

QUESTION 37

a) Are there measures in place to provide effective protection against discrimination:

- in access to employment on grounds of:

- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	NO	NO

- promotion, dismissals, pay and other working conditions employment on grounds of:

- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	NO	NO

- Prevention and punishment of harassment employment on grounds of:

- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO

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- sex characteristics? (optional)	NO	NO	NO
b) Do those measures take into consideration the heightened vulnerability of specific LGBTI groups, such as:			
- lesbian, bisexual and trans women?	NO	NO	NO
- LGBTI persons of colour?	NO	YES	NO
- LGBTI persons of ethnic minority backgrounds, including Roma persons	NO	YES	NO
- LGBTI persons from religious minorities?	NO	YES	NO
- LGBTI sex workers?	NO	PARTIALLY	NO
- LGBTI persons with disabilities?	NO	YES	NO
- LGBTI persons with a migration background, including asylum seekers and refugees?	NO	YES	NO
c) Is the privacy of transgender persons protected so as to prevent the disclosure of transgender persons' gender history and former name in the context of employment	NO	NO	NO

VI. EDUCATION

QUESTION 38

a) Taking into due account the over-riding interests of the child, are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of

- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO

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- gender expression?	NO	YES	NO
- sex characteristics (optional)?	NO	NO DATA	NO
b) If so, are there measures in place concerning in particular:			
- anti-discrimination training or support and teaching aids?	NO	PARTIALLY	NO
- information, protection and mechanisms addressing anti-LGBTI bullying and discrimination in schools?	NO	NO	NO
- respect for the self-determined name and gender marker of pupils and students in form of address, educational documents, and dress codes?	NO	NO	NO
- availability of gendered facilities/classes based on self-determined gender identity?	NO	NO	NO
- the possibility and encouragement for educational institutions to include information or education on LGBTI rights and issues as part of their curricula?	NO	PARTIALLY	NO
- are there measures that ensure comprehensive sexuality education curricula are inclusive of sexual orientation, gender identity, gender expression and sex characteristics?	NO	NO	NO
- the holding of LGBTI events and access of LGBTI community organisations to educational institutions?	NO	PARTIALLY	NO
- school equality and safety policies and action plans?	NO	NO	NO

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VII. HEALTH			
QUESTION 39			
a) Are there appropriate measures in place to ensure that:			
- the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of:			
- sexual orientation?	NO	NO	NO
- gender identity?	NO	NO	NO
- gender expression?	NO	NO	NO
- sex characteristics? (optional)	NO	NO	NO
- education, prevention, care and treatment programmes and services in the area of sexual and reproductive health are available to all individuals, regardless of their:			
- sexual orientation?	NO	NO	PARTIALLY
- gender identity?	NO	NO	PARTIALLY
- gender expression?	NO	NO	PARTIALLY
- sex characteristics? (optional)	NO	NO	PARTIALLY
- the specific needs of LGBTI persons are taken into consideration in the development of national health plans, including:			
- suicide prevention measures?	NO	NO	NO
- health surveys?	NO	NO	NO
- sex medical curricula and training programmes?	NO	NO	NO

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- in the monitoring and evaluating of quality of health-care services?	NO	NO	NO
b) Do those measures take into consideration the heightened vulnerability of specific LGBTI groups, such as:			
- LGBTI persons of colour?	NO	NO	NO
- LGBTI persons of ethnic minority backgrounds, including Roma persons	NO	NO	NO
- LGBTI persons from religious minorities?	NO	NO	NO
- LGBTI sex workers?	NO	NO	NO
- LGBTI persons with disabilities?	NO	NO	NO
- LGBTI persons with a migration background, including asylum seekers and refugees?	NO	NO	NO
- older LGBTI persons?	NO	NO	NO
- LGBTI children and youth?	NO	NO	NO
QUESTION 40			
a) Are patients in hospital able or subject to medical emergencies free to identify their "next of kin"?	NO	YES	YES
b) Are rules on issues regarding "next of kin" applied without discrimination on grounds of:			
- sexual orientation?	NO	YES	PARTIALLY
- gender identity?	NO	YES	YES
- gender expression?	NO	YES	YES
- sex characteristics? (optional)	NO		YES

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QUESTION 41			
a) In accordance with the standards of the World Health Organisation (WHO), have legal and administrative classifications of mental illnesses been removed of any reference to:			
- homosexuality and bisexuality	PARTIALLY	YES	YES
- transgender identities	NO	NO	NO
b) Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment specialised psychological, endocrinological and surgical services without being subjected to unreasonable requirements,			
- if they are adults?	NO	PARTIALLY	NO
- if they are minors?	NO	PARTIALLY	NO
QUESTION 42			
a) Where legislation provides for the coverage of necessary health-care costs by public or private social insurance systems, are there measures in place to ensure that gender reassignment procedures are covered?	NO	YES	NO
b) Does the health care system provide for reimbursement of treatment abroad if unavailable in the home country?	NO	YES	NO
QUESTION 43			
a) Are there legislative or other measures in place ensuring that no person is subjected to so-called "conversion therapy", claiming to change one's sexual orientation and/or gender identity through spiritual, medical or other means?	NO	PARTIALLY	PARTIALLY
b) Are there any measures in place to provide redress for victims?	NO	PARTIALLY	NO

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c) Is there counselling and support for children and their parents?	NO	NO	PARTIALLY
d) Are there any provisions providing for sanction in case of:			
-unlawful conversion therapy	NO	PARTIALLY	NO
-banned surgery and medical practices modifying sex characteristics (optional)	NO	PARTIALLY	NO

VIII. HOUSING

QUESTION 44

a) Have measures been implemented to ensure that all persons have equal and effective access to adequate housing, irrespective of their:

- sexual orientation?	NO	PARTIALLY	NO
- gender identity?	NO	PARTIALLY	NO
- gender expression?	NO	PARTIALLY	NO
- sex characteristics? (optional)	NO	PARTIALLY	NO

b) Are there protective measures in place to prevent discrimination when renting or buying a property, based on:

- sexual orientation?	NO	YES	NO
- gender identity?	NO	YES	NO
- gender expression?	NO	YES	NO
- sex characteristics? (optional)	NO	YES	NO

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c) Are equal rights guaranteed to all individuals in terms of acquiring and retaining ownership of land and other properties, including cases of inheritance, regardless of their:			
- sexual orientation?	NO	YES	PARTIALLY
- gender identity?	NO	YES	PARTIALLY
- gender expression?	NO	YES	PARTIALLY
- sex characteristics? (optional)	NO	YES	PARTIALLY
d) Are there measures in place to ensure non-discrimination in institutional living settings (e.g., hospitals, nursing homes, detention centres) based on:			
- sexual orientation?	NO	PARTIALLY	NO
- gender identity?	NO	PARTIALLY	NO
- gender expression?	NO	PARTIALLY	NO
- sex characteristics? (optional)	NO	PARTIALLY	NO
QUESTION 45			
With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of:			
- sexual orientation?	NO	PARTIALLY	NO
- gender identity?	NO	PARTIALLY	NO
- gender expression?	NO	PARTIALLY	NO
- sex characteristics? (optional)	NO	PARTIALLY	NO

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IX. SPORTS			
QUESTION 46			
a) Has a dialogue been initiated with sports associations and fan clubs, including LGBTI ones, to encourage non-public entities promoting sports or organising sports events to tackle discrimination on grounds of:			
- sexual orientation?	NO	PARTIALLY	NO
- gender identity?	NO	PARTIALLY	NO
- gender expression?	NO	PARTIALLY	NO
- sex characteristics? (optional)	NO	NO	NO
b) Have measures been implemented to ensure that sports activities and facilities are accessible and welcoming to all, regardless of their:			
- sexual orientation?	NO	NO	NO
- gender identity?	NO	NO	NO
- gender expression?	NO	NO	NO
- sex characteristics? (optional)	NO	NO	NO
c) Are there policies or protocols in place to deter and penalise the use of discriminatory remarks or actions during sports events based on:			
- sexual orientation?	NO	PARTIALLY	NO
- gender identity?	NO	PARTIALLY	NO
- gender expression?	NO	PARTIALLY	NO
- sex characteristics? (optional)	NO	PARTIALLY	NO

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d) Has there been an initiative from the state to engage with sports associations and fan clubs to enhance awareness and reduce discrimination in sports against individuals based on their:			
- sexual orientation?	NO	PARTIALLY	NO
- gender identity?	NO	PARTIALLY	NO
- gender expression?	NO	PARTIALLY	NO
- sex characteristics? (optional)	NO	PARTIALLY	NO
e) Have any specific awareness-raising measures or campaigns been launched to address discrimination within the sports community on the ground of:			
- sexual orientation?	NO	NO	NO
- gender identity?	NO	NO	NO
- gender expression?	NO	NO	NO
- sex characteristics? (optional)	NO	NO	NO
f) Are LGBTI persons able to participate in school sport without discrimination based on:			
- sexual orientation?	NO	PARTIALLY	PARTIALLY
- gender identity?	NO	PARTIALLY	PARTIALLY
- gender expression?	NO	PARTIALLY	PARTIALLY
- sex characteristics? (optional)	NO	PARTIALLY	PARTIALLY
g) Are LGBTI persons able to participate in grassroots sport clubs without discrimination based on:			
- sexual orientation?	NO	PARTIALLY	PARTIALLY

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
- gender identity?	NO	PARTIALLY	PARTIALLY
- gender expression?	NO	PARTIALLY	PARTIALLY
- sex characteristics? (optional)	NO	PARTIALLY	PARTIALLY
h) Are LGBTI persons able to participate in elite sport without discrimination based on:			
- sexual orientation?	NO	PARTIALLY	PARTIALLY
- gender identity?	NO	PARTIALLY	PARTIALLY
- gender expression?	NO	PARTIALLY	PARTIALLY
- sex characteristics? (optional)	NO	PARTIALLY	PARTIALLY

X. RIGHT TO SEEK ASYLUM

QUESTION 47

a) May a well-founded fear of persecution be recognised as a valid ground for the granting of refugee status and asylum under your national law, when based on:

- sexual orientation?	NO	YES	NO DATA
- gender identity?	NO	YES	NO DATA
- sex characteristics? (optional)	NO	NO	NO DATA
b) Are there measures in place to ensure that applicants will not be asked to provide detailed account of their sexual practices or to produce "evidence" such as images or films of intimate acts to prove their sexual orientation or gender identity in asylum claims?	NO	YES	NO DATA

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c) Are there measures in place to ensure that applicants will not be subjected to psychological tests to determine their:			
- sexual orientation?	NO	YES	NO DATA
- gender identity?	NO	YES	NO DATA
- sex characteristics? (optional)	NO	NO DATA	NO DATA
d) Are measures in place to ensure that asylum requests may not be turned down on the ground that the claimant can escape persecution in the country of origin by keeping their sexual orientation or gender identity secret?	NO	YES	NO DATA
e) Does national legislation permit late disclosure of LGBTI identity in asylum applications once other asylum grounds have been denied?	NO	PARTIALLY	NO DATA
f) Are there measures in place to ensure that officers in charge of assessing the claims are trained to approach LGBTI matters in a respectful way?	NO	PARTIALLY	NO DATA
QUESTION 48			
a) Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their:			
- sexual orientation?	NO	YES	NO DATA
- gender identity?	NO	YES	NO DATA
- gender expression?	NO	YES	NO DATA
- sex characteristics? (optional)	NO	PARTIALLY	NO DATA
b) In particular,			
- does your country remove from the lists of safe countries of origin any state that criminalises or persecutes same-sex relations or transgender identities?	NO	PARTIALLY	NO DATA

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- does your country remove from the lists of safe countries of origin any state where there is a proven and unsanctioned persecution of LGBTI persons, even in the absence of legislation explicitly banning same-sex relationships or transgender identities?	NO	PARTIALLY	NO DATA
QUESTION 49			
a) Are specific measures in place to prevent violence against LGBTI asylum seekers deprived of their liberty?	NO	PARTIALLY	NO DATA
b) And in particular,			
- do LGBTI NGOs and other support services have access to such detention places and are able to co-operate with them to support LGBTI asylum seekers and refugees?"	NO	YES	NO DATA
- are alternatives to detention offered to LGBT asylum seekers whose protection cannot be guaranteed?	NO	PARTIALLY	NO DATA
- are measures in place to ensure the provision of information that includes LGBTI-specific elements?	NO	YES	NO DATA
- are confidential complaints mechanisms in place in detention?	NO	YES	NO DATA
QUESTION 50			
a) Is the self-determined name and gender identity of a transgender asylum seeker respected throughout, including especially in regard to placement, use of gendered facilities, form of address, and official documents?	NO	PARTIALLY	NO DATA
b) Are transgender asylum seekers able to access legal gender recognition procedures and continue or start trans-specific healthcare?	NO DATA	PARTIALLY	NO DATA
c) Are confidential complaints mechanisms in place in detention?	NO DATA	YES	NO DATA

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XI. NATIONAL HUMAN RIGHTS STRUCTURES

QUESTION 51

a) Are National Human Rights Structures (equality bodies, ombudsperson, national human rights institutions, and/or National Preventive Mechanisms) clearly mandated to address discrimination on grounds of:

- sexual orientation?	PARTIALLY	YES	NO
- gender identity?	PARTIALLY	YES	NO
- gender expression?	PARTIALLY	YES	NO
- sex characteristics?	PARTIALLY	YES	NO

b) And can (and do) they:

- provide recommendations on LGBTI related legislation and policies?	YES	YES	YES
- raise public awareness on LGBTI issues?	YES	YES	YES
- examine individual complaints from both the private and public sectors regarding discrimination on the abovementioned grounds?	YES	YES	YES
- initiate or participate in court proceedings concerning discrimination based on SOGIESC?	YES	YES	YES

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
Please describe the possibilities for interventions that are included in their mandate and specify in which areas they have a mandate to act (e.g. employment, goods and services, judiciary, police, education, etc.):	-	The Protector of Human Rights and Freedoms of Montenegro is mandated to address and act on discrimination complaints, support victims, intervene in systemic or severe cases, and promote equality through legal action, public advocacy, and reporting.	Ukraine's ombudsperson lacks a formal SOGIESC mandate but has increasingly addressed LGBTI issues in statements and reports, despite the absence of explicit legal provisions or focus on occupied territories.

XII. DISCRIMINATION ON MULTIPLE GROUNDS

QUESTION 52			
Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?	NO	YES	NO
QUESTION 53			
Are there measures in place pro-actively identifying, protecting and/or supporting groups affected by multiple discrimination, particularly:			
- LGBTI persons of colour?	NO	YES	NO
- LGBTI persons of ethnic minority backgrounds, including Roma persons	NO	YES	NO
- LGBTI persons from religious minorities?	NO	YES	NO
- LGBTI sex workers?	NO	YES	NO
- LGBTI persons with disabilities?	NO	YES	NO

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
- LGBTI persons with a migration background, including asylum seekers and refugees?	NO	YES	NO
- older LGBTI persons?	NO	YES	NO
- LGBTI children and youth?	NO	YES	NO

SECTION III - GENERAL ASSESSMENT AND DISSEMINATION OF THE RECOMMENDATION AND ITS APPENDIX

QUESTION 54			
How would you assess the status of implementation of the Recommendation in your country?	Absent	Insufficient	Insufficient
QUESTION 55			
What are the main areas of the Recommendation where progress has been achieved in the last 5 years and what are the main areas where obstacles have been encountered either in discussing the Recommendation and or its implementation? Please specify the obstacles and ways proposed to overcome them.	NO DATA	Montenegro's LGBTI Strategy has seen minimal progress due to political inaction, with key commitments unmet by 2023, regression noted in international rankings, and delays in enacting legal gender recognition and implementing civic partnership laws.	While Ukraine has seen some legislative progress on LGBTI rights, meaningful implementation is hindered by political reluctance, religious opposition, war-related challenges, and lack of control over occupied territories.
QUESTION 56			
In which of your national, regional or minority languages has the Recommendation been translated?	NO DATA	Montenegrin	Ukrainian

TOPIC / AREA	ARMENIA	MONTENEGRO	UKRAINE
Where applicable, are these translations available on-line?	NO	YES	YES
QUESTION 57			
Which steps have been taken to ensure dissemination of the content of the Recommendation and its Appendix in a way that is as accessible as possible? What measures would be needed to increase awareness on its content? Provide links to the translated version of the Recommendation, when applicable.	NO DATA	<p>https://rm.coe.int/CoER-MPublicCommonSearch-Services/DisplayDCT-MContent?documentId=09000016804b882e</p> <p>https://www.gov.me/dokumenta/b78cc299-7d34-4338-af1e-e6ef-fc866986</p> <p>The upcoming LGBTI Strategy must strengthen monitoring mechanisms, institutional accountability, and NGO partnerships, while prioritising the adoption and implementation of a legal gender recognition law based on self-determination by July 2024.</p>	<p>http://nbuv.gov.ua/UJRN/medpr_2014_1_12</p> <p>https://genderindetail.org.ua/library/ukraina/rekomendatsiya-cm-rec20105-komitetu-ministriv-radi-evro-pi-derzhavam-chle-nam-pro-zahodi-z-borot-bi-proti-diskriminat-sii-za-oznakami-sexual-noi-orientatsii-abo-gendernoi-identichnosti-134655.html</p>

Trans rights in Eastern Europe and the Caucasus: Armenia, Montenegro, Ukraine

