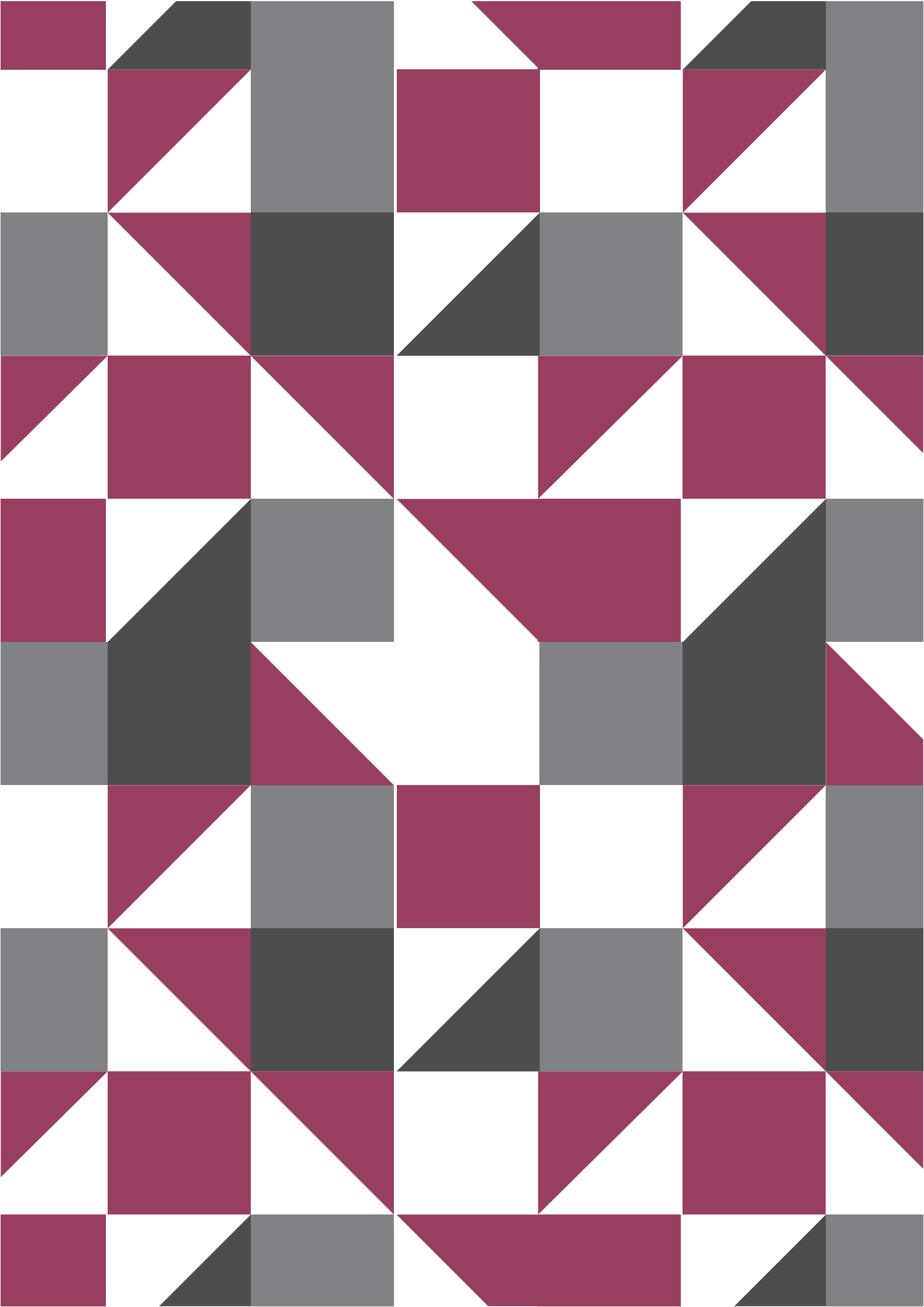




DEPRIVED OF LIBERTY, DEPRIVED OF RIGHTS

A community report on policing and
detention of trans people in
Central-Eastern Europe and
Central Asia (CEECA)



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A COMMUNITY REPORT ON POLICING AND DETENTION OF TRANS PEOPLE IN CENTRAL-EASTERN EUROPE AND CENTRAL ASIA (CEECA)

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The present document has been created with the greatest care, but it does not and cannot claim to be complete. Its contents are the sole responsibility of Transgender Europe (TGEU).

Transgender Europe (TGEU) is a European-based umbrella organisation supporting, fighting, and advocating for the rights of trans people across Central Asia and Europe. TGEU is committed to intersectional justice and trans rights through advocacy, campaigning, researching, community building, and networking with alliances. TGEU represents more than 100 member organizations in 42 countries and coordinates global projects such as Trans Murder Monitoring. TGEU’s vision is a world free from discrimination where every person can live freely according to their gender identity or expression without interference.

Any feedback and comments can be sent to us on [**tgeu@tgeu.org**](mailto:tgeu@tgeu.org)

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INTRODUCTION

Globally, there are an estimated 10.35 million people held in penal facilities, either as pre-trial detainees or having been convicted and sentenced.¹ The majority are adults registered as male from low socio-economic backgrounds. Youth and adults registered as female are estimated to make up a population of 714.000², a number which is rising incredibly quickly. Since 2000, the number of detainees registered as female has increased by more than 50%, in contrast to the 20% growth rate amongst detainees recorded as male over the same period.³

Prison populations have risen steadily around the world in recent decades. Conversely, statistics from Central and Eastern Europe and Central Asia (CEECA)⁴ show a large decrease in prison populations since 2000. However, countries in the region (Latvia, Lithuania, Poland, Czech Republic and the Slovak Republic) still have the highest prison population rates amongst Council of Europe member states.⁵ Outside of the Council of Europe, Turkmenistan, is listed as the 3rd country in the world in terms of the number of prisoners per 100.000 of the national population.⁶

While statistics about criminal justice and LGBT people in general are lacking - especially in the CEECA region - with the vast majority of literature coming from the United States, it is evident that LGBT people are constantly policed, arrested and imprisoned because of systemic bias, and even more frequent when also part of other marginalised groups, such as people living in poverty, people of colour, sex workers, asylum seekers or with migration backgrounds, and/or disabled.⁷ Furthermore, the widespread discrimination and harassment among LGBT people lead to precarious living situations and higher levels of engagement in risky and illicit actions in order to survive. This increases the

¹ Walmsley, R. (2017a). World Prison Population List (11th edition). Institute for Criminal Policy Research (ICPR). Available: http://www.prisonstudies.org/sites/default/files/resources/downloads/world_prison_population_list_11th_edition_0.pdf

² Walmsley, R. (2017b). World Female Imprisonment List (4th edition). Institute for Criminal Policy Research (ICPR). Available: http://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_prison_4th_edn_v4_web.pdf

³ Ibid.

⁴ We use the term Central-Eastern Europe (CEE) to include the Eastern bloc countries; the independent states in former Yugoslavia (which were not considered part of the Eastern bloc); and the three Baltic states – Estonia, Latvia, Lithuania. The Central Asia (CA) region consists of the former Soviet republics of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. We furthermore discuss the situation in Turkey in this report.

⁵ Aebi, M. F. and Chopin, J. (2017). Council of Europe Annual Penal Statistics. SPACE II Survey 2016. Persons Serving Non-Custodial Sanctions and Measures in 2016. Available: http://wp.unil.ch/space/files/2018/03/SPACE_II_report_2016_Final_100320.pdf

⁶ Walmsley, R. (2017a).

⁷ Report of the United Nations High Commissioner for Human Rights, Non-discrimination and the protection of persons with increased vulnerability in the administration of justice, in particular in situations of deprivation of liberties and with regard to the causes and effects of overincarceration and overcrowding, 21 August 2017, A/HRC/36/28. Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, 11 May 2018, A/HRC/38/43.

likelihood of contact with criminal justice authorities for LGBT people where they face discrimination, harassment, serious violence, and even torture.⁸

International reports unequivocally state that trans individuals are often overrepresented in incarcerated populations and form a particularly marginalised group amongst LGBT detainees.⁹ One major reason is poverty that disproportionately affects trans people due to systematic exclusion from education opportunities and the formal economy.

For example, people from poor backgrounds are more likely to be surveilled by authorities, including police, and once accused of a crime, have less opportunities to hire a lawyer, meet bail conditions, and pay fines. Trans people also face various forms of criminalisation that increase their contacts with criminal justice systems, such as engagement in criminalised industries, for instance sex work, drug use and homelessness, and disproportionate prejudicial application of “public scandal”, “beggary”, “morality”, and “debauchery” laws against them based on their gender identity and/or expression. Additionally, limitations in access to accurate identity documents compound the impact of over-policing, since it is more likely that a trans person will have inaccurate documents or no documents at all, subjecting them to further persecution once inside the criminal justice system.

While there is increasing attention and limited policy reform in the area of policing and imprisonment of trans people in some contexts, such as the United States and the United Kingdom, very few research and policy interventions focus on trans people in closed settings in CEECA. This publication thus aims at providing an overview of rights violations against trans people in the criminal justice system in the region.

The report builds on evidence collected by community-based organisations and their crucial outreach and legal aid services, and joint monitoring of violence supported by Transgender Europe within its ProTrans project.¹⁰ The report highlights the main trends of policing and imprisonment in the CEECA region and illustrates abuse against trans people in various phases of criminal justice procedures, from surveillance and policing to detention conditions based on testimonies collected by local LGBTI and trans groups and available studies and research reports. Finally, it draws on international standards to recommend policy changes and also presents community initiatives that address the situation of trans prisoners in the region.

⁸ Snapp, S.D., Hoening, J.M., Fields, A. and Russell, S.T. (2015). Messy, Butch, and Queer: LGBTQ Youth and the School-to-Prison Pipeline. *Journal of Adolescent Research*, 30, 1: 57-82; Rosario, M., Schrimshaw, E.W. and Hunter, J. (2012). Risk factors for homelessness among lesbian, gay, and bisexual youths: A developmental milestone approach. *Child and Youth Services Review*, 34,1: 186-193

⁹ Brown, G.R. and McDuffie, E (2009). Health care policies addressing transgender inmates in prison systems in the United States. *Journal of Correctional Health Care*, 15M 4: 280-291; Mann, R. (2006). *The Treatment of Transgender Prisoners, Not Just an American Problem - A Comparative Analysis of American, Australian, and Canadian Prison Policies Concerning the Treatment of Transgender Prisoners and a “Universal” Recommendation To Improve Treatment*. *Law and Sexuality*, 15: 91-133; Marksamer, J. and Jean, H. T. (2014). *Standing with LGBT prisoners: An Advocate’s Guide to Ending Abuse and Combating Imprisonment*. National Centre for Transgender Equality. Available: <https://transequality.org/issues/resources/standing-lgbt-prisoners-advocate-s-guide-ending-abuse-and-combating-imprisonment>

¹⁰ See more on the project and its methodology: <https://tgeu.org/pro-trans/>

GLOSSARY

Arrest

The beginning of the criminal justice process when an individual is charged and taken into custody.

Custody

Custody refers to the confinement, detention, or imprisonment of a person.

Criminal offense

An act of crime which is punishable by the criminal code.

Conviction

The outcome of a criminal prosecution which concludes in a judgment that the defendant is guilty of the crime charged.

Detention

Detention is the process whereby a state lawfully holds a person by removing their freedom or liberty at that time.

Imprisonment

Confinement in a jail or prison.

Juvenile detention center

Juvenile detention centers are institutions where young people under the age of 18 years are detained.

Law enforcement

Law enforcement is any system by which some members of society act in an organised manner to enforce the law by discovering, deterring, rehabilitating, or punishing people who violate the rules and norms governing that society.

Misdemeanour offense

A misdemeanor is a minor offense, rather than a serious crime. The law usually describes fines for misdemeanors, also called as “petty crimes”.

Pre-trial detention

Pre-trial detention is the detaining of an accused person in a criminal case before the trial has taken place.

Raid

A surprise visit by the police, immigration officers, or other law enforcement officials, hoping to use the element of surprise to arrest targets.

Sentence

A sentence is a decree of punishment of the court in criminal procedure.

Solitary confinement

Solitary confinement is the confinement of a prisoner in a cell or other place in which they are completely isolated from others.

WHEN DETENTION IS THE PRIMARY TOOL: OVER-IMPRISONMENT AND PRISON OVERCROWDING IN CEECA

Representing different political, cultural, and socio-economist contexts, countries in the CEECA region share the tradition of applying punitive approaches in their criminal justice laws and policies. Despite the constant development of alternative sanctions, measures, and procedures such as community service, conditional caution, probation supervision, and restorative justice programmes in Western European countries¹¹, these are only minimally implemented in CEECA. Use of detention and long-term imprisonment, in addition to an overuse of pre-trial detention and custodial sanctions, as the main tools of punishment result in prison overcrowding and poor conditions in detention.¹² The absence of separate juvenile justice systems, lack of measures to support the reintegration of offenders back into the community, and the Soviet tradition of camp-style prisons remain persistent problems.¹³

There is little research evidence to suggest that prison is a deterrent from crime, but it generally proven that it is more expensive than the costs of a non-custodial sentences.¹⁴ Alternative sanctions have been proven in some contexts to have the potential to lower the rate of re-offending among those who received non-custodial sentences.¹⁵

Alternatives include fines, drug treatment and supervision orders, electronic monitoring with conditions and supervision, restorative justice measures involving the victim and community, specific programmes to deal with the causes of crime (e.g. treatment programmes), probation orders, community service, and conditional and suspended sentences.¹⁶

CEECA countries are commonly known for their rather harsh criminal justice systems and sentencing patterns following an authoritarian political regime imposed by Soviet dominance until 1989. Despite political changes in 1989, the

¹¹ See for instance: De Vos, H., Gilbert, E. and Aertsen, I. (2014). Reducing prison population: Overview of the legal and policy framework on alternatives to imprisonment at the European level. KU Leuven - Leuven Institute of Criminology, Leuven. Available: http://www.reducingprison.eu/downloads/files/ReducingprisonpopulationEuropeanframework_FIN_10_1014.pdf

¹² European Committee on Crime Problems (CDPC) (2015). White Paper on Prison Overcrowding. Council of Europe. Available: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806f4165>

¹³ Zemlyanska, V. (2005). Justice and Sentencing Traditions in Central and Eastern Europe. Newsletter of the European Forum for Restorative Justice, 6(2-3):6-8

¹⁴ See more: <https://www.penalreform.org/priorities/alternatives-to-imprisonment/key-facts-2/>

¹⁵ Khan, S. and Hansbury, S. (2012). Initial analysis of the impact of the Intensive Alternatives to Custody pilots on re-offending rates, Research Summary 5/12, Ministry of Justice.

¹⁶ See more: Heard, C. (2016). Alternatives to imprisonment in Europe: A handbook of good practice. European Prison Observatory. Available: <http://www.prisonobservatory.org/upload/Good%20practice%20handbook%20AS.pdf>

situation was not substantially altered.¹⁷ Violence, torture, and ill-treatment of prisoners, as well as excessive use of force by police, are not uncommon and have been reported in many countries in the recent years, including Azerbaijan, Georgia, Turkey, Tajikistan, Kyrgyzstan, and Uzbekistan.¹⁸ Overcrowding and substandard facilities and lack of trained staff further contribute to inadequate prison conditions.¹⁹

Overcrowding of prisons is a global phenomenon that does not only occur in penal institutions but also in transportation of detainees. For instance, prisoners in Russia can spend up to 60 hours in a space of just 0.29 square metres while being transferred between facilities.²⁰ Over-incarceration and overcrowding have devastating effects and lead to:

- exposure to poor and inadequate conditions of detention,
- lack of out-of-cell activities,
- poor hygiene and sanitation standards,
- extreme temperatures,
- heightened risk of abuse and violence,
- tense relationships among detainees and between detainees and personnel, which
- increase the risk of ill-treatment in places of detention.²¹

Some countries choose to address the issue of overcrowding by increasingly implementing punitive measures and have announced the construction of new prisons instead of prevention of crime and alternative sentencing measures. For instance, Turkey has announced plans to build 228 prisons over a five years period, after its Justice Ministry admitted to a severe overcrowding problem.²² Similarly, the Hungarian government has also considered expanding detention capacities instead of coming up with a plan to reduce overcrowding²³ and generally represents a “tough on petty crime” approach, recently criminalising homeless people.²⁴

¹⁷ Krajewski, K. (2014). Different Penal Climates in Europe. *Kriminologijos Studijos* 1 (2014): 86–111.

¹⁸ <https://www.hrw.org/legacy/advocacy/prisons/europe.htm>

¹⁹ Ibid.

²⁰ McGill, H. (2017). Prisoner transportation in Russia: travelling into the unknown. PRI Blog. Available: www.penalreform.org/blog/prisonertransportation-in-russia-travelling-into-theunknown/

²¹ Report of the United Nations High Commissioner for Human Rights, Non-discrimination and the protection of persons with increased vulnerability in the administration of justice, in particular in situations of deprivation of liberties and with regard to the causes and effects of overincarceration and overcrowding, 21 August 2017, A/HRC/36/28.

²² ‘Turkey boosting prison capacity to be able to jail 345,000 people in 5 years’, *Turkey Purge*, 11 December 2017, Available: turkeypurge.com/turkey-boosting-prison-capacity-able-jail345000-people-5-years.

²³ Hungarian Helsinki Committee, Prison overcrowding. Available: <https://www.helsinki.hu/en/prison-overcrowding-in-hungary/>

²⁴ Utcajogász (2018). The criminalisation of homelessness in Hungary. Available: <https://utcajogasz.hu/2018/08/the-criminalisation-of-homelessness-in-hungary/>

A CULTURE OF SURVEILLANCE: POLICING AND IMPRISONMENT OF TRANS PEOPLE IN CEECA

Law enforcement officials have a long history of targeting, punishing, and criminalising people who do not conform to binary gender norms globally.²⁵ It has been shown, for example, that women who fail to conform to femininity norms are often policed and punished more severely in the criminal justice system than those who adhere more closely to societal gender norms.²⁶ Likewise, traditional expectations around masculinity still serve as key modes of discipline within prison environments.²⁷ Although the role of gender norms within the penal system is widely recognised, little attention has been paid to their specific impact on trans people.

There is a significant population of trans people in prison in many contexts, even though it is hard to monitor their proportion due to lack of disaggregated data within modern prison systems. Some estimates suggest that their number is higher proportionally than in the general population.²⁸ A key factor in this overrepresentation in places of detention is discriminatory policing mechanisms, which are mainly due to the surveillance imposed on people living in poverty, who are more likely to be associated with criminality.²⁹ People living in poverty furthermore tend to spend more time on the street and in public spaces, where the likelihood of being targeted by police is greater than for those not living in poverty.

Anti-LGBT, anti-trans, and other criminalising laws and policies, as well as discriminatory implementation of seemingly unrelated laws, also heighten the risk of detention in repressive legal environments. In 2016, 73 countries criminalised same-sex relationships (such as Uzbekistan and Turkmenistan in the region³⁰). These statutes often lead to the persecution of non-LGB trans people due to the lack of access to legal gender recognition processes and the high visibility of many trans individuals. At the same time, so-called “public scandal”, “morality”, “debauchery”, and “hooliganism” laws disproportionately target trans people, as illustrated later on in this publication.

²⁵ See for instance: Amnesty International (2005). USA: Stonewalled: Police Abuse and Misconduct against LGBT People in the US. Available: <https://www.amnesty.org/en/documents/AMR51/122/2005/en/>
For global examples see:

Marks, S. M. (2006). Global recognition of human rights for lesbian, gay, bisexual, and transgender people. *Health Hum Rights*. 2006;9(1):33-42.

²⁶ Heidensohn, F. (1996). *Women and Crime*. London: Macmillan

²⁷ Eamonn, C. and Longhurst, B. (1998). Gender and Prison Organisation: Some Comments on Masculinities and Prison Management. *The Howard Journal of Criminal Justice* 37(2) 161-76

²⁸ See for instance: Reisner, S. L., Bailey, Z., & Sevelius, J. (2014). Racial/ethnic disparities in history of incarceration, experiences of victimization, and associated health indicators among transgender women in the U.S. *Women & Health*, 54(8), 750-67.

²⁹ See for instance: <https://transequality.org/issues/police-jails-prisons>

³⁰ International Lesbian, Gay, Bisexual, Trans and Intersex Association (2016). *State Sponsored Homophobia 2016: A world survey of sexual orientation laws: criminalisation, protection and recognition*. Available: https://ilga.org/downloads/02_ILGA_State_Sponsored_Homophobia_2016_ENG_WEB_150516.pdf

Hostile police attitudes are often exacerbated by state-sponsored homo- and transphobia. For example, the Russian federal law “for the Purpose of Protecting Children from Information Advocating for a Denial of Traditional Family Values”, also known as the “gay propaganda law”, was unanimously approved by the State Duma and signed into law in 2013.³¹ Activists from **Siberia, Russia** taking part in TGEU’s ProTrans project confirmed abusive profiling as a possible result of the law: they report frequent identity checks of those who are gender-nonconforming and aggressive behaviour experienced from police personnel. Several states have tried to introduce similar anti-LGBT laws in the region since 2013, including **Kyrgyzstan** and **Moldova**; however, so far activist groups and international organisations have managed to fend off these attempts of criminalisation.

Finally, it can be observed that more and more states in the region apply punitive approaches to tackle social issues, which disproportionately affect poor people. The criminalisation of migration, sex work, drug use and possession, vagrancy and homelessness all affect trans people. Additionally, in many contexts, trans people are overrepresented among those living in poverty.

In the following sections, we will illustrate the vulnerability of trans people and describe contributing factors in the criminal justice system, focusing on discriminatory policing and surveillance practices, abuses occurring during detention and arrest, and mistreatment in places of detention, providing examples from **Armenia, Azerbaijan, Georgia, Russia, Ukraine, Hungary, Serbia, Kazakhstan, Kyrgyzstan, and Turkey**. Evidence has been collected during 2017-2018 by Transgender Europe’s community-based partner organisations and other civil society reports from CEECA.

TREATED AS CRIMINALS: DISCRIMINATORY POLICING OF TRANS PEOPLE

Trans people today face an epidemic of anti-trans violence. Violent acts frequently occur across the region in public spaces, in schools, in homes, or at the hands of law enforcement or other government officials, as documented by Transgender Europe’s ProTrans project.³² Staggering levels of violence persist even in contexts where trans equality slowly advances.

Law enforcement and criminal justice systems are often a significant part of the problem. Discriminatory policing manifests itself in continuously enforced practices affecting diverse communities in the region, especially endangering gender non-conforming people, racial and ethnic minorities, sex workers,

³¹ Article 19 (2013). Russia: Federal laws introducing ban of propaganda of non-traditional sexual relationships. Legal analysis. Available: <https://www.article19.org/data/files/medialibrary/37129/13-06-27-russia-LA.pdf>

³² <https://tgeu.org/pro-trans/>

people who use drugs, and migrants within trans communities. Members of these communities and those who face intersectional oppression are exposed to elevated levels of police violence and as a consequence disproportionate detention and imprisonment. Discriminatory police practices are displayed during frequent identity checks, raids carried out to target sex worker venues, and even arresting victims of violence who seek police help.

Hostile police attitudes are prevalent across the region and manifest in arbitrary targeting of trans people in everyday situations or in orchestrated efforts. In **Siberia (Russia)** and **Turkey** for instance, there have been numerous documented cases of trans people being stopped on the streets for document checks without justified cause, followed by abusive behaviour by police officers. Airport security procedures are also often invasive of trans people's privacy and might lead to outing, harassment, and discrimination. Due to increasing use of counter-terrorism measures, many trans people face even more harassment during travels due to the mismatch between their gender identity and/or expression and legal sex marker, which has been documented in Central Asia and reported by trans activist partners of Transgender Europe.

In **Georgia**, an outdated administrative offense code, operating with vague definitions of "hooliganism" and adopted by the Soviet government in 1984, is used to target trans people.³³ In cases of sexual harassment and physical abuse occurring in public spaces, police response is not only lacking but, in many cases, police arrest the victims themselves. Victims of such mistreatment are mostly trans women. The victims claim that police do not respond to cases of violence committed against them, and when the victims of violence protest the inaction of the police, the police arrests them on a ground of petty hooliganism or resistance to legal order. Similar incidents have been reported from **Kyrgyzstan**, using the administrative offense of hooliganism against trans sex workers.

On 13 June 2016, on the pedestrian part of one of the central streets of Tbilisi, two trans women got attacked by a group of several unknown men. The men drove to the place of the incident with a car and poured petrol on the women. As victims stated, attackers were trying to set them on fire, but they managed to flee the scene. Victims called the police immediately and provided all the information they had about the perpetrators. They were arrested by police straight away. On the second day of the proceedings, the court found the trans women guilty, based on article 166th of the Administrative Offences Code of Georgia (Petty Hooliganism) and were charged to pay a fine in an amount of 100 Georgian Lari (approximately 30 EUR). (Georgia)

One of the groups most affected by increased levels of policing in the region is trans sex workers. Worrying reports have been surfacing in recent years about the volume and nature of police abuse against them, including severe

³³ Women's Initiatives Supporting Group (WISG) (2016). Unidentified Violence – Litigation Report. Available: http://women.ge/data/docs/publications/WISG-Unidentified_Violence_2017.pdf

incidents of sexual and physical assault, extortion, blackmail, and other forms of psychological violence from police. Although sex work laws vary to a great extent in CEECA, from being punishable by fines or imprisonment (in Serbia, Georgia, Ukraine, Russia, and Tajikistan) to being legalised (in Hungary and Turkey), sex worker communities, especially migrant and street-based workers, continue to face daily harassment and mistreatment from authorities.

In countries where selling sex is an administrative or criminal offense, police routinely target street-based sex workers and their clients based on sex work laws. Trans sex workers across the region are usually arrested for being at hotspots or cruising areas, where they solicit. Evidence from **Serbia** shows that even in these criminalised environments, arrests can be arbitrary as police solely base their arrests on activities associated with sex work, such as “loitering” at locations where sex workers usually solicit clients, “offering” services to passers-by or “waiting” for clients at a location where sex workers usually gather, followed by the possession of condoms, without any further substantiation, except for the police officers’ interpretation of these activities.³⁴

Sex workers in Serbia report a range of 3 to 6 encounters with the police in the course of only one night. At those times, according to the sex workers, the police mostly chase them away from their place of work, threaten to arrest them or actually do so.³⁵ Similar trends at even bigger scale can be observed in Turkey, where indoors sex work is legally available for those holding an identification document with the female sex marker. Due to the restrictive conditions set for those trans people who want to have their gender recognised in their official documents, many trans sex workers work on the street illegally and thus face constant harassment and abuse by private individuals, gangs, and police. According to a survey carried out by Red Umbrella, 76% of the trans respondents report constant harassment by the police and 71% have been detained at least once in their lifetime.³⁶

In **Kyrgyzstan**, sex work does not constitute an administrative or criminal offense. Police attitudes and actions, however, are often fuelled by their superiors or even politicians. In 2017 for instance, several police raids took place after the Minister of Internal Affairs had made a statement about cleaning the city of sex workers. Trans women sex workers were detained and exposed to humiliation and mockery at the police station. Journalists were invited to film them on camera without concealing their identities, illustrating the trend in the post-Soviet region of using the Internet and media platforms to humiliate and out trans people, as demonstrated by numerous recorded incidents from **Siberia (Russia)**.³⁷

³⁴ Baros, S., Radovic, I., Plecas, S., Drezga, E., Wijers, M. & Vasic, M. (2016). Law Above All and Court Practices: Impact of the criminalization of sex work on the human rights of sex workers and trafficked persons in Serbia. Available: https://www.researchgate.net/publication/313509669_Law_Above_All_and_Court_Practices_Impact_of_the_criminalization_of_sex_work_on_the_human_rights_of_sex_workers_and_trafficked_persons_in_Serbia_Prava_iznad_svega_i_sudska_praksa_Uticaj_kriminalizacije/download

³⁵ Ibid.

³⁶ Ördek, K. (2014). Violence directed towards sex worker trans women in Turkey. Red Umbrella Sexual Health and Human Rights Association

Migrant trans sex workers face further harassment from the authorities. Prior to the FIFA World Cup in 2018 organised in **Russia**, police authorities carried out several cleansing operations and identified trans migrant sex workers from Kyrgyzstan. They handcuffed them, forced them to lie on the floor, and disclosed their names and country of origin to the camera.

Another serious violation that occurs in some parts of CEECA is forced testing for HIV and other STIs during police raids or following arrest and detention. Cases of police-enforced testing have been reported by sex worker and LGBT communities in Azerbaijan, Kyrgyzstan, Tajikistan, Serbia, Turkey, and Ukraine.³⁸ These measures are often justified as anti-trafficking or public health interventions. Although there is no information available whether those targeted by raids were charged with any HIV-specific criminal statutes for HIV non-disclosure, potential or perceived exposure, and/or unintentional transmission, most of the countries in the region have criminalising laws in place and reports of prosecution and conviction based on one's HIV status have been documented in Azerbaijan, Belarus, the Czech Republic, Hungary, Georgia, Ukraine, and Slovakia.³⁹

Police in Bishkek set up a new unit to tackle sexual exploitation and to monitor businesses suspected of running 'prostitution rings' in 2013. The forced testing of sex workers came to light when the head of the Department for Combating Human Trafficking and Crimes Against Public Morality, as the new police unit is known, told a news source that the unit is pursuing nine prosecutions of brothel owners and that they forcibly tested more than 120 sex workers for STIs. During a two-day police operation on 26-27 December targeting hotels in Bishkek, which was widely covered in Kyrgyzstan's media, 70 sex workers were detained, with 61 forced to undergo testing for HIV and other STIs. Furthermore, the police tended to invite the media to accompany them on raids; sex workers had no guarantees that their faces would not be shown publicly, a clear violation of their right to privacy.⁴⁰ (Kyrgyzstan)

In late September 2017, reports emerged from Azerbaijan of the round up and torture of gay men and transgender women - and those perceived to be such - by police forces. On 2 October, police released all detainees, while admitting that 83 had been detained (LGBT rights activists estimate their number at 150-200). Azerbaijan's interior

³⁷ Transgender Europe (2017). Anti-trans hate crimes in Central and Eastern Europe and Central Asia. Summary of Transgender Europe's submission to the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE). Available: https://tgeu.org/wp-content/uploads/2017/05/TGEU_OSCE_submission.pdf

³⁸ International Committee on the Rights of Sex Workers in Europe (ICRSE) (2017). Understanding Sex Workers' Right to Health: Impact of Criminalisation of Violence. Available: <http://www.sexworkereurope.org/icrse-intersection-briefing-papers/icrse-joins-european-health-forum-and-launch-fifth-intersection>

³⁹ See examples of criminalisation and legal cases: <http://www.aidsmap.com/law-country/Eastern-Europe/page/1444947/>

⁴⁰ Global Network of Sex Work Projects (NSWP) (2014). Forced HIV and STI Testing of Sex Workers in Kyrgyzstan: A Violation of the Human Rights of Sex Workers. Available: <http://www.nswp.org/es/news/forced-hiv-and-sti-testing-sex-workers-kyrgyzstan-violation-the-human-rights-sex-workers>

ministry and the prosecutor general's office stated in their release that raids in the capital targeted people accused of "offering unsolicited sexual services to locals and tourists, violating public order and spreading infectious diseases."⁴¹ (Azerbaijan)

Some countries report progress on police attitudes towards LGB and trans people in recent years, such as in the case of **Ukraine** where, thanks to numerous trainings for criminal justice professionals supported by international human rights organisations, there is more transparency around the handling of LGBT people in the criminal justice system. However, in the conflict-affected regions of Crimea, Donetsk, and Luhansk oblasts, people perceived to be LGBT became the targets of openly anti-LGBT militia, orders and rules issued by members of the local "government," and the influence of Russian laws restricting minority rights and banning "gay propaganda", coming into effect from March 2016.⁴² Civil society reports have revealed aggression and violence directed to people who were perceived as LGBT by militant groups, detention of LGBT people in "basements" by militants and blackmail and intimidation of LGBT people in order to get information about other people not loyal to self-proclaimed authorities. LGBT people were furthermore forced to labour, particularly digging trenches. Trans residents were often denied humanitarian aid because their documents did not match their appearances. Finally, entry into and departure from these territories became not only more dangerous for them because the mismatch between their documents and appearance, but also more expensive and several times slower and this meant that trans people had to remain in conflict zones.

Trans people are also believed to be overly impacted by punitive measures and prohibition of drug use in CEECA, as the rates of alcohol or other drug use among trans people are estimated to be higher than in the general population due to social exclusion.⁴³ However, there is no systemic data available on the impact of drug use criminalisation on trans people. Drug use is either an administrative offence (as in Russia) or a criminal act (as in Georgia) in the region, while drug possession without intent to sell is also heavily criminalised across the region.⁴⁴ The lower threshold amounts for possession of narcotic drugs also involve criminal liability or other repressive measures. In Uzbekistan, for instance, possession of more than 0.001 gram of heroin is a criminal offence.

41 Adilgizi, L. (2017). "We don't want to be invisible": the meaning of Azerbaijan's LGBT purge. Open Democracy. Available: <https://www.opendemocracy.net/od-russia/lamiya-adilgizi/we-don-t-want-to-be-invisible-meaning-of-azerbaijan-s-lgbt-purge>

42 ADC Memorial (2016). Violation of LGBTI Rights in Crimea and Donbass: The Problem of Homophobia in Territories Beyond Ukraine's Control. Available: https://adcmemorial.org/wp-content/uploads/lgbtENG_fullwww.pdf

43 See for instance:

Scottish Trans Alliance (2016). Transgender Inclusion in Drug and Alcohol Services. Available: <https://www.scottishtrans.org/wp-content/uploads/2016/12/drug-and-alcohol-mini-report.pdf>

Scheim, A., Bauer, G. and Shokoohi, M. (2017). Drug use among transgender people in Ontario, Canada: Disparities and associations with social exclusion. *Addictive Behaviors*, 72.

Budhwani, H., Heard, K. R. et al. (2017). Transgender Women's Drug Use in the Dominican Republic. *Transgender health*, 2(1), 188-194.

44 Consult the Eurasian Harm Reduction Network's Drug Calculator tool: <https://harmreductioneurasia.org/drug-laws/>

Rights violations often occur when drug use is policed and not dealt with as a health issue:

A trans woman rented an apartment where she worked as a sex worker. At night, policemen came to target the venue with a raid while clients were on the premises. The raid was filmed by journalists who accompanied the police. The trans woman was under the influence of psychotropics. The policemen forcibly tied her hands in handcuffs and drove the victim to a medical examination. The doctor at the narcological department of the hospital began to conduct a medical examination with witnesses, which was filmed on camera. According to the legislation of Kyrgyzstan, the doctor does not have the right to inspect strangers and, moreover, to film everything on camera. The video also shows how the victim was forced to sign documents on the content of which the victim was most likely not informed. (Kyrgyzstan)

STRIPPED OF RIGHTS: EXPERIENCES OF ABUSE, BLACKMAIL, AND TORTURE DURING ARREST AND DETENTION

Due to the frequent profiling of trans people in the region, most violations occur during police procedures, such as arrests and (pre-trial) detentions. The most commonly reported abuses committed by the police in this phase of the criminal justice process are derogatory language used, inappropriate body searches, illegal arrests, extortion, seizure of money, and physical and sexual violence.

None of the countries in the region have policies in place for police that would set principles for interacting with trans people. Thus police officers usually address trans persons based on their legal sex marker, regardless of their gender identity, as reported by community groups in the region. Likewise, there are no official policies regulating body searches in CEECA at the moment of this publication. As a consequence, trans people are searched by officers of the same sex as shown on their identification documents or as in the case of **Serbia**, a search is performed by both male (below the waist) and female (upper parts of the body) officers.

Searches can magnify the risk of humiliation and abuse for trans people as they generally involve nudity and physical contact. Explicit standards on searches have been introduced, for the first time, in the revised Standard Minimum Rules for the Treatment of Prisoners (Rules 50-52).⁴⁵ The Rules call for respect for the dignity and privacy of the individual searched, and provide that searches shall 'not be used to harass, intimidate or unnecessarily intrude upon a prisoner's

⁴⁵ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). Available: https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf

privacy'. International standards recommend that searches are conducted by staff of the same gender. Although relevant for most prisoners, this standard is not necessarily protective for trans detainees, as they may face abuse and humiliation when searched by staff of the same gender. Trans detainees should be therefore given the choice of being searched by a male or female officer.

Threats of outing and extortion have been documented during arrests and detention in **Siberia (Russia)**, **Turkey**, and **Serbia**, especially when involving trans sex workers. In Serbia for example, one trans sex worker reported she had to endure sexual harassment by an officer because she was afraid that he would disclose her gender identity; transphobic insults and threats were also reported. In **Turkey**, documentation work by Red Umbrella reveals that blackmail and extortion are daily practices of the police when in interaction with trans sex workers.⁴⁶

Incidents of threats, arbitrary detention in abysmal detention conditions, physical and sexual violence committed by law enforcement are all too frequently reported from the region, mainly concerning trans sex workers. These often occur as organised police raids and cleansing actions, while there are several cases recorded by TGEU's ProTrans project when civilian police individually targeted trans sex workers.

Police officers approached a trans sex worker in the center of Yerevan near a sex work area and started to explain her about Armenian traditions and values and how sex work and being trans do not fit with those. They threatened her saying if they see her again next time at the same spot, they will have to use excessive physical force and remove her from that area. (Armenia)

Three trans women were detained in the police station after a police raid. They were kept in the police department for two days. They were tortured, forced to have sex with police, and drink alcohol. The victims were not given the opportunity to communicate with relatives, nor was a lawyer provided. The motive of the detention was alleged hooliganism. (Kyrgyzstan)

A trans woman reported a robbery to a district police department. However, in response, she faced bullying by police officers. The woman believed that the reason was her gender identity. She stated that this was not the first case of such an attitude in this police station. Earlier, during her detention, she had been beaten, bullied, and filmed on camera. (Kazakhstan)

In a protest during 2015, a trans man who is an LGBT activist was arrested by the police. He was subjected to mistreatment and beatings by the police. He was also psychologically abused based on his gender identity and was harassed during the medical examination. (Turkey)

⁴⁶ Ördek, K. (2014).

In June 2016, an online video appeared where feminine trans people of Uzbekistan were exposed to physical violence by law enforcement officials. The video showed that the action took place in the apartment where trans sex workers worked. One of the police officers kicked a trans person in the face, using words like “fag” and “faggot”. There was presumably a client lying on the floor, begging the police not to use violence against the sex worker. (Uzbekistan)

A trans man was robbed on the street. Together with a friend he went to the police station to file a report. His friend was not allowed inside the office as police stated that the victim must record a statement only in person. After the police saw his passport with a female sex marker and name, they began to behave very transphobic. They insulted and humiliated him, invited their colleagues to look at “it.” They refused to accept his statement and kept him in the department for two hours, refused to allow him to call his relatives and did not let him go out for food. In the end, they accepted his statement. Later in the evening however he received a call from the police to go to the station again. Policemen threatened him with the obligation of obeying the police and acted rudely. As a result of psychological pressure, he withdrew his report the next day. (Siberia, Russia)

A trans woman who became victim of violence from gay club guards called the police patrol to help her. Police officers were also transphobic, mocked her, refused to arrest, and justified the actions of the perpetrators. Finally, she reached the police station where police officers were also reluctant to deal with her at first, but then accepted her claim. (Ukraine)

TRANS PEOPLE BEHIND BARS: ISOLATION AND VIOLENCE

According to the United Nations Special Rapporteur on Torture, ‘within detention facilities, there is usually a strict hierarchy, and those at the bottom of this hierarchy, such as children, the elderly, persons with disabilities and diseases, gay, lesbian, bisexual and trans-gender persons, suffer double or triple discrimination.’⁴⁷ Violence against trans detainees is sporadically documented in the region, with the most accounts and evidence available from **Turkey**.

⁴⁷ Report of the Special Rapporteur on Torture to the UN Human Rights Council, Study on the phenomena of torture, cruel, inhuman or degrading treatment or punishment in the world, including an assessment of conditions of detention, 5 February 2010, A/HRC/13/39/Add.5, para. 231.

Although there is international guidance on the allocation of trans detainees and their placement in units and cells,⁴⁸ no countries in the region consult trans people in detention to assess security risks. Trans detainees are separated either in solitary confinement or LGBT-only cells, such as in the case of **Armenia** and **Turkey**, or in sex-segregated departments, male or female wards, according to their legal sex. This is in contradiction to international principles stating that decisions regarding the placement and protection of trans people while in detention should be taken with their informed consent.⁴⁹ Only very few prisons are known to carry out security assessments in the region, such as in **Serbia** where in the KPZ Padinska Skela prison, whenever there are two or more (LGB)T detainees, they are placed in the same cell. In cases when only one trans person is held in the prison, they will be placed with other detainees, after an assessment of safety risks.⁵⁰

A young trans person has been in several detention centers in the span of seven years in Artik, Sevan, Kosh, and Nubarashen. According to her, the treatment of trans people is almost the same in all detention centers. LGBT people should be prepared for the most cruel treatment and humiliation. “They wanted me to clean the toilets, but I did not clean them; they beat me up then I called the Human Rights Defender’s office, but they were threatening me so I did not even say anything to them.” Gay men and trans people in detention facilities have a separate cell, justified as a safety measure, although this does not guarantee freedom from sexual abuse and exploitation. “Other inmates gave 1000-2000 drams to prison guards for bringing one of the gay or trans inmates to their cell, they raped them, then the same officer took them back to their cell. I was beaten by 4-5 people because I did not agree to have sex with someone I did not want to. It was clear that I was beaten, but not one officer even asked me what has happened.” (Armenia)

The use of solitary confinement is well-documented in the prison system in **Turkey**, with no detailed information on the systematic use of this form of torture elsewhere in CEECA. In general, civil society has little oversight on the situation of trans people in prison in Turkey. However, in 2013, the Ministry of Justice released information on LGBT prisoners, stating that the total number of LGBT inmates was 79.⁵¹ Activists interpreted this number to cover mainly

⁴⁸ United Nations Office on Drugs and Crime (2009). Handbook on Prisoners with Special Needs. Available: https://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf
Subcommittee on the Prevention of Torture, during a presentation before the Inter-American Commission on Human Rights, 23 October 2015 (157 Period of Sessions, Situación de derechos humanos de las personas LGBT privadas de libertad en América Latina).

Penal Reform International (2015). LGBTI persons deprived of their liberty: a framework for preventive monitoring. Second edition. Available: https://www.apr.ch/content/files_res/thematic-paper-3_lgbti-persons-deprived-of-their-liberty-en-1.pdf

⁴⁹ Ibid.

⁵⁰ РЕПУБЛИКА СРБИЈА ЗАШТИТНИК ГРАЂАНА (2016). НАЦИОНАЛНИ МЕХАНИЗАМ ЗА ПРЕВЕНЦИЈУ ТОРТУРЕ ПРАЋЕЊЕ ПОСТУПАЊА ПРЕМА ТРАНСРОДНИМ ЛИЦИМА ЛИШЕНИМ СЛОБОДЕ. Available: <https://www.ombudsman.rs/attachments/article/4916/izvestaj%20KPZ%20P.%20Skela%20finalna.pdf>

⁵¹ LGBTI News Turkey (2013). Ministry of Justice on LGBT inmates in Turkey. Available: <https://lgbtnewsturkey.com/2013/08/09/ministry-of-justice-on-lgbt-inmates-in-turkey/>

trans individuals given the fact that some cis lesbian, gay, and bisexual inmates can go without detection and not be included in statistics unless they express it themselves, while trans people constitute a hyper-visible group. According to these statistics, the inmates are dispersed across 18 prisons which presumes that many of them are isolated for reasons of security.

Trans prisoners report high levels of isolation and suicidal ideation in Turkey. Even though many are criminal convicts, they have been recorded to kept in solitary cells for political prisoners and convicts with aggravated sentences.⁵² “Coffin” is an unofficial term used to describe the isolation cells where many political prisoners stay in F-type high-security prisons. Trans women who are foreign nationals face additional isolation, such as in the cases of Brazilian and Azerbaijani trans women who were separated from other LGBT inmates from Turkey in Maltepe Prison and transferred to a different section during 2015.⁵³

“I am still in a cell, I cannot go to the ward. I went to the director but they told me there is no ward. We are held separately in individual cells. The cells are horrible, I cannot bear it. They are very dirty. They are holding us in cells. Maltepe No. 3 [prison] is not suitable for us, we need to go back to No. 1. I am victimized here and isolated. I would like to be with my Turkish gay friends. Still no response from the Ministry of Justice. Foreign men are free to do things. We, on the other hand, are kept in cells. Believe me, I live like a dog. No table, no television, no chair, nothing. I eat on the floor. My morale is gone. I do not know how much more I can bear this. It is very bad indeed. Even a dog would not be able to stay here. I am very distressed, I am dying.”⁵⁴ (Brazilian trans inmate, Turkey)

“There were instances when I was handcuffed and three correctional staff approached me and wanted to undress me. I was placed amongst men in detention, and I know it was because of their malintentions. When I was detained, I already had my psychiatric diagnosis and even the prison doctor recommended placement in the female ward or a separate cell, but at Markó Correctional Facility there is no women’s department. I was not raped but harassed by those who were supposed to protect me. I had to warn correctional staff not to body search me, but they ignored my request. I was verbally abused several times. Together with my lawyer we appealed against this treatment, but the Correctional Department did not discover any maltreatment during their investigation. I was humiliated and treated as a man, even my hair was cut short.”⁵⁵ (Hungary)

⁵² See cases documented by LGBTI News Turkey: <https://lgbtinewsturkey.com/category/lgbti-inmates/>

⁵³ LGBTI News Turkey (2013). Brazilian trans inmate in Turkey: “I live like a dog”. Available: <https://lgbtinewsturkey.com/2015/09/03/brazilian-trans-inmate-in-turkey-i-live-like-a-dog/>

⁵⁴ LGBTI News Turkey (2013).

⁵⁵ Hír Tv (2018). RIASZTÁS - Transzneműként a börtönben. Available in Hungarian: <https://youtu.be/YJ1mqjTRblw>

Several measures exist internationally to prevent violence against prisoners in places of detention, such as the separation of detainees by certain population categories, the careful selection of detainees who share living spaces, anti-bullying policies, and anonymous complaints systems.⁵⁶ However, according to international principles, solitary confinement should be a last resort and not the primary means of protection from violence. Prolonged solitary confinement can amount to cruel, inhuman or degrading treatment or punishment and even torture, as stated by the the Special Rapporteur on Torture.⁵⁷

LEFT WITHOUT DIGNITY: DISCRIMINATION IN ACCESSING SERVICES

The provision of healthcare and meaningful activities derives from human rights safeguards, and trans detainees must have access on an equal basis with other detainees. However, it is frequently reported that trans detainees are denied access to general and trans-specific healthcare services, education and training opportunities, sport activities, gender-appropriate clothing, personal items, and even their family and friends face hurdles visiting them.⁵⁸ Information on access to services while imprisoned is mainly available from countries in CEECA where there is strong trans civil society attention to the issues of trans detainees, such as **Turkey** and in countries where special monitoring visits have been carried out to assess the situation of this group, for instance in the case of **Serbia**.

Reports from Transgender Europe partners in the region reveal that possibilities for trans people to start or continue hormonal and other treatment while imprisoned are non-existing or very limited. Several cases are documented from **Turkey** when trans detainees went on hunger strikes to protest their lack of access to trans-specific health.

Buse, a trans woman inmate at Tekirdağ F Type Prison for Men started a hunger strike in June 2018. Buse has been imprisoned for 23 years serving a life sentence and has been kept in isolation for many years. She has been writing petitions to get a gender-reassignment surgery for a long while and her lawyer supported the petition too. Finally, Buse secured an opinion from the hospital stating that “the gender transition surgery was imperative for her psychological well-being“. After this, another request was sent to the Ministry of Justice. However, according to Buse the Ministry replied to the prison saying “the surgery is imperative but not urgent”.⁵⁹ **(Turkey)**

⁵⁶ Penal Reform International (2015).

⁵⁷ Interim report of the Special Rapporteur on Torture to the UN General Assembly, 5 August 2011, A/66/268, p19.

⁵⁸ Penal Reform International (2015).

⁵⁹ LGBTI News Turkey (2018). Trans female inmate Buse’s “Death Fast” for her access to the right to health! Available: <https://lgbtinewsturkey.com/2018/06/29/trans-female-inmate-buses-death-fast-for-her-access-to-the-right-to-health/>

The general lack of harm reduction services in prisons in the region is worrying as well given that many infectious diseases – particularly human immunodeficiency virus (HIV), hepatitis B and C, and tuberculosis (TB) – and drug dependence are overrepresented in prisons compared to the general population.⁶⁰ According to a Council of Europe study,⁶¹ in many places of detention, there is almost complete unavailability of effective addiction treatments, such as opiate substitution treatment. Among the places considered in this study, Moldova is the only country with existing harm-reduction measures in prisons (e.g. prison-based needle exchange programmes).⁶²

Trans detainees' isolation is further exacerbated by the discrimination against their trans visitors, as has been recorded numerous times in **Turkey**.⁶³ Frequently, they are also denied opportunities to work and participate in training activities in the country, while in **Serbia**, many trans sex workers in prisons are unable to access training activities. These education opportunities are not available on a regular basis and are conceptualised as 6 to 8 weeks programs. However, trans detainees sentenced for sex work typically serve shorter sentences and thus are excluded.

In an ombudsman visit to KPZ Padinska Skela prison, which holds detainees mainly from Belgrade and neighbouring towns, the monitoring concluded that several services are discriminatory towards trans people.⁶⁴ For example, there is no privacy in bathrooms (no walls are installed between showers). However, staff allows trans prisoners' individual use of bathroom facilities, due to privacy and safety reasons. In the same prison, there was a short period when make-up was not permitted, but in the ombudsman's report, trans prisoners stated that they were allowed to keep their personal items.

EXAMPLES OF COMMUNITY RESISTANCE

Hunger strikes and solidarity actions in Turkey

In Turkey, hunger strikes organised by trans prisoners and campaigns addressing the torture and abuse they face have a long history. Trans, LGBT, human rights, and prison reform organisations have cooperated intensely in the past to reveal the maltreatment of trans people in prison and oppose harmful legislative

⁶⁰ World Health Organization Regional Office for Europe. Fact sheet - Prison and health. Available: <http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/data-and-statistics>

⁶¹ Council of Europe (2017). Drug-treatment systems in prisons in Eastern and South-East Europe. Edited by Stöver, H. and Teltzrow, R. Available: <https://harmreduction.eu/Drug-treatment-systems-in-prisons-eastern-Europe.pdf>

⁶² Ibid.

⁶³ LGBT News Turley (2015). Sexual harassment and attack against trans women at Bakirköy Women's Prison. Available: <https://lgbtnewsturkey.com/2015/08/17/sexual-harassment-and-attack-against-trans-women-at-bakirkoy-womens-prison/>

⁶⁴ REPUBLIKA SRBIJA ZAŠTITNIK GRAĐANA (2016).

proposals, such as the establishment of an LGBTI-only “pink prison”⁶⁵, arguing that placing all LGBT prisoners in one central location would cut off their ties with their friends and family and would pose the heavy burden of travels on them when attending court hearings.

Furthermore, the community - against all repressive changes in the political climate - has achieved important victories, for instance the approval of legal name and gender change in case of a trans person held in a Maltepe prison.⁶⁶

Friends of imprisoned trans woman activist Diren Coşkun have started a campaign to support Diren who has started a death fast against the rights violations she has been enduring in a Turkish prison. The campaign urged supporters to sign a petition and to write e-letters, which will then be taken to Diren.

Diren was arrested on 14 August 2017 with the allegation of “propaganda for an illegal organisation.” Diren has been held in isolation after she rejected to stay in the male ward of the prison. Demanding an end to her solitary confinement and access to trans-specific healthcare, Diren started the death fast in January 2018.⁶⁷



⁶⁵ LGBT News Turkey (2015). Civil society organizations: “LGBTI-only prison means institutionalizing discrimination.” Available: <https://lgbtnewsturkey.com/2015/01/10/civil-society-organizations-lgbti-only-prison-means-institutionalizing-discrimination/>

⁶⁶ LGBT News Turkey (2015). Gender reassignment in prison, approved! Available: <https://lgbtnewsturkey.com/2015/01/24/gender-reassignment-in-prison-approved/>

⁶⁷ LGBT News Turkey (2018). #BEAVOICEFORDIREN. Available: <https://lgbtnewsturkey.com/2018/02/19/beavoicefordiren/>

Advocacy actions in Serbia

Gayten-LGBT has worked on advocacy related to the policing and imprisonment of trans people for years. Not only was the Gayten team involved in initiating an ombudsman monitoring visit into the prison of Padinska Skela near Belgrade, focusing on the treatment of trans prisoners⁶⁸, but also worked hard for the establishment of police protocols that address the treatment of trans people. This work is ongoing at the moment of the publication. Furthermore, Gayten provides crucial legal and psycho-social support to those who have been detained and imprisoned.

“I came to Serbia to do time from Croatia and my first reaction in the new space was that of shock. I was insulted by prison inmates and staff and the sanitary conditions were horrific. Since I was not satisfied with the conditions of the prison I was sent to, I asked to be transferred into another one where I would be able to cope. This happened in November 2014 and my transition and my fight started then. I did not know whom to turn to but then luckily I found out about Gayten-LGBT and they helped greatly with all the procedures, including appointments with doctors and psychologists.

After my request, search became more common. At one point, a prison officer asked me something related to transitioning, but indirectly and he waited for me to say it myself, which I did. After that other officers started asking about me...I stopped cutting my hair, and soon all officials in the prison knew about me and my transition.

I was surprised that some officers knew something about transition while others who didn't, asked me about it to explain to them. Many prison officers started calling me by my female name and other prisoners heard about it, so it was time I made my next move. In March 2016 I told other inmates what was happening, and since then everyone has known. Soon I got the date for the first appointment with the Republic board.

Inmates usually call me by my female name, some are interested in finding out more so they ask, while for others I am still a “fag”. Additionally, there are also those who would not talk to me. All in all, the situation is not that bad considering the environment and our country's attitudes to the issue of being trans, but when you have support like I did from Gayten-LGBT things are different.” (Nikolina, Serbia)

⁶⁸ REPUBLIKA SRBIJA ZAŠTITNIK GRAĐANA (2016).

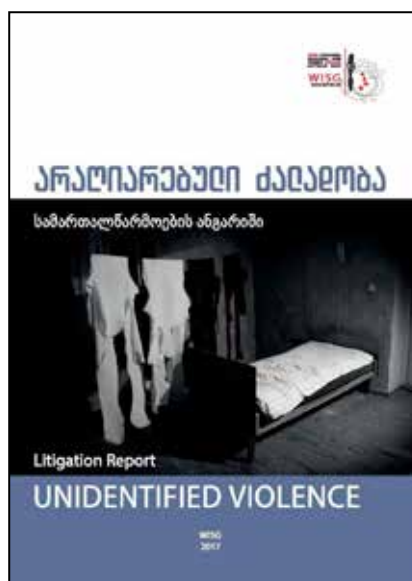
Alliance between sex worker and trans rights organisations in Kyrgyzstan

Labrys Kyrgyzstan has been working to better trans people's living conditions for years and has actively sought cooperation with other civil society actors to achieve changes. They started to work closely with Tais Plus, the sex worker organisation in the country in 2008 when both organisations submitted shadow reports to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW). In 2015, they intensified the cooperation as both groups felt excluded from mainstream women's rights activism.

Labrys and Tais Plus started to work on joint advocacy after the CEDAW Committee issued the Kyrgyz government with recommendations on improving the situation of LBT women and sex workers. They worked with state actors and also pulled together resources to be able to carry out rapid responses to cases of violence against trans sex workers. Furthermore, the organisations hold joint events on the Transgender Day of Remembrance and the International Day to End Violence against Sex Workers, fostering solidarity between sex worker and trans communities. They have collectively also achieved that a monitoring team was set up by the ombudsman's office to monitor illegal detention of trans people, sex workers, people who use drugs, and people living with HIV.

Legal aid service for trans people in Georgia

The Women's Initiatives Supporting Group (WISG) in Georgia maintains a hate crime reporting hotline and provides legal aid for those who have been mistreated by the police and judiciary. The organisation publishes yearly litigation reports in which they document in detail the cases taken on by the organisation's lawyers. The reports⁶⁹ aim to highlight the main problems which emerge in the process of investigating homophobic and transphobic crimes or discrimination based on sex, sexual orientation, and gender identity.



⁶⁹ The reports are available: <http://women.ge/en/publications>

Cross-border solidarity action after anti-LGBT torture in Chechnya

In Chechnya, widespread arrests of around 100 LGBT people have taken place since March 2017. Mainly gay and bisexual men, but also cis and trans women have been detained, abducted or entrapped through smartphone dating apps or, later, through contact details or social media accounts obtained from other detainees. Many of them were held in unofficial detention facilities for days, humiliated, beaten, starved, and tortured.

The international LGBT community quickly mobilised to offer assistance on the ground. For instance, ILGA-Europe collected and disbursed donations totaling more than € 30.000 to organisations who were helping to resettle refugees from the crisis in new countries.⁷⁰ These amounts covered the costs of housing, food, legal support, language lessons, and psychosocial support. Additionally, the international community played a crucial role in ensuring that the United Nations, European Union, Council of Europe, and Organization for Security and Co-operation in Europe immediately address the grave human rights violations.⁷¹

⁷⁰ <https://www.ilga-europe.org/Chechnya>

⁷¹ <https://www.ilga-europe.org/chechnya/statements>

ANNEX 1

INTERNATIONAL STANDARDS ON DETENTION OF TRANS PEOPLE

Despite the gravity of violence LGB and trans people face coming into contact with law enforcement and in places of detention across various contexts, international law has failed to provide explicit protection from abuse for sexual and gender minorities. However, several policy instruments establish that no one must be subjected to torture or to cruel, inhuman or degrading treatment or punishment, which can be used as an important argument in human rights advocacy.

Yogyakarta Principles⁷²

The Yogyakarta Principles and Yogyakarta Principles +10 are an interpretation of existing international human rights law as it applies on the basis of sexual orientation, gender identity, gender expression, and sex characteristics. A key component of these is Principle 9, relating to the treatment of LGBTI people in detention. Principle 9 calls upon states to ensure that placement in detention avoids further marginalisation and that LGBTI people have access to the healthcare and counselling that they need, including hormone therapy and gender affirming surgeries. It also calls for protective measures to be in place that do not involve restriction of rights, the provision of conjugal visits regardless of the gender of the partner, and training and awareness-raising of prison staff.

Article 5 of the Universal Declaration of Human Rights⁷³ and Article 7 of the International Covenant on Civil and Political Rights (ICCPR)⁷⁴

These instruments provide that no one must be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The revised United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)⁷⁵

The Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) do not incorporate explicit guidance on LGBTI prisoners, but reiterate the principle of non-discrimination based on ‘any other status’, and incorporate (in Rule 2) the general obligation of prison administrations to ‘take account of the individual needs of prisoners, in particular the most vulnerable

⁷² <http://yogyakartaprinciples.org/>

⁷³ <http://www.un.org/en/universal-declaration-human-rights/>

⁷⁴ <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁷⁵ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). Available: https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf

categories in prison settings’, also stipulating that: ‘measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory’.

Recommendation CM/Rec(2010)5⁷⁶

In 2010, the Council of Europe Committee of Ministers issued a recommendation to member states on measures to combat discrimination on grounds of sexual orientation or gender identity. Recommendation 4 is to ‘ensure the safety and dignity of all persons in prison or in other ways deprived of their liberty, including lesbian, gay, bisexual and transgender persons, and in particular take protective measures against physical assault, rape and other forms of sexual abuse, whether committed by other inmates or staff; measures should be taken so as to adequately protect and respect the gender identity of transgender persons’.

The Council of the European Union (EU) ‘Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons’⁷⁷

The guidelines cover situations of deprivation of liberty. The guidelines invite officials of EU institutions and EU Member States to inter alia ‘[c]ontact a state prosecutor, police authority or an established and independent visiting body to ask for permission to visit places of detention in order, for example, to assess the situation of LGBTI persons in detention’ and ‘[s]uggest that international monitoring bodies have a special focus on LGBTI persons during their visits to places of deprivation of liberty’.

2006 European Prison Rules⁷⁸

The European Prison Rules were adopted by the Committee of Ministers in 1973 (Resolution 73.5), while a new version was adopted in 2006, replacing all previous versions entirely. They are intended to provide non legally binding standards on good principles and practices in the treatment of detainees and the management of detention facilities. Rule 13 outlaws discrimination on unjustified grounds, while rule 81.3 sets out that staff who are to work with specific groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, etc., shall be given specific training for their specialised work.

⁷⁶ <https://www.coe.int/en/web/sogi/rec-2010-5>

⁷⁷ https://ec.europa.eu/europeaid/guidelines-promote-and-protect-enjoyment-all-human-rights-lesbian-gay-bisexual-transgender-and_en

⁷⁸ <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae>

ANNEX 2

KEY RECOMMENDATIONS TO DECISION AND POLICY MAKERS BY TRANSGENDER EUROPE

Decriminalisation

- Decriminalise all aspects of sex work, same-sex relationships, gender identity and/or expression, drug use, HIV exposure, non-disclosure, and transmission, and bodily modification procedures and treatments.
- Review vague public morality, nuisance, loitering, and decency laws, and take steps to eliminate their disproportionate and subjective application against trans people, including trans sex workers and other marginalised groups, e.g. racial/ethnic minorities.
- Erase prostitution, gender identity/expression, HIV status, and drug use related offences from criminal records.

Policing

- Develop measures to enhance police accountability and transparency, and work with marginalised groups disproportionately policed to monitor their implementation.
- Create guidelines for treating trans people with dignity, covering the areas of police interactions, body searches, and interrogations.
- Ensure that victims/survivors of violence receive appropriate remedies and redress, including compensation and legal aid, and that self-organised trans and sex worker groups are involved in victim support and anti-violence strategies.

Imprisonment

- Adopt and implement policies that protect trans detainees from discrimination and violence in closed settings, such as prison and immigration detention centres, with regards to issues such as placement, body searches, access to gender-appropriate items, general and trans-specific healthcare, and legal gender recognition processes.
- Drug prevention and treatment and HIV prevention, treatment and care should be available to people in prison at the same level as that provided in the community.
- Prohibit both indefinite and prolonged solitary confinement, as well as for certain groups, as stipulated in international standards.

Criminal justice reforms

- Develop and implement alternatives to imprisonment, including restorative justice processes.
- Introduce law and policy changes to reduce rates of imprisonment, such as crime prevention measures, the expansion of alternative measures, and a renewed focus on rehabilitation in both prisons and community settings.
- Decrease the use of pre-trial detention to a means of last resort and apply the principles of necessity and proportionality in its use.
- Reduce the use of life imprisonment and abolish the death penalty.

General measures

- Collect trans-inclusive data on gender disparities, intersectional gender-based discrimination and violence, and initiate specific data collection among trans people regarding access to education, employment, health, housing, and justice, in cooperation with local trans groups and organisations.
- Train professionals (victim support providers, police officers, judicial officers, NGO staff, healthcare workers, teachers etc.) on preventing and responding to discrimination and violence against trans people, sex workers, including trans sex workers, and providing sensitive and appropriate support.
- Develop and implement public education programmes and school curricula to eliminate prejudices against trans people and other oppressed groups.
- Provide funding for trans and sex worker organisations to support community building, community-based research and services, training, advocacy and campaigning activities.

