

ANNUAL REVIEW

OF THE HUMAN RIGHTS SITUATION OF LESBIAN,
GAY, BISEXUAL, TRANS AND INTERSEX PEOPLE
IN EUROPE AND CENTRAL ASIA

2020

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INTRODUCTION

Welcome to ILGA-Europe's *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia*. This is our ninth edition covering Europe, and our first covering the entire region of Central Asia. The publication includes events that occurred between January and December 2019. It provides a snapshot of what happened during the year, at national, regional and international levels, and it documents progress and trends regarding the human rights situation of LGBTI people.

While the entire Review is available online, information on each country can be accessed separately.

Once again, we must stress that this document is not an exercise in apportioning blame. ILGA-Europe's goal is not to point fingers at specific countries. Instead, this publication intends to serve as a tool for the exchange of best practices and policies, and as an open invitation for enhanced cooperation between governments and LGBTI civil society.

ILGA-Europe want this publication to meet our readers' expectations and needs, and welcome any suggestions for improvement.

We hope that you will find this edition of the Annual Review informative and useful.

ILGA-Europe's Annual Review Team
February 2020

A NOTE ON DATA COLLECTION AND PRESENTATION

This is our ninth Annual Review and we always strive to develop our rigorous data collection system. However, a number of limitations remain.

The use of terminology around LGBTI issues is often not harmonised across Europe and Central Asia. Nonetheless, all information within the Annual Review has been verified using original documents and the best available local knowledge. Where possible, information was checked against institutional and national reports, and reliable news sources.

In terms of language and terminology, we have tried to avoid causing confusion. For comparative reasons, the language within the Annual Review has been kept in line with ILGA-Europe's standards, and moves away from country-specific legal terms that may have a different meaning elsewhere. At the same time, we respected the variety of terms used by LGBTI communities to self-identify in different countries. For example, this is why the Annual Review does not exclusively refer to LGBTI but also to 'LGBT', 'LGBTQ' and other formulations.

Of course, the Annual Review cannot cover every development in all 54 countries in intricate detail. When the development was not adequately reported, or the reports were confusing or contradictory, ILGA-Europe verified them with national experts' inputs. They are independent human rights defenders or legal experts in each country.

We have also collaborated with regional LGBTI NGO's for their expertise on particular sub-regions or specific work areas such as intersex rights or rainbow families.

Finally, we have reports from Kazakhstan, Turkmenistan, and Uzbekistan for the first time of the Annual Review history. With the inclusion of three countries, we now cover all Central Asian countries in our report.

Do you have questions? Reach us out at info@ilga-europe.org

HIGHLIGHTS, KEY DEVELOPMENTS AND TRENDS

Over the past decade, as we have compiled our annual review of the human rights of LGBTI people in Europe, and more recently Central Asia, we have identified trends that are happening on a macro level, issues that are bubbling up to the surface and others that are clear and present. We have also paid attention to the ways in which these trends, both positive and negative, have affected the lived reality of LGBTI communities and individuals in the region, although we acknowledge that it is impossible to capture the entire picture in all its complexity.

The picture, both on micro and macro levels, remains complex. There continues to be big wins for LGBTI people in Europe, and developments that point towards further legislative and social progress, but while this paints an image of the region as a leading light in terms of the recognition of LGBTI rights and equality, it's a surface impression that does not tell a complete or accurate story. Yes, there are good news stories, which we must acknowledge, celebrate and build upon, but while we pay attention to positive developments, we must not be blind to the larger picture, which is less reassuring.

In last year's Review, we identified signs that recent wins for the LGBTI movement were fragile, and a very real rollback in rights and attitudes. In 2019, this rollback took root in a sharp rise of **hate speech** across the region, often carried out by public figures. One of the cases which received the most media attention was in Poland, where anti-LGBTI rhetoric by the governing Law and Justice (PiS) Party resulted in more than 80 municipal or local governments proclaiming themselves to be "free from LGBTI ideology". However, while much of the public and political attention was focused on Poland, this review identifies growing official hate speech from political and religious leaders in countries including Albania, Andorra, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Cyprus, the Czech Republic, Finland, Georgia, Greece, Hungary, Kosovo, Portugal, Slovakia, Spain and Turkey. In the majority of these countries, anti-LGBTI rhetoric was propagated with impunity. In most Central Asian countries, including some where LGBT people continue to be criminalised, there are reports of official hate-speech.

The very real consequences of this for LGBTI people are ubiquitous throughout this report. In many countries across the region, and not only those with a documented growth in official bias-motivated speech, there has been an equally sharp increase in **online hate-speech and physical attacks on LGBTI people**, many of the latter premeditated and brutal. This is a pan-European phenomenon. Brexit, for instance, and the populist narrative surrounding it, can be linked an increase in anti-LGBTI hate crimes and incidents in England and Wales from 5,807 in 2014-15, to 13,530 in 2018-19. Other developments such as the **banning of events** in Armenia, Hungary, Poland, Russia, and Turkey, and the **prosecution of participants in Pride events** in the latter, add to an atmosphere lacking in a sense of safety. In the Polish city of Lublin, a couple was arrested for bringing an explosive device to the Pride march. Some cities and towns in countries including the Czech Republic, Georgia, Hungary, and Ukraine have attempted to crack-down on anti-Pride demonstrations, but they are in the minority.

There has also been the **growing presence of anti-LGBTI, anti-gender and neo-Nazi protesters in public spaces** during events such as Pride parades and film screenings. In several cities LGBTI centres were targeted with graffiti and other such attacks. Reports of the **murder and torture of gay and lesbian people in Chechnya** have resurfaced, while police violence is systemic in a number of countries in Central Asia and Caucasus, with gay men and trans people being particularly vulnerable. Although this violence is widely reported, there is de facto impunity for the police involved.

There are **some moves in the right direction**. Measures to tackle hate speech or strengthen already existing legislation, have been announced or adopted in France, Germany, Luxembourg, Sweden, Switzerland, and the United Kingdom. But given the current context, and the repercussions for wider society, it is surprising that more governments are not proactively adopting measures such as effective legislation, action plans and trainings of public authorities. In countries where there is legislation in place, there is not enough political commitment to ensure effective implementation and resourcing.

As we see a rise in hatred, we have also been observing increased movement of people from within the region to countries perceived as less harsh. More LGBTI people left countries such as Albania, Bosnia and Herzegovina, Tajikistan, and Turkmenistan for neighbouring

countries where the situation might be perceived as relatively more safe. There is also an anecdotal rise in people saying they want to leave countries like Poland for other EU countries.

LGBTI asylum seekers continue to face mistreatment by authorities, including exclusion from general society and placement in dangerous accommodation that does not take their LGBTI status into account, while there are several reports of people being denied asylum and deported back to countries where they are at severe risk.

The issue of LGBTI forced migration, asylum seekers and refugees to and within Europe and Central Asia becomes more prominent year after year in our Annual Review. It is to be expected that much more attention will have to be paid to these issues by public authorities and intergovernmental bodies in the years to come, as the needs for protection of people continue to increase.

The situation for **rainbow families** in the asylum system continues to be a cause for concern. For instance, in Norway partners must be married or living together for at least two years, or have children together, to be considered for reunification, while Sweden prolonged legal measures until 2021 making family reunification more difficult. The case of a gay couple seeking asylum in Malta is highlighted, where one partner has been granted asylum while the other awaits a decision.

The current atmosphere has seen a **backlash against family rights** in some countries. A new liberal/conservative coalition in Estonia agreed on a referendum proposing the definition of marriage as a union between a man and a woman, while the Romanian Senate rejected two bills that would have introduced civil partnership for same-sex couples, despite the failed referendum in 2018 against same-sex families. The Croatian government introduced legislation excluding same-sex life partners from fostering, which is in violation of the Life Partnership Act. In the Czech Republic, an equal marriage bill remained stalled in Parliament due to filibustering from Christian parties and the far right, while in Bosnia and Herzegovina no progress was made in the provision of recognition for same-sex couples, despite strong political will in 2018.

However, 2019 **has also been a year of positive developments for rainbow families** in the region, with expansion of family rights in Andorra, Austria, Estonia, Finland, Germany, Greece, Malta, Poland, Sweden, and Switzerland. After eight years of campaigning by civil society, the UK Parliament passed the Northern Ireland Bill on 9 July, ushering in the introduction of same-sex marriage in the province in 2020..

The Coman judgement (2018), which defined the meaning of the term ‘spouse’ in the context of **freedom of movement** as “gender-neutral and inclusive of the same-sex spouse of an EU citizen,” was implemented in Slovakia this year, granting residence to EU citizens and their spouse or civil partner, if that union was registered in the EU. In many EU countries, however, including Romania, cases continue to be reported that show lack of implementation of the judgement.

The issue of **gender identification for trans parents** on their children’s birth certificates was raised by a court case in which a trans man, who gave birth to his child, took the UK government to court for not allowing him to be identified on his child’s birth certificate as the father. The court did not rule in his favour and the case is being appealed. Models for recognition of trans parenthood exist in Sweden and Malta. We expect that attention to the recognition of trans parenthood will grow over the coming years as there are clear gaps in protection in this area.

The issue of **bodily integrity for intersex people** continues to gain more prominence on the political agenda of governments and institutions. There was a major moment in February, when the European Parliament adopted a Resolution on the rights of intersex people, setting out clearly what needs to be done both on national and EU level, such as putting in place legislation that will finally ensure protection of intersex people’s bodily integrity. UN committees recommended that Austria, Belgium, Italy, the UK and Malta pass legislation to ensure that no one is subjected to surgery or treatment without their free, informed and prior consent. The Finnish government committed to banning unnecessary and non-consensual cosmetic surgeries on intersex children.

While there is increasing attention being paid to **intersex rights** by policy makers (which is positive), it is important to remember that this work is still in its very early stages. The serious lack of legislation across the region is something that must be addressed by governments and regional institutions. It is also clear that legislation is only a first step, and the change in practice requires a long-term commitment. Despite a ban in Malta – which set standards with its law to protect the rights of intersex people in 2015 – intersex surgeries are still carried out on infants.

Another discussion receiving growing attention is that of **conversion therapies** regarding sexual orientation and gender identity. While the conversation has begun, real steps to address these harmful practices have only been taken by a few governments, so the issue is under-reported in this review. A planned ban on conversion therapy was announced in Germany, while in France several MPs submitted a formal request for a ban to the Prime Minister's office, and a special investigative committee was set up. We hope that more governments will take action in the coming years.

Also internally discussed in the LGBTI movement throughout 2019, but not being picked up in reporting across the region are issues concerning **intersectionality**. With the exception of migrants, we are yet to see the conversation translated into political action and public policy that addresses the needs of LGBTI people on the intersections, including older people, LBT women, people living with disabilities, ethnic and racial minorities, homeless LGBTI people, and people living with HIV, among others.

The introduction of **third gender markers** is also an emerging discussion, and from the reporting in this years' review, the road towards recognition is not going to be a straightforward one. Despite Austria's Constitutional Court decision in 2018, ordering that gender markers in civil registers and IDs have to reflect an individual's own self-determined gender identity, intersex and trans people faced serious hurdles in accessing the third gender marker; while in Germany an attempt to introduce a third gender marker failed. New gender recognition legislation in Belgium excludes non-binary people.

Important advancements continue to be made on reforming or establishing **legal gender recognition procedures**, even if in many countries, progress is slowing down. In 2019, reforms and consultations were ongoing in a large number of countries, including Belgium, Ireland, Kyrgyzstan, Lithuania, Germany, North Macedonia, Finland, Norway, Spain, Switzerland and the UK (with two separate consultations in England and Scotland). Legal gender recognition (LGR) was introduced in Serbia and Luxembourg, although while the Luxembourgish process is accessible to minors and fully compliant with established human rights standards, under the Serbian legislation, diagnosis and hormonal therapy continue to be mandatory. In many countries, including Finland, Norway, the Czech Republic and Cyprus, despite LGR being in place, trans people faced abusive requirements in the process and/or obstacles in accessing healthcare. The requirement of sterilisation continues to be outstanding in the Czech Republic, North Macedonia and Turkey.

As we conclude the work in producing this annual review, taking into account all the developments over the past year, positive and negative, we must pay attention to ways in which LGBTI people are either helped or hindered in the living of their daily lives, whether it be in the provision of services, the education and health sectors, or the workplace. For instance reported obstacles in trans peoples' access to healthcare, bullying in schools and the workplace, and LGBTI people being denied services, with a lack of governmental intervention, all play a part in the overall picture of a Europe where lived experiences for large numbers do not match up with the surface message that all is well for LGBTI people.

The lived reality of LGBTI people in Europe and Central Asia is multi-faceted, complex, and for a large part remains invisible, even to organisations like ILGA-Europe. The intention of the Annual Review every year is to foster an understanding of how much is unseen. By making people aware of such a broad and nuanced picture, which is constantly shifting and evolving, we aim to give a sense of the enormity of issues and areas that affect the lives of people, which will continue to require attention, especially in a context where LGBTI people are being targeted and vulnerability is heightened.

INSTITUTIONAL REVIEWS



EUROPEAN UNION

ACCESS TO GOODS AND SERVICES

The Finnish Presidency of the EU 2019 organised a policy debate on Enhancing anti-discrimination legislation in the EU in the Social Question Working Party and in the Employment, Social Policy, Health and Consumer Affairs Council configuration (EPSCO) meeting in October. The discussion aimed to discuss how to move forward on the Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation {SEC(2008) 2180} {SEC(2008) 2181}, which has been blocked in Council since 2008. However, no real progress was made in the debate. At the same time, European Commission President Ursula von der Leyen made the commitment to propose new anti-discrimination legislation during her mandate.

ASYLUM

The reform of the Common European Asylum System (CEAS), which includes important protections for LGBTI asylum seekers, saw no meaningful progress before the end of the 2014-2019 legislative term, with no agreements reached on the Dublin IV Regulation and Asylum Procedures Regulation. At the start of its mandate, the new European Commission for 2019-2024 proposed replacing the CEAS with a Pact on Migration and Asylum, concentrating on finding a solution for the two remaining files, and keeps in place the progress achieved on the five CEAS files that have found provisional agreement – the Qualification Regulation, Reception Conditions Directive, EURODAC Regulation, Union Resettlement Framework Regulation, and the European Union Asylum Agency (EUAA).

On 11 July, the European Asylum Support Office (EASO) organised through its Consultative Forum a thematic meeting on gender-related persecution, with specific attention to SOGISC specific issues. The meeting resulted in the production of concrete recommendations by EASO for Member States to improve the protection of asylum seekers who face particular vulnerabilities in the European asylum system due to their gender and/or sexual orientation, gender identity, or sex characteristics.

On 4 September, EASO held the second meeting of its Vulnerability Experts Network Advisory Group, to review common challenges experienced across different grounds of vulnerability, and to inform the discussions of the Steering Group in order to guide Member States' asylum-related priorities in 2020.

BIAS-MOTIVATED SPEECH

On 30 January, the European Commission published the results of its fourth evaluation of the voluntary Code of Conduct on countering illegal hate speech online, including of hate speech targeting people on SOGI grounds on the internet platforms Facebook, Twitter, YouTube and Instagram. Hate speech targeting sexual orientation was the second most commonly reported ground (15.6 per cent), while 3.7 per cent of reports concerned hate speech targeting gender identity.

The European Commission expanded the scope of the Code of Conduct application and future monitoring exercises through commitments by additional Internet company, Jeuxvideo.com, on 19 January-

On 3 October, the Court of Justice of the European Union (CJEU) issued a judgment declaring that host providers such as Facebook can be compelled to proactively remove content and comments from their sites that have previously been determined to be illegal.

On 6 November, the LIBE Committee in the European Parliament organised a hearing on “Media Freedom, Freedom of Expression and Combating hate speech online and offline”, with many speakers, including ILGA-Europe raising the rise in LGBTI phobic hate speech across Europe.

On 18 December, the European Parliament adopted a resolution on “Public discrimination and hate speech against LGBTI people, including LGBTI free zones”, following a debate in the European Parliament on on public discrimination and hate speech against LGBTI people, which was held in plenary in Strasbourg on 26 November. The resolution expresses deep concern at the growing number of attacks against the LGBTI community coming from the State, State officials, Governments at the national, regional and local levels, and politicians in the EU. It recognises that such attacks have seen a rise in violence against LGBTI people, with hate crimes motivated by



homophobia and transphobia on the rise across the EU while responses from authorities too often remain inadequate. It reiterates a call on the Commission to adopt an EU LGBTI strategy and a comprehensive, permanent and objective EU mechanism on democracy, rule of law and fundamental rights that includes the protection of LGBTI rights.

BIAS-MOTIVATED VIOLENCE

On 20 March, in the final meeting this legislative term of the EU High-Level Group for Countering Racism, Xenophobia and Other Forms of Intolerance, the European Commission presented the Staff Working Document: Countering Racism and Xenophobia in the EU (2019), setting out three priorities for future work, each lead by a working group: recording and data collection practices, including reporting of hate crime; training and capacity building for national authorities, aimed at ensuring effective implementation of national law on hate crime and hate speech; and developing and implementing hate crime victim support systems and services. The first meeting of the Working Group on hate crime recording of led by the Fundamental Rights Agency, took place in The Hague, Netherlands, on 20/21 November.

BODILY INTEGRITY

In February, the European Parliament adopted a Resolution on the rights of intersex people (2018/2878(RSP)), acknowledging the ongoing human rights violations intersex people still face in the EU today, and setting out clearly what needs to be done both on national and EU level, such as ensuring protection against any form of discrimination under the ground “sex” and putting in place legislation that will finally ensure a protection of intersex people’s bodily integrity.

In its resolution, the European Parliament “strongly condemns sex-normalising treatments and surgery” and encourages Member States to adopt legislation that protect the bodily integrity of intersex people “as soon as possible”. It also confirms that intersex people are “exposed to multiple instances of violence and discrimination in the European Union” and calls on the European Commission and the Members States to propose legislation to address these issues.

DATA COLLECTION

The EU LGBTI II survey was carried out from 28 May to 20 July by the EU Agency for Fundamental Rights (FRA), and was open to responses from people aged 15 years and above who self-identify as LGBTQI+, and who live in an EU Member State, Serbia, or North Macedonia. This is the second EU-level survey about the lived experiences of LGBT people, following FRA’s first LGBT survey in 2012, and is the first such survey to include specific attention also to the experiences of intersex people. The survey is currently in the data analysis stage, with the final results due to be published in spring 2020.

The European Commission Study on Transgender People in the EU was implemented in 2019, to examine the relationship between the existence of legal gender recognition measures and the wellbeing of transgender people, as well as their sociodemographic and socioeconomic position in society. This entailed quantitative research using existing EU datasets, as well as qualitative research engaging over 700 transgender individuals through online consultations, telephone interviews, and focus groups. The final report is due to be published in spring 2020.

On 23 September, the Special Eurobarometer on Discrimination 2019: The social acceptance of LGBTI people in the EU was published by the European Commission. Based on fieldwork conducted in May 2019, the Eurobarometer presents the perceptions of the general public in the EU about the social acceptance of LGBTI people and discrimination based on sexual orientation, gender identity and sex characteristics.

EMPLOYMENT

On 16 May, European Commissioner organised the 10th EU diversity Charter’s Annual Forum in Brussels.

On 15 July, the Court of Justice of the EU (CJEU) held a public hearing in the case of *NH v Associazione Avvocatura per i diritti LGBT – Rete Lenford* (Case C-507/18) in a Grand Chamber. The case concerns applicability of anti-discrimination rules in the field of access to



employment and non-discrimination under the Directive on equal treatment in employment and occupation (EU Directive 2000/78/EC). The case originated as a result of a radio interview held in Italy on 16 October, 2013, where a senior lawyer stated he would never hire a homosexual person to work in his law firm. The Italian Corte suprema di cassazione requested the CJEU to clarify the European anti-discrimination law's application to such statements. Following the hearing in July, CJEU Advocate General (AG) Sharpston delivered opinion on 31 October, concluding that such remarks are likely to hinder access to employment, thus falling within the Directive, and would not be in violation of freedom of expression. Furthermore, concerning the standing of Rete Lenford, the opinion clarified that associations with a legitimate interest may be granted standing to bring proceedings and claim damages in the absence of an identifiable victim, like in the case at stake. The Court's ruling is expected to be delivered in 2020.

ENLARGEMENT

On 13 February, the European Parliament adopted its 2018 report on the accession of Turkey. The report recommends the Commission and the Council to formally suspend the accession negotiations with Turkey, in light of multiple human rights abuses and regression of the rule of law. The report also specifically expresses concern about violations of the human rights of LGBTI people, in particular the repeated bans on Pride marches and LGBTI-related events across the country which are still being imposed, despite the lifting of the state of emergency, and calls on Turkey to lift these bans immediately.

The European Commission's Enlargement Progress Report 2019, published in May and covering 2018, recommended a number of steps regarding the improvement of LGBTI rights across the region of the Western Balkans. These included addressing insufficiencies regarding adoption and implementation of anti-discrimination laws inclusive of SOGI, investigation of hate crimes, access to justice, access to healthcare, trans rights, intersex rights, tackling negative public attitudes towards LGBTI people, adoption of laws on registered partnership and legal gender recognition. When it comes to Turkey, the report recognised the backsliding on human rights and democracy, noting that no progress had been made on human rights from the previous year's report. The Commission particularly urged the Turkish authorities to improve freedom of assembly and protection for LGBTI people, and to take measures to stop intimidation and violence against LGBTI people.

With these reports the European Commission acknowledged the progress made in Albania and North Macedonia in the past year and recommended to the Council for the second time the opening of accession negotiations with the two countries. The 2019 package included an Opinion on Bosnia and Herzegovina's application for membership of the European Union, and an analytical report that for the first time reviews the situation in the country against all standards applicable to EU Member States. However, at the EU summit on 17-18 October, member states failed to agree on opening EU accession talks with Albania and North Macedonia.

The European Parliament adopted a resolution on 24 October on its disappointment at the EU's failure to agree on opening accession talks with North Macedonia and Albania due to the blocking of France, Denmark and the Netherlands. LGBTI rights activists in both countries and in the region have pointed to the detrimental impact this precedent will have on LGBTI rights in North Macedonia and Albania.

EQUALITY AND NON-DISCRIMINATION

On 16 January, the European Parliament adopted its yearly report on Fundamental Rights in the EU, assessing the implementation of fundamental rights in the EU in 2017 according to the Charter of Fundamental Rights standards. It contains strong language on multiple aspects of LGBTI rights.

On 12 February, the European Parliament adopted a resolution on the backlash in women's rights and gender equality in the EU. The resolution addresses the current "visible and organised effort at the global and at the European level against gender equality and women's rights," whose targets are among others LGBTI people's human rights. The European Parliament points out how this backlash was especially visible in 2018 around the topic of the Istanbul Convention, whose adoption has opened doors for violent hate speech targeting LGBTI people in particular, and expresses concerns about the rise of LGBTI-phobic hate speech.



On 14 February, the European Parliament adopted a Resolution on the future of the LGBTI List of Actions (2019-2024), calling on the European Commission to ensure strong follow-up to the European Commission LGBTI List of Actions 2014-2019, including by adopting a comprehensive and coherent EU LGBTI Strategy.

On 23-24 September, the Finnish Presidency of the EU organised a High-level conference on advancing LGBTI equality in the EU: from 2020 and beyond. The two-day meeting included speeches from Commissioner Jourova and the Finnish Minister for Nordic Cooperation and Equality and the Minister for Education, Culture and Science, The Netherlands, high-level panels as well as eight thematic workshops on priority areas identified for the conference, as input to the EC work plan and follow-up of the list of actions for LGBTI rights.

On 1 December, the new European Commission started its work, with Helena Dalli being Commissioner in charge of the newly established Equality mandate. It was announced that each DG would establish an equality task force to further the mainstreaming of equality and non-discrimination throughout the work of the European Commission.

FAMILY

In June, the EU directive on work-life balance for parents and carers (2019/1158) was adopted, including minimum standards for paternity leave and providing inclusive definitions of families and carers, including rainbow families.

FOREIGN POLICY

In 2019 the EU adopted a new Strategy on Central Asia. Under the promoting resilience priority in Central Asia, the EU will continue promoting respect for human rights in compliance with international standards, with a focus on freedom of expression (including media pluralism), freedom of association, women's rights, children's rights, the rights of minorities and fight against discrimination, and prevention and eradication of torture.

In the European Parliament resolution of 14 March on the human rights situation in Kazakhstan, two references to LGBTI rights were made, regarding equality and non-discrimination.

On 26 March, the European Parliament adopted a report on the new comprehensive agreement between the EU and Uzbekistan. The report gives recommendations to the Council and the Commission, including on how to integrate human rights within their relations with Uzbekistan and specifically for the negotiation of the agreement. The report specifically addresses LGBTI rights issues, by asking the Council and the Commission to "encourage the authorities to decriminalise consensual sexual relations between persons of the same sex and foster a culture of tolerance for LGBTI people".

PARTICIPATION IN PUBLIC, CULTURAL AND POLITICAL LIFE

Antonio Tajani, President of the European Parliament, was listed as one of the main speakers at the World Congress of Families in Verona (29-31 March), a conference stating as its goal to defend the "natural family as the only fundamental and sustainable unit of society". Members of the LGBTI Intergroup wrote to President Tajani, asking him to confirm publically that he will neither attend nor support this conference. Tajani was taken off the programme but no explanation of his engagement with the World Congress of Families was given in response to the letter.

Ahead of the European Parliament elections, 23-26 May, over 1650 candidates across all EU Member States signed ILGA-Europe's ComeOut pledge. After the elections, 225 MEPs from eight different political groups signed the Come Out pledge, strengthening the support in numbers and geographical and political diversity.

In December, the LGBTI Intergroup was one of the 20 Intergroups listed for approval by the European Parliament, with the highest number of MEPs signed up to join the reestablished Intergroup.

In June, Commissioner Jourova and FRA director Michael Faherty attended Europride in Vienna and spoke on the main stage.



UNITED NATIONS

LGBTI advocacy continued to feature prominently at the UN in 2019. LGBTI equality issues were systematically addressed by Treaty bodies, Special Procedures and the Universal Periodic Review (UPR) mechanism alike.

UN INDEPENDENT EXPERT ON SEXUAL ORIENTATION AND GENDER IDENTITY

On 12 July, Human Rights Council adopted Resolution 41/18, renewing the mandate of the UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity, for another three years. The resolution was tabled by Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico and Uruguay. In the months preceding the vote, civil society organisations from across the world joined forces as part of the #RenewIESOGI campaign, advocating for states to reaffirm the mandate. At the height of the process, a record number of 1,312 organisations from 174 States and territories addressed a [joint statement](#) to the Council in Geneva. In October, the International Service for Human Rights (ISHR), ILGA World, and ARC International, coordinators of the campaign, [launched](#) a report analysing the vote.

The Independent Expert, Victor Madrigal-Borloz released two thematic reports in 2019. [One](#) focused on the importance of data collection and the [other](#) on socio-cultural and economic inclusion. Both reports were preceded by public consultations.

On 15 May, the Independent Expert [published](#) his report on his country visit to Georgia in 2018, highlighting the gap between a progressive legal, policy and institutional framework and effective implementation, especially regarding discrimination, hate speech and hate crime. The Independent Expert also published his report on [Mozambique](#).

In May, the Independent Expert carried out a country visit in Ukraine, [concluding](#) that legislation is adequate but implementation is lacking; that LGBTI people are by large mandated to secrecy as a result of stigma; that attacks against public events are of serious concern; and that political leaders must show public support to the community. The Independent Expert postponed his visit to Sri Lanka until 2020.

BIAS-MOTIVATED SPEECH AND VIOLENCE

The Human Rights Committee (HRCtte) expressed concern that the [Estonian](#) hate crime and hate speech legislation does not protect LGBT people effectively. It called for legal reform, effective investigation and prosecution, data collection on SOGI based hate crimes, and awareness raising. The HRCtte urged [Tajikistan](#) to address hate speech and hate crimes on grounds of SOGI, and end harassment by law enforcement. The Committee Against Torture (CAT) urged [Poland](#) to take all measures to combat violence against LGBT people. The Committee on the Elimination of all Forms of Discrimination Against Women (CEDAW) urged the [UK](#) to combat hate crimes against trans people, ensure effective investigation and prosecution.

As part of the Universal Periodic Review (UPR), [Cyprus](#) accepted recommendations to criminalise incitement and to adopt an action plan against homophobia and transphobia; North Macedonia [accepted](#) recommendations to investigate and prosecute anti-LGBTI hate crimes; [Norway](#) accepted a recommendation to combat anti-LGBT hate crimes, hate speech and discrimination, but noted a recommendation on adding gender identity and expression (GIE) to the hate crime section of the Penal Code. [Bosnia and Herzegovina](#) was recommended to train law enforcement and the judiciary on combating anti-LGBT hate crimes, hate speech, and discrimination. [San Marino](#) was recommended to ban anti-LGBT hate crimes.

BODILY INTEGRITY

The CEDAW recommended [Austria](#) to implement a human rights based healthcare protocol for intersex persons, ensure that intersex children and their parents are fully informed of all options, that children are involved in the decision-making process and that no one is subjected to surgery or treatment without their free, informed and prior consent.

The Committee on the Rights of the Child (CRC) made similar recommendations to [Belgium](#), [Italy](#), the [UK](#) and [Malta](#). The CRC noted that intersex surgeries continue to be practiced in Malta, despite the ban.



As part of the UPR, [Albania](#) noted a recommendation to ban medically unnecessary and non-consensual surgeries on intersex children. [Italy](#) and [Slovenia](#) were recommended the same.

DIVERSITY

At the [63rd session of the Commission on the Status of Women](#) in March in New York, the LGBTI Caucus, including activists from Ukraine, Sweden, France and the Netherlands, created strong visibility on SOGIESC issues by organising several side events, addressing the UN Secretary General and providing recommendations in meetings with governments for their negotiations. This contributed to some strong language in the final adopted text, such as on multiple and intersecting forms of discrimination, diverse needs of families, 'all women and girls' and structural barriers like discriminatory laws and policies, negative social norms and gender stereotypes.

EDUCATION

The Committee on Economic, Social and Cultural Rights (CESCR) recommended [Kazakhstan](#) to prevent and combat bullying and violence against LGBT students.

As part of the UPR, [North Macedonia](#) accepted recommendations to withdraw school textbooks that stigmatise LGBTI people.

EQUALITY AND NON-DISCRIMINATION

The CEDAW recommended [Austria](#) to ensure substantive and procedural protection against discrimination on the basis of sexual orientation in the private and public sector. It recommended [Serbia](#) to address discrimination on the basis of SOGI in the new gender equality legislation, and to speedily adopt it.

The CESCR recommended [Kazakhstan](#) to combat discrimination against LGBT persons and adopt comprehensive anti-discrimination legislation that includes SOGI.

The CRC recommended [Italy](#) to prevent discrimination and, if needed, take affirmative action for the benefit of LGBT children and children of LGBT parents.

As part of the UPR, [Cyprus](#) accepted recommendations to combat discrimination and violence against LGBTI people; [Portugal](#) accepted two recommendations to combat discrimination and exclusion on the basis of sexual orientation; [Bosnia and Herzegovina](#) and [Kazakhstan](#) received similar recommendations. [Italy](#) was recommended to renew its National LGBT Strategy. [San Marino](#) was recommended to ban discrimination on the basis of gender identity. [Slovenia](#) was recommended to combat anti-LGBTI prejudice, stereotypes, discrimination, and hate crimes, and to put in place awareness raising campaigns.

FAMILY

The CEDAW requested information from [Latvia](#) to confirm that same-sex couples are included within the notion of family used in national laws, policies, programmes and strategies, in line with the Committee's general recommendation No. 21.

As part of the UPR, [Slovakia](#) noted a recommendation to introduce marriage equality. [Albania](#) noted five recommendations on providing legal recognition for same-sex couples and making the necessary amendments of the Family Code. [Italy](#) was recommended to recognise same-sex parents and allow for adoption by same-sex couples. [San Marino](#) received similar recommendations.

FREEDOM OF ASSOCIATION

The CESCR recommended [Kazakhstan](#) to guarantee an enabling environment for NGOs, especially LGBT groups by allowing them to freely register.



FREEDOM FROM TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

On 19 February, seven UN Special Procedures mandate holders called on Russia to promptly investigate the recent allegations of detention, torture and ill-treatment and murder of LGBTI people in Chechnya. On 18 March, more than 30 states made a Joint Statement at the 40th Session of the UN Human Rights Council, calling for swift, thorough and impartial investigation.

The CAT recommended Uzbekistan to investigate all allegations of torture against LGBT people and repeal Article 120, which criminalises consensual same-sex relations.

HEALTH

On 15 May, the World Health Assembly (WHA) formally adopted the International Classification of Diseases 11th Revision (ICD-11). Last June, the World Health Organisation depathologised trans identities by removing all trans related diagnoses from the chapter on mental health disorders of ICD-11, into a new chapter on Condition Related to Sexual Health.

As part of the UPR, Norway agreed to guarantee the right and access to healthcare for trans people. Slovenia was recommended the same.

LEGAL GENDER RECOGNITION

As part of the UPR, Cyprus accepted and Albania noted recommendations to adopt gender recognition legislation. Slovenia was recommended the same.

SEXUAL AND REPRODUCTIVE RIGHTS

The CEDAW recommended Austria mandatory sex education that aims to eliminate barriers of lesbian, bisexual and trans women to sexual and reproductive rights. The CEDAW also urged Serbia to enhance access to family planning services and artificial insemination for LGBTI persons.

As part of the UPR, Slovenia was recommended to promote the access of same-sex couples to sexual and reproductive health programmes.

THE AGENDA 2030: SUSTAINABLE DEVELOPMENT GOALS

Positive developments related to Agenda 2030 also took place this year. In May, the LGBTI Stakeholder Group was officially registered. The Stakeholder group is now part of the Major Groups and Other Stakeholders, a formal structure for civil society participation throughout the implementation of the Agenda 2030. The LGBTI Stakeholder Group made its first formal statements at the July High Level Political Forum (HLPF), the central platform for follow-up and review of the 2030 Agenda for Sustainable Development. The establishment of the Stakeholder Group means increased access and participation in discussions and decisions on development. The Stakeholder Group will be able to organise side events, make statements, and publish position papers on specific SDGs, which will then be part of the formal documentation of the HLPF.



COUNCIL OF EUROPE

BIAS-MOTIVATED SPEECH

The Parliamentary Assembly of the Council of Europe actively and repeatedly condemned bias-motivated speech and suppression of freedom of assembly during the year, through written declarations on 11 April regarding [Armenia](#), and on 3 October regarding [Poland](#), and a statement from the General Rapporteur on LGBTI [condemning](#) hate speech by politicians.

On 25 October, the Commissioner for Human Rights Dunja Mijatović gave a keynote speech at the ILGA-Europe Annual Conference 2019, condemning bias-motivated speech and drawing the link between hate speech and violence and hate crimes against LGBTI people.

In a press release following her visit to Bulgaria, on 2 December, Human Rights Commissioner Dunja Mijatović's office [called](#) on the Bulgarian government to confront misinformation campaigns surrounding the failed ratification of the Istanbul Convention, and more recently the Child Protection Strategy, and to increase public awareness and understanding to ensure protections against gender-based violence and the protection of children.

BODILY INTEGRITY

ILGA-Europe and the General Rapporteur on LGBTI hosted a [side-event](#) to the Parliamentary Assembly of the Council of Europe on 2 October, to introduce parliamentarians to the legal and policy principles of human rights law for bodily integrity and bodily autonomy based on sex characteristics.

The European Commission against Racism and Intolerance (ECRI) further expanded its investigative focus to explicitly [include](#) intersex issues during the sixth cycle.

EQUALITY AND NON-DISCRIMINATION

On 5 November, the French Presidency of the Council of Europe organised a debate in the Council of Ministers on LGBTI rights in Europe. The debate was opened by the statement of the Council of Europe Secretary General Buric, and throughout the debate, a large number of Council of Europe member states spoke out in favour of a strong engagement of the Council of Europe in protecting LGBTI rights across Europe, including the setting up an anti-discrimination Committee, mandated to oversee the periodical review of the Committee of Minister Recommendation (2010) 5.

On 29 November, the Steering Committee for Human Rights (CDDH) [adopted](#) the [report](#) prepared by the SOGI Unit on the review of the Committee of Ministers Recommendation (2010)5, on measures to combat discrimination on grounds of sexual orientation or gender identity. The report was transmitted to the Committee of Ministers for further review and action.

FAMILY

In April, the European Court of Human Rights in Strasbourg published an [advisory opinion](#) that supports the legal ties of children born through surrogacy to their intended parents. Many LGBTI activists hope that this will help to justify an easier co-parent recognition.

FREEDOM OF ASSEMBLY

The Parliamentary Assembly of the Council of Europe issued a written [declaration](#) on the right to freedom of assembly in Turkey on 28 June, calling for reversal of Pride bans and state protection for Pride participants.

On 16 July, the European Court of Human Rights delivered its judgment in the [Zhdanov and others v. Russia](#) case, affirming that the refusal of the Russian authorities to register two LGBT organisations, violated their right to access to justice and freedom of assembly, and is discriminatory.



FREEDOM FROM TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

On 15 January, Frank Schwabe (SOC, Germany), rapporteur on the continuing need to restore human rights and the rule of law in the North Caucasus region, and Piet De Bruyn (NR, Belgium), General Rapporteur on the rights of LGBTI people and former rapporteur on persecution of LGBTI people in the Chechen Republic (Russian Federation), condemned the most recent attacks on the LGBTI community in Chechnya, during which two people were reportedly tortured to death and around 40 were detained by the authorities. Schwabe made a visit to the region as part of the preparation of a report and resolution on these issues, expected in early 2020.

On 4 February, Human Rights Commissioner Dunja Mijatović called on Russia's law enforcement and investigative authorities to ensure the safety of Igor Kochetkov, Director of the Russian LGBT Network, and to investigate the recent threats against him. The threats were made after Kochetkov publicly spoke about the persecution of LGBTI people in Chechnya, including about alleged arrests and ill-treatment reportedly resulting in two deaths. She also urged the authorities to investigate alleged human rights violations against LGBTI people in Chechnya.

On 11 March, the Council of Europe's anti-torture Committee (CPT) issued a public statement calling on Russia to properly investigate and respond to wide-spread torture and ill-treatment by law enforcement in Chechnya and the North Caucasus region. The CPT made reference to its 2018 report detailing its findings during its 2017 visit in the North Caucasus. It noted with concern, Russia's ongoing failure to cooperate with the Committee.

On 10 April, the Parliamentary Assembly of the Council of Europe produced a written declaration condemning entrapment, forced medical examinations and illegal detention.

HEALTH

On 3 October, the Parliamentary Assembly of the Council of Europe produced a written declaration calling on Member States to implement ICD-11 in full and with all due speed, supporting the depsychopathologisation of trans people and identities included in this revision.

LEGAL GENDER RECOGNITION

On 19 January, the European Court of Human Rights published its judgment in the X v. the former Yugoslav Republic of Macedonia case, establishing that the lack of a clear legal framework on gender recognition is a violation of trans people's right to private and family life. Regrettably, the Court did not rule on the arbitrary and invasive requirement of sterility that the authorities claimed would be necessary for legal transition. The judgment has not been implemented and Person X's documents remain unchanged.



OSCE

BIAS-MOTIVATED VIOLENCE

On 25 September, the Office for Democratic Institutions and Human Rights (ODIHR) organised an event on addressing hate crimes and victims' needs through effective cooperation with civil society, to discuss the experiences of various groups affected by hate crime, in order to understand their support needs, and to present the practical tools for Participating States and civil society organisations to be developed by ODIHR's *Enhancing Stakeholder Awareness and Resources for Hate Crime Victim Support* (EStAR) project.

On 17 October, ODIHR, in conjunction with the Human Dimension Implementation Meetings (HDIM), hosted an expert roundtable on intersectionality and hate crimes, bringing together civil society, academics, practitioners, law enforcement representatives, religious leaders, and institutions. Including a SOGIESC perspective, the roundtable sought to identify good practices and challenges in data collection and investigating and prosecuting hate crimes based on multiple motives.

In November, ODIHR published its hate crime data for 2018. All 57 Participating States submitted information to ODIHR, but only nine of these provided statistics on the number of recorded hate crimes targeting LGBT people – down from 18 states for 2017. Civil society organisations and other non-state groups provided information about 812 homophobic, biphobic and transphobic incidents in 27 countries. ODIHR observes that transgender people are particularly at risk, and that serious physical assaults carried out by groups, especially around Pride events, are also common features of hate crimes against LGBT people. ODIHR also notes that underreporting and other gaps in recording mean that this data does not fully reflect the prevalence of hate crimes in the OSCE region.



KAZAKHSTAN

ACCESS TO GOODS AND SERVICES

In November, a hotel in Almaty refused to host an event for human rights defenders, organised by Labrys. The hotel management said they believed that the LGBT movement is illegal in Kazakhstan.

BIAS-MOTIVATED SPEECH AND VIOLENCE

Following the resignation of Nursultan Nazarbayev, Kazakhstan held presidential elections on 9 June. During the campaign period Sadi-Bek Tugel, one of the (unsuccessful) candidates, spoke out against the lesbian and gay community, as well as sex workers, saying that they are against “Kazakh mentality” and “cannot be tolerated”.

On September 27, the Kazakh bureau of the Radio Free Europe released an interview with a gay man, who was lured on a fake date in July in Nur-Sultan by two men and was tortured, raped and humiliated. After hours of abuse, Ayan managed to escape and call for help. The police detained Ayan’s attackers and investigation is ongoing.

Local human rights groups documented over 40 cases of bias-motivated speech and violence between January-July, including in employment, in education, and at home. Some parents told them they should be taken to Chechnya or that they should have been aborted. Some were repeatedly detained by police and threatened with violence unless they shared names of other LGBT people. Several shared that they were later considering suicide.*

BODILY INTEGRITY

In September, a young queer woman in the capital reported* that she was subjected to conversion therapy by her parents. The family got recommendations for “therapy” from the Ministry of Health.

EDUCATION

On 8 March, the UN Committee on Economic, Social and Cultural Rights (CESCR) recommended Kazakhstan to prevent and combat bullying and violence against LGBT students.

EQUALITY AND NON-DISCRIMINATION

The CESCR recommended Kazakhstan to combat discrimination

against LGBT persons and adopt comprehensive anti-discrimination legislation that includes SOGI. Kazakhstan received the same recommendation as part of its third UPR review.

On 14 March, the European Parliament adopted a resolution on human rights in Kazakhstan and called for the elimination of discrimination against LGBT people.

In May, two trans women who were forcibly returned from a vacation in Egypt, were denied any assistance by their travel agency, returned to an airport on the other side of the country, and had to cover the incurred travel costs.

In a landmark decision published on 30 July, the Supreme Court ruled that two lesbian women will receive compensation from a Facebook user, Eldar Mamedov, who posted a video of them kissing without their permission in 2018. The video was viewed over 60,000 times, soliciting homophobic comments. The court ruled that the posting violated the victims’ right to private life. The first instance court had sided with the women. The second instance court had then stated that “[Kazakhstani] society is not ready for open sexual relations between people of the same sex”, that the behavior of the plaintiffs violated “the morale and moral foundations of society”, and that Mamedov “acted as a defender of the morals of the population”. On 22 July, several UN Special Procedures expressed grave concern about this reasoning. The Supreme Court’s ruling is viewed as the first legal victory for LGBTI rights in Kazakhstan.

The Criminal Code sets out criminal liability for rape in Article 120. However, “lesbianism” and “sodomy” carried out with force or threat, are singled out under Articles 121, 122, and 123. On 11 September, the President announced that the government will increase liability for serious crimes, and retain these articles.

FAMILY

The European Parliament resolution (see under **Equality and non-discrimination**), recommended Kazakhstan to ensure equal rights for same-sex couples.

FREEDOM OF ASSEMBLY

Between February and September, feminist and queer activists repeatedly submitted individual applications to the Almaty City



Hall to hold a women's march. All their attempts were rejected on the basis that other events were scheduled in the same place. The City Hall then had a meeting with one activist, in which the authorities expressed a concern that LGBT people may attend the demonstration. In the end, the assembly was authorised and the first feminist assembly in the country took place on 28 September, focusing on the topic of domestic violence.

On August 24, activists submitted a request in the capital Nur-Sultan and Almaty to hold the first LGBT rallies, but both were denied.

Activists held a demonstration on 8 December in Almaty. The event was aimed to focus on the visibility of LGBTQ women, but the city did not agree to that. The event took place in a small square, the only place where public campaigns are allowed to be held. This case exemplifies well restrictions on the freedom of assembly.

FREEDOM OF ASSOCIATION

The Almaty Justice Department denied registration to the feminist group Feminita three times between 2018 and 2019, on arbitrary grounds. After numerous appeals, the City Court ruled in September that the group does not aim to strengthen moral values and the family, as required of charitable institutions by the law. According to Feminita, the Court referred to "LBTIQ" being explicitly mentioned in the group's Charter.

In March, the CESCR (see more under **Equality and non-discrimination**) recommended the authorities to guarantee an enabling environment for NGOs, especially LGBT groups by allowing them to freely register.

On 14 August, nearly 30 activists from Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan founded the first Central Asian Regional LGBT+ platform.

Kazakhstan received UPR recommendations to create an enabling environment for LGBTI rights activists.

FREEDOM OF EXPRESSION

An art exhibition 'Silly Jokes' was displayed in Astana and Almaty in the spring, marking the 70th Anniversary of the Universal Declaration of Human Rights. Pro-feminist and LGBT artists were

among those featured: Kuanysh Bazargaliev presented a piece depicting a traditional Kazakh warrior with a rainbow flag.

FREEDOM FROM TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

A trans prisoner, Victoria Berkkhodjaeva reported to her lawyer and Kazakhstan's National Preventive Mechanism, that an employee in the Zhaugashty women's prison repeatedly raped her in July. A criminal investigation is ongoing.

HEALTH

In April, Feminita started a research project on the right to health for LGBTQ women and trans men, finding experiences of mistreatment in medical settings.

On 7 June, a trans woman with a chronic heart condition called an ambulance for help, but was met with a hostile paramedic who called her a "faggot" and a "freak", threatened to kill her, and threw her out of the ambulance. The victim was scared to report the case.

SEXUAL AND REPRODUCTIVE RIGHTS

Feminita's healthcare project (see under **Health**) found that LGBTQ women have low level of awareness about HIV and STIs and also very little access to friendly HIV centres in cities, which only cater to sex workers and men who have sex with men. Some LGBTQ women are forced to pretend they are sex workers to access these centres.

**Some of the information about Kazakhstan was shared with ILGA-Europe by activists who for safety reasons need to stay anonymous. These accounts were not publicly shared online or otherwise.*